

**OF THE CITY COUNCIL
OF GRAND FORKS, NORTH DAKOTA
1997**

**PROCEEDINGS
OF THE CITY
Monday, July 7,**

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, July 7, 1997 at the hour of 7:00 o'clock p.m. with Mayor Owens presiding. Present at roll call were Council Members Beach, Polovitz, Hamerlik, Hanson, Glassheim, Carpenter, Sande, Klave, Babinchak, Bakken, Hafner, Hagness - 12; absent: none; 1 seat vacant.

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.

**PRESENTATION OF AWARDS ON BEHALF OF
TOBACCO FREE NORTH DAKOTA**

Mayor Owens announced the presentation of awards on behalf of Tobacco Free North Dakota to six individuals and organizations for outstanding service in the area of tobacco use prevention. Jule Gronhovd, RN of the Grand Forks City-County Health Department stated that Tobacco Free North Dakota is a state-wide coalition of individuals and organizations working together to lessen the economic and health burden on all of North Dakota caused by tobacco. She presented the awards to the following: Representative Eliot Glassheim with outstanding service award for his championing in public health and strong support of House Bill 1198 during the legislative year; Tom Hagness of Minnesota Dairy with a certificate of appreciation, Minnesota Dairy co-sponsored a 6th grade art contest on tobacco use prevention (Josh Fisher of Grand Forks was the winner). Awards were also awarded to White Drug #30, Tim Fought, Grand Forks Herald, White Drug #9, and the Grand Forks Park District. Mayor Owens also acknowledged Deb Swanson who has been very active in this program, and Doug Carpenter who worked very diligently with the health department on this program.

**ADOPT ORDINANCE NO. 3652, AMENDING LAND
DEVELOPMENT CODE RELATING TO DESIGNATED
AFFORDABLE HOUSING DEVELOPMENT AREAS**

An ordinance entitled "An ordinance to amend the Land Development Code, Article 9, Subdivision Regulations, Section 18-0908 Improvements Required, subsection (1) improvements inside city, paragraph (B) financing, as it relates to eliminating the 50% up-front money for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading of the ordinance had been continued until this evening, was presented and read for consideration on second reading.

COUNCIL MEMBER BEYER REPORTED PRESENT

An ordinance entitled "An ordinance to amend the Land Development Code, Article 2. Zoning Regulations, Section 18-0208 R-1 (Single Family Residence) District, subsection (6) required lot area, lot width and lot depth, paragraph (A) as it relates to lot widths not to exceed 60 feet and lot depths of a minimum of 120 feet for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading of the ordinance had been continued until this evening, was presented and read for consideration on second reading.

An ordinance entitled "An ordinance to amend the Land Development Code, Article 9, Subdivision Regulations, Section 18-0907 Layout of Additions and Subdivisions, Survey and Plat required, contents of plat, subsection (2) rights of way, para-graph I as it relates to reducing minimum right of way widths to 70 feet for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading

of the ordinance had been continued until this evening, was presented and read for consideration on second reading.

An ordinance entitled "An ordinance amending Sections 18-0908(1)(B), 18-0208(6), and 18-0907(2)(1) of the City of Grand Forks Land Development Code relating to designated affordable housing development areas", which ordinance consolidates the previous three ordinances into one and which had been under consideration and tabled by Planning and Zoning Commission, was presented and read for consideration on second reading.

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

Howard Swanson, city attorney, reported that the Planning and Zoning Commission in its action had consolidated the first three ordinances into one ordinance. It was moved by Council Member Hagness and seconded by Council Member Klave to consolidate the first three ordinances into one ordinance. Carried 13 votes affirmative.

The Planning and Zoning Commission reported having considered the matter of the referral for preliminary and final approval of an ordinance to amend the Land Development Code, Article 2, Zoning, Section 18-0208(6) and Article 9, Subdivision Regulations, Section 18-0907(2)(1) and 18-0908(1)(B) of the Grand Forks City Code relating to designated affordable housing development areas, and recommended final approval and passage of the ordinance amending the text of the land Development Code. It was moved by Council Member Hanson and seconded by Council Member Hagness that this recommendation be approved. Carried 13 votes affirmative.

Upon call for the question of adoption of this ordinance and upon roll call vote the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Hanson, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor

Owens declared the ordinance adopted.

ADOPT ORDINANCE NO. 3653, TO ANNEX PART
OF JOHNSON'S 4TH ADDITION NOT PREVIOUSLY
ANNEXED

An ordinance entitled "An ordinance to annex to the city of Grand Forks, North Dakota, all of Lots 28 through 37, Block 1, Johnson's 4th addition, excluding any portion of Lots 28 and 37, Block 1, previously annexed by resolution adopted and approved December 16, 1996 and recorded as Document No. 529673 on January 29, 1997 (said lots were inadvertently shown and identified as Lots 25 and 34, Block 1 and were described within a metes and bounds description thereon). Also excluding the southerly 50 feet of Lots 31, 32, 33 and 34, Block 1, previously annexed by resolution adopted and approved on March 17, 1997, and recorded as Document No. 532169 on June 10, 1997", which had been introduced and passed on first reading on June 23, 1997, was presented and read for consideration on second reading and final passage.

The city auditor reported that the notice to the public that this petition for annexation had been published as required.

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

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Hanson, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; voting "nay": none. Mayor Owens declared the ordinance adopted.

ADOPT ORDINANCE NO. 3654, AMENDING ZONING
MAP TO INCLUDE WITHIN JOHNSON'S PUD, CONCEPT
DEVELOPMENT PLAN, AMENDMENT NO. 2, ALL OF
KUSTER'S 2ND AND 3RD ADDITIONS, AND ALL OF
JOHNSON'S 1ST, 2ND, 3RD AND 4TH ADDITIONS

An ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota to rezone and exclude from the Johnson's PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1 and to include within the Johnson's PUD (Planned Unit Development), Concept Development Plan, Amendment No. 2, all of Kuster's 2nd and 3rd Additions, all of Johnson's 1st, 2nd, 3rd and 4th Additions, the area of substantial change includes all of Lots 28 through 38, Block 1, Johnson's 4th Addition, including vacated Nordonna Circle, city of Grand Forks, North Dakota", which had been introduced and passed on first reading on June 23, 1997, 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 as required 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.

Tim Lamb, 1704 Belmont Road, owner of Kuster's 3rd Addition, stated he had two objections; one, that he hadn't been notified of the rezoning, didn't know what impact the rezoning would have on his property, and that he would like to have time to research this.

The city auditor reported that the recommendation from Planning and Zoning was for denial of the rezoning.

Council Member Hagness reported that notices were sent to property owners, that there is further information which he has received that could change his vote on this matter. He reported that Mike Hart, developer, who owns 5 lots on the east side of South 38th Street from 17th Avenue north, objected at the Planning, and there were two other protests. He noted that it takes 10 votes by council to pass any zoning changes; there is strong argument to over-ride Planning recommendation, or could refer back to Planning & Zoning for further consideration.

Council Member Beach questioned reason for objection to the rezoning and why defeated by Planning and Zoning. Council Member Hagness reported that his objection to the rezoning was because people built single family homes in neighborhood and expected to retain that zoning, and objected to multi-family housing across street. It was noted that this is more of a nursing home than a conventional apartment house.

Mayor Owens closed the public hearing.

The city auditor read the report from the Planning and Zoning Commission to whom had been referred the matter of the request from Tim Crary on behalf of Johnson Farms for final approval of an ordinance to amend the Zoning map and to exclude from the Johnson's PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1 and include within Johnson's PUD (Planned Unit Development), Concept Development Plan, Amendment No. 2, all of Kuster's 2nd and 3rd Additional all of Johnson's 1st, 2nd, 3rd and 4th Additions, the area of substantial change includes all of Lots 28 through 38, Block 1, Johnson's 4th Addition to the city of Grand Forks, ND including vacated Nordonna Circle (located north of 17th Avenue South and west of South 38th Street), and recommended denial of the ordinance amending the zoning map. It was moved by Council Member Hagness and seconded by Council Member Hanson that this recommendation be and is hereby approved.

Council Member Hagness moved an amendment for approval of the ordinance amending the zoning map; Council Member Hafner seconded the motion.

Council Member Hagness reported that the reason he is now supporting this zoning change is

that he has seen pictures of development, that with quality of this type of unit, more than typical apartment complex but more a nursing home, landscaping around unit, and that next to this is a business and for proper orderly growth and proper buffering of area this would be appropriate. He also noted that south of this property is the proposed Valley Memorial expansion (south of 17th Avenue South), that this will blend into neighborhood.

Mr. Lamb stated that he is opposed to the rezoning of this property. Mr. Swanson reported that the Code requires property owners within 400 ft. of the area to be rezoned be notified, that even if within the 400 ft. and the fact that one pro-property owner does not receive notice doesn't mean that council cannot act on it.

Paul Bakken, 3566 14th Avenue South spoke in favor of the rezoning and the development.

Ray LeClerc, acting city planner, reported that the property currently platted as single-family lots with cul-de-sac or short street from the north, that this project would require vacation of this street and an additional access off 17th. He stated that the former agreement mentioned that when dealing with neighborhood when property along 42nd was being rezoned commercial to accommodate the Aurora project.

Mr. Swanson reported that the proposal before the council in the form of a PUD and that technical recommendations from staff included certain provisions that limited it to this type of facility, however, once council establishes density, that would be there until changed at a future date, but density could be no greater than that established for this type of use. Mr. Swanson stated that under a PUD can establish restrictions (ie., elderly), that if this detailed development plan is approved, the requirements in the technical section apply, if, however, the council approves the detailed development plan and the project does not follow through to completion, they have amended the concept plan to establish densities. He stated that if this project moves forward, have relatively good assurances that the uses would be consistent with the elderly-type proposal before the council.

There was some discussion re. egress, it was noted that Planning and Zoning had approved one access off 17th Avenue South as well as staff.

It was moved by Council Member Glassheim and seconded by Council Member Bakken that we send this matter back to Planning and Zoning Commission for further consideration and bring back in two weeks. Upon call for the question and upon voice vote, the motion was defeated.

Upon call for the question on the motion for approval of the ordinance, the motion carried 13 votes affirmative.

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

SUSPEND RULES AND CONSIDER AGENDA ITEMS

RELATING TO FLOOD

It was moved by Council Member Glassheim and seconded by Council Member Polovitz to suspend agenda and consider flood-related items. Carried 13 votes affirmative.

APPROVE VOLUNTARY ACQUISITION PROGRAM

The city auditor reported that the council had at a special council meeting passed a motion to delay consideration of the incentives with staff to return within a week of council meeting with proposal for adoption of incentive program, and to give preliminary approval of the voluntary acquisition program with changes as made.

John O'Leary, director of urban development, reported that they had discussed with Housing and Urban Development representatives the issue of incentives, that there is a request being prepared to request a series of amendments that would allow City to provide vouchers and other kinds of incentives and if those incentives approved as requested, believes the City will be given some flexibility in the disposition of incentives related to voluntary acquisition. He stated that he was not sure how long it would take to process those incentives, and that it is staff's recommendation to proceed with the acquisition plan, inform those people that the City is going to purchase their property on a voluntary basis and all properties in the 100-year floodplain that have 50% or more damage; that when and if receive waivers as they are being requested now, the council can always go back and either amend this plan or add waivers in a separate document which would allow City to provide incentives that may or may not be approved by HUD. He stated that he thinks it's consensus that public needs to understand where City is coming from on the acquisition plan. He stated that the council has approved the entire acquisition plan with the exception of the incentives, and that there is nothing to prevent council from proceeding with the adoption of the balance of the acquisition plan as reviewed and amended at the last meeting. He stated they are working very hard to get the City as much flexibility as possible under rules and regulations currently in place; however, there are stipulations in HUD program that prohibit us from doing a voucher system now. He again stated that staff's recommendation is to proceed with adoption of the acquisition plan and review incentive issues as soon as hear back from HUD.

Council Member Hamerlik asked if some incentives acceptable, if they could be included at this time. Mr. O'Leary stated he was referring specifically to the \$10,000 bonus or 10%, but believes that the \$5,000 moving expenses is an allow-able expenditure under the existing CDBG regulations and payment of the last five years premium under national flood insurance program is an allowable expenditure, and could proceed with those.

Council Member Bakken moved to approve the final document and to separate the incentives from this document, because need to move document forward so people can go ahead with relocation and consider incentives when find out what waivers are. Council Member Klave seconded the motion.

It was noted that the flood insurance is a condition and not an incentive and is already included in the plan.

Council Member Beach questioned whether there were any legitimate flood insurance payments which shouldn't be deducted from purchase price of buyout; Mr. O'Leary stated that the items that wouldn't be deducted are the items that an individual would have collected as part of the flood insurance settlement, where that individual actually reinvested it back in the property. Mr. Swanson stated that the determination on deductions for the national flood insurance program will be made by FEMA, not by the City. He reported that last week they reviewed mechanics on how FEMA will transmit that information, the FEMA programs such as grant programs, individual assistance programs will be treated differently than proceeds on national flood insurance program, the rules are different for the two, and can't assume that payments for flood insurance will not be deducted from the net purchase of the property, whereas, grants and other assistance rules more complex, and if establish that the property benefitted or improved by whatever grants received were reinvested, those will not be deducted but probably credited to the extent that receipts can be demonstrated, and that is not necessarily true with flood insurance, flood insurance will be deducted based on the net payment made by NFIP. He stated that the City has no discretion whatsoever as to what amounts will be deducted or not deducted under NFI.

Council Member Hamerlik asked for clarification whether the \$5,000 relocation payment and five-year flood insurance premium rebates a part of the incentives. It was noted that the flood insurance premiums paid credit is a condition, but that the \$5,000 relocation payment is an incentive.

Mr. Swanson reported that the question re. sale of property appears in the document but that it does not refer to any particular manner of sale, however, it reserves the right for the City to sell that property, and under ND law it presumes that would be an auction assuming the value is more than \$2,000.

The question was raised as to whether there was anything in the document that would allow someone to move their house; Mr. Swanson stated that under this program the City will consider under certain circumstances, the acquisition of a lot only, and in such a case the owner is responsible for the removal of the structure(s). Mr. Swanson also reported re. the five-year rebate of premiums for the NFIP, that it appears as though it will be funded out of portions of the CDBG funds, and that the City has made a request to FEMA to consider funding that out of the NFIP but at this point do not have that assurance and consequently would be a City cost.

Mr. Swanson stated that there were several items he wanted to make council aware of, that as a result of a meeting with representatives of FEMA, the State of North Dakota, the Governor's Office and several other agencies, the City has received a waiver, that FEMA is going to extend a categorical exemption on a Phase I Environmental Report and that paragraph will have to be redrafted to identify that a Phase I Environmental Report will only be undertaken at the request of the City. He reported that is relatively significant in that it reduces cost and time involvement for Phase I; the other recommended change is under participation in the voluntary acquisition program to add some additional language with respect to the redevelopment plan to identify that as of yet no decision has been made on any

flood control project. He also noted that there is a letter on the council members desks for their review from Combined Federal/ State Disaster field office addressed to Douglas A Christensen dated July 2, 1997 that is in response to various issues he had raised both to FEMA and to the State of North Dakota, and to this body; and also there is an excerpt from a document that was distributed at a legal education seminar in Grand Forks authored by a member of a law firm in Minneapolis in which he also discusses the relocation expenses as not being applicable to a FEMA acquisition. Mr. Swanson stated that was not to say that questions regarding relocation expenses are black and white or that there is no potential argument, however, it is to indicate that in addition to the previous opinions rendered by HUD attorneys, by FEMA attorneys and now by FEMA staff attorneys that the issues appear to be fairly well addressed under the Voluntary Acquisition Program.

Mr. O'Leary reported that the categorical exclusions addressed by Mr. Swanson apply to CDBG funds as well.

After further discussion and upon call for the question the motion carried 13 votes affirmative.

Council Member Beyer stated that they have roster for the first phase of the properties listed by address and asked how long before they would have roster of the properties for all of the properties within the 100-year flood plain that were damaged. Mr. O'Leary reported that information not available, that they have essentially combined both phases and have included any property in the city that is in the floodplain with 50% or more damage where property owner is interested in selling to the City. He also reported that the process for acquisition has been started (notification to property owners of appraised valuations, etc.)

Council Member Beyer questioned whether there was a list for a second phase; Mr. O'Leary stated there are between 500-600 houses involved in the two phases; Mr. Swanson stated that list not yet completed. Council Member Hagness stated that everyone in the 100-year floodplain needs to get started on next phase, but also need to incl. Crescent Drive, South 24th Street, Walnut Place, Vail Circle, and areas between 6th and 10th Avenues North, etc., where 50% damage or more to those properties. Mr. O'Leary stated that was discretion of council, whether they were in the next phase, people with low/moderate income, whether people prioritized in the next phase, lot of policy questions that need to be addressed and will bring recommendations to the council re. future buyout provisions if they want to pursue, but that there isn't a third phase now. Council Member Hagness stated that he wanted to pursue that. Mr. O'Leary stated that the real issue revolves around waivers being requested, that can't pursue that until receive waivers from HUD, that majority of the city is not low and moderate income and those recom-mendations will be coming to the council, but that there isn't much city council can do until waivers are granted.

Council Member Bakken asked for clarification, that this document pertains to 50% damage in the 100-year flood plain that the people who need relocation money and have applied to SBA and been approved, need this document passed to prove that they are in a buyout category. A rep. of SBA stated they don't need a buyout letter but require the 50% letter as well as letter stating they cannot get a building permit, and that starts their relocation plan,

the buyout has no bearing on whether they will give a loan or not, they start process for relocation money and loan and whenever check is given to them, it is applied to the end of their loan. He stated the buyout letter has never been a requirement for advancement of funds.

Several individuals addressed the council relative to relocation, salvage issues, etc.

Gary Mathison, 1510 Walnut Street.
Mark Broden, 919 North 25th Street.
Judy Haney, 509 Lincoln Drive
John Dickinson, 416 Walnut Place
Ross Weiler, 701 North 3rd Street
Patty Griffin, Maple Avenue

After some discussion Mr. Swanson stated the salvage issue was addressed at last meeting, and was specifically addressed at meeting with various agencies, and because we are using FEMA Section 404 funds to acquire all of phase I, there are certain appraisal requirements that have to be met before funds released, part of the review by FEMA does come into the issue of salvage or scavenging, that at some point the removal of property will affect the value and appraised value of a home, and that is what this policy is intended to reflect, that they will allow some salvage under certain conditions which will be fairly minimal, that if salvage to a degree that it does affect the value of the property, ie., doors, windows, etc., the policy adopted last week was that it will not be allowed except with an offset in the acquisition price, and that is 100% consistent with the FEMA regulations on the use of 404 funds; that every time you try to alter on salvage need to keep in mind, is a discretionary item, but every change has to be reviewed as to whether or not it meets 404 requirements.

Mr. Swanson stated that they were talking about real property, things attached to the house, and that as difficult as it is, if the removal of items changes the appraised pre-flood value of their homes, the City's offer will be reduced in an equivalent amount; that if they don't believe the price is acceptable, under no conditions should they accept it, not obligated to sell the property. He further noted that the policies are now approved, and if council wishes to change them, council has discretion to do so, only point he is making is that with regard to the 404 funds you do alter some of the review, that he can't tell them what that would do with the speed of moving forward with the program, and again stated that the issue has nothing to do with personal property, has nothing to do with the salvage of furniture and the like, has to do with salvage of permanently attached items and whether it alters pre-flood value, and another item need to keep in mind is that the value at which being acquired is a pre-flood value, not existing value, and is purely voluntary, if don't wish to sell don't have to, if don't agree with sales price or offer they can go through appeal process which under the conditions of a deadlock bring it to this body, but unless council wishes to revisit the salvage, he will clearly state that under the present program, no salvage is allowed except where it is authorized by the City and does not impact the appraised value of the property and if salvage taken it will reduce value. Mr. Swanson stated this is on a case by case basis; he stated only problem with doing on a case by case basis is can't adopt across the board valuation on all items. Mr. Swanson stated that no one should mistake that this program will make anyone

whole, everyone will suffer loss; that there are a few things advantageous to this program: 1) is a pre-flood value vs. existing value, 2) all closing costs are paid by the City, 3) there are no realtor/broker fees, which offset the losses.

RECEIVE AND FILE FLOOD RECOVERY

ACTION PLAN; AND REFER DAY CARE ISSUE TO URBAN DEVELOPMENT COMMITTEE

The Committee of the Whole reported having considered the matter of the flood recovery action plan, and recommended to receive and file.

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

Council Member Carpenter stated that he had intended to move to disband the flood response committee but discussion did occur that there are some things that need to go through flood response committee, but a lot of items should be going to individual committees where most appropriately addressed; that with flood response having coordination role and review role of this plan and making sure things are occurring when they are supposed to, would not make any motion at this time.

Council Member Carpenter stated he is still concerned about the child care issue, that do have some temporary emergency child care that's covering some problems and would like assurance that essential social services includes addressing the issue of child care and making sure we have the facilities available to meet that need. Council Member Hagness stated that was intent of council to make that program whole again before September 1 so have day care available for parents going back to work, would like to see groups in the city work together; and thinks it up to council to include in the plan at the necessary time.

Council Member Beyer moved to send this issue to Urban Development Committee, Council Member Beach seconded the motion. Carried 13 votes affirmative.

Upon call for the question to receive and file the flood recovery action plan, and upon voice vote, the motion carried 13 votes affirmative.

AUTHORIZE STUDY OF ALTERNATIVE FLOOD MITIGATION PROJECT

The Flood Response Committee reported having considered the matter of alternative flood mitigation projects study, and recommended to accept proposal of EQE International for review of benefit/cost analysis re. flood mitigation alternatives for the city of Grand Forks.

It was moved by Council Member Bakken and seconded by Council Member Polovitz that this recommendation be and is hereby approved. Upon roll call the following voted "aye":

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

APPROVE AGREEMENT TO PROVIDE PROFESSIONAL DISASTER GRANTS MANAGEMENT SERVICE

The Flood Response Committee reported having considered the matter of agreement to provide professional disaster grants management service, and recommended to authorize proper City officials to execute the agreement with David M. Griffith & Associates, Ltd. on an hourly basis not to exceed \$25,000, subject to review by the city attorney.

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

COUNCIL MEMBERS BEYER AND HAMERLIK EXCUSED

ADOPT ORDINANCE NO 3655, AMENDING ZONING REGULATIONS FOR MOBILE HOME RESIDENCE DISTRICTS, YARD REQUIREMENTS RE. DISTANCE BETWEEN UNITS

An ordinance entitled "An ordinance amending the Grand Forks City Code of 1987 as amended, Chapter XVIII, Land Development Code; Article 2, Zoning Regulations; Section 18-0212 R-5 (Mobile Home Residence) District, subsection (8) yard requirements; amending paragraph (a) relating to distances between units", which had been introduced and passed on its first reading on June 23, 1997, 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 as required 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.

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Hanson, Glassheim, Carpenter, Sande, Klave, Babinchak, Bakken, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the ordinance adopted.

CONTINUE PUBLIC HEARING AND SECOND READING

OF ORDINANCE TO AMEND ZONING MAP TO INCLUDE
WITHIN JOHNSONS PUD, CONCEPT DEVELOPMENT PLAN,
AMENDMENT NO. 10, LOT 1, BLOCK 1, COLUMBIA
PARK 7TH ADDITION TO JULY 21, 1997

An ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota to rezone and exclude from the Columbia Park PUD (Planned Unit Development), Concept Development Plan, Amendment No. 9 and to include within the Johnsons PUD 9 (Planned Unit Development), Concept Development Plan, Amendment No. 10, with substantial change lying in Lot 1, Block 1, Columbia Park 7th Addition to the city of Grand Forks, North Dakota", which had been introduced and passed on its first reading on June 23, 1997 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 as required 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 Planning and Zoning Commission reported having considered the matter of the request from Wally Rodgers on behalf of Americinn Hospitality, L.L.C. for final approval of an ordinance to amend the Zoning Map to exclude from Columbia Park PUD (Planned Unit Development), Concept Development Plan, Amendment No. 9 and to include within Columbia Park PUD (Planned Unit Development), Concept Development Plan, Amendment No. 10, with substantial change lying in Lot 1, Block 1, Columbia Park 7th Addition, Grand Forks, ND (located in the northeast corner of 19th Avenue South and South 29th Street), and recommended to table and continue the public hearing until July 21, 1997.

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

COUNCIL MEMBER BEYER REPORTED BACK

ADOPT ORDINANCE NO. 3656 TO AMEND ZONING MAP
TO INCLUDE WITHIN GATEWAY COMMONS PUD, CONCEPT
DEVELOPMENT PLAN, AMENDMENT NO. 2, WITH SUB-
STANTIAL CHANGE PERTAINING TO LOT 1, BLOCK 1,
AIRPORT 3RD RESUBDIVISION, INCLUDING SURPLUS
HIGHWAY NO. 2 RIGHT OF WAY

An ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota to rezone and exclude from Gateway Commons PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1 and to include within Gateway Commons PUD (Planned Unit Development), Concept Development Plan, Amend-

ment No. 2, with substantial change pertaining to Lot 1, Block 1, Airport 3rd Resubdivision to the city of Grand Forks, North Dakota, including surplus Highway No. 2 right of way", which had been introduced and passed on its first reading on June 23, 1997, was presented and read for consideration on second reading and final passage.

The city auditor reported that the required legal notice had been published as required 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 reported that the Planning and Zoning Commission reported having considered the matter of the request from Roger Mattern on behalf of Sherman Associates, Inc. for final approval of an ordinance amending the Zoning Map to exclude from Gateway Commons PUD (Planned Unit Development), Concept Development Plan, Amendment Number 1, and to include within Gateway Commons PUD (Planned Unit Development) Concept Development Plan, Amendment Number 2, with substantial change pertaining to Lot 1, Block 1, Airport 3rd Resubdivision, Grand Forks, North Dakota, including surplus Highway No. 2 right of way (located east of North 51st Street between Gateway Drive and 12th Avenue North), and recommended final approval and passage of the ordinance amending the zoning map subject to special conditions shown on or attached to the review copy.

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

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

REPORTS OF OFFICERS

The city auditor's report of investment activity for June 1997 was presented and read. It was moved by Council Member Babinchak and seconded by Council Member Beyer that this report be received and filed. Carried 12 votes affirmative.

APPROVE BILLS

Vendor Payment Listing No. 97-09 dated July 7, 1997 and totaling \$2,033,427.48, 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, Hanson, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; voting "nay": none. Mayor Owens declared the motion carried and the bills ordered paid.

APPROVE COMPENSATION PROPOSAL FOR OVERTIME DURING FLOOD EMERGENCY

Committee No. 1, Finance, reported having considered the matter of compensation proposals for overtime during flood emergency, and recommended that we adopt Option #2 with exception that exempt employees only receive additional compensation for hours exceeding 60 hours per week.

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

Council Member Babinchak states that she supports Option #1, which allows time and a half for regular time and any additional time is double time between April 13 and April 30, but would like to hear further discussion.

COUNCIL MEMBER HAMERLIK REPORTED BACK

After considerable discussion it was moved by Council Member Babinchak to amend Option #2, that we pay from zero to 40 hours at straight time, 41 to 49 at time and half and everything over 50 hours double time for exempt and non-exempt employees for period April 13 to April 30. Council Member Beach seconded the motion.

Upon call for the question on the amendment and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Hanson, Glassheim, Sande, Klave, Babinchak - 7; voting "nay": Council Members Hamerlik, Carpenter, Beyer, Bakken, Hafner, Hagness - 6. Mayor Owens declared the amendment carried.

There was some discussion re. cost of the options and whether reimbursable by FEMA. The city auditor reported that the time and half for non-exempt employees not a problem with FEMA reimbursing that, but if exceed normal policies in other areas, chances are slim to none; that these are not normal pre-flood policies.

He also noted that they would not be jeopardizing the normal time and a half for regular employees, that normal policy is not to pay exempt employees, and chances of recovery are slim to none.

Council Member Hagness stated that he would like to have reasonable chance of reimbursement and stay with past policy, and moved that only time and half for exempt employees; the motion died for lack of a second.

Upon call for the question on the motion, as amended, and upon voice vote, the motion carried with Council Members Hagness and Hafner voting against the motion.

It was moved by Council Member Beach and seconded by Council Member Hafner that implementation of the previous motion be suspended to some point after the July 21 meeting. Carried 13 votes affirmative.

COUNCIL MEMBER GLASSHEIM EXCUSED

APPROVE REQUEST FROM WIRELESS NORTH TO INSTALL ANTENNAS ON WATER TOWERS

Committee No. 3, Public Service, reported having considered the request from Wireless North for authorization of installation of antennas on water towers, and recommended to approve the request pending review of the lease by the city attorney.

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

APPROVE CHANGE ORDER FOR PROJECT NO. 4433, GFAFB WATERMAIN

Committee No. 3, Public Service, reported having considered the matter of change order No. 1 for Project No. 4433, Grand Forks Air Force Base watermain, Robert Gibb & Sons, contractor, and recommended to approve the change order in the amount of 48,889.98.

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

APPROVE CHANGE ORDERS FOR PROJECT NO. 4225, RECONSTRUCTION OF SOUTH WASHINGTON STREET

Committee No. 3, Public Service, reported having considered the matter of change orders for Project No. 4225, paving South Washington Street, Change Order No. 2, upgrade frontage road and bike path pavement from asphalt to concrete, and recommended to approve the change order, City's share \$83,947.97.

It was moved by Council Member Hafner and seconded by Council Member Hagness that this recommendation be and is hereby approved. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Hanson, 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 change orders for Project No. 4225, paving South Washington Street, Change Order No. 3, storm sewer, and

recommended to approve the change order in the amount of \$177,120.15.

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

**DIRECT STAFF TO WORK OUT TERMS OF EASEMENT
AGREEMENT FOR SEWER PROJECT NO. 4625 AND
WATERMAIN PROJECT NO. 4626, AND GRANT COMMITTEE
POWER TO ACT**

Committee No. 3, Public Service, reported having considered the matter of easement for Project 4625, sanitary sewer, an Project 4626, watermain to serve Longview Fibre Company, and recommended to direct city attorney and city planner to work out terms of the agreement between the landowners and City and to bring back to committee with power to act.

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

**AUTHORIZE ENTERING INTO AGREEMENT FOR DESIGN
AND INSTALLATION OF UTILITIES IN CITY R/W
FOR WATERMAIN PROJECT NO. 4595**

Committee No. 3, Public Service, reported having considered the matter of agreement for design and installation of utilities in City R/W between James Senske and City for Project No. 4595, watermain on North 44th Street and 20th Avenue North, and recommended to authorize entering into agreement with developer for private installation of the utilities according to City's specifications.

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

**ADOPT RESOLUTION CREATING ASSESSMENT DISTRICT,
SEWER PROJECT NO. 4657, DISTRICT NO. 388**

Committee No. 3, Public Service, reported having considered the matter of creating special assessment district for Project No. 4657, sanitary sewer in Johnson's 4th Addition, and recommended that we adopt a resolution creating the assessment district, approving the engineer's report, including estimate of cost, an assessment district map, and further that we pass a resolution instructing the city engineer to prepare detailed plans and specifications, that we declare intent to sell bonds to finance these improvements, and further that the project be subject to the payment of the 50% up-front monies requirement.

It was moved by Council Member Hafner and seconded by Council Member Hagness that

this recommendation be and is hereby approved. Carried 12 votes affirmative.

Council Member Hafner introduced the following resolution creating the assessment district, which was presented and read: Document No. 7320 - Resolution.

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

**ACCEPT ENGINEER'S REPORT, SEWER DISTRICT
NO. 388, PROJECT NO. 4657**

The city auditor presented and read the engineer's report on Sewer District No. 388, Project No. 4657: Document No. 7321 - Report.

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

**ADOPT RESOLUTION TO PREPARE PLANS AND
SPECIFICATIONS, SEWER PROJECT NO. 4657,
DISTRICT NO. 388**

Council Member Hafner introduced the following resolution to prepare plans and specifications, which was presented and read: Document No. 7322 - Resolution.

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

**APPROVE AGREEMENT FOR DESIGN ENGINEERING
SERVICES BETWEEN CPS, LTD. AND CITY FOR
UTILITY AND PAVING PROJECTS IN JOHNSON'S
4TH ADDITION**

Committee No. 3, Public Service, reported having considered the matter of agreement for design engineering services between CPS and City for Project 4657, sanitary sewer, Project No. 4658, watermain, Project No. 4659, storm sewer and Project 4660, paving in Johnson's 4th Addition, and recommended to approve agreement pending review by the city attorney.

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

COUNCIL MEMBER GLASSHEIM REPORTED BACK

CONTINUE MATTER OF FINAL PLAT OF PERKINS FOURTH ADDITION TO JULY 21, 1997

The Planning and Zoning Commission reported having considered the matter of the request from Pribula Engineering and Surveying on behalf of Hampton Corporation, Inc. for final approval of a plat of Perkins Fourth Addition to the city of Grand Forks, ND lying within a portion of the Northeast Quarter of Section 20, Township 151 North, Range 50 West of the 5th Principal Meridian (located east of South 34th Street between 36th and 40th Avenues South), and recommended to table and continue the public hearing until July 21, 1997.

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

APPROVE REDUCTION IN PARKING REQUIREMENTS, APPROVE ZERO LOT LINE SETBACK AND DENY REQUEST FOR JOINT OFF-PREMISE BUSINESS SIGN ALONG 32ND AVENUE SOUTH WITH ADJACENT LOT OWNER

The Planning and Zoning Commission reported having considered the matter of the appeal from Kevin Woodman on behalf of Metropolitan Life Insurance Company for approval to reduce the off-street parking requirements for DAY HUD PUD (Planned Unit Development), Retail Office Supply, Lots 119 and 120, Block 1, Columbia Mall Addition from one space per 150 square feet (6.67 spaces per 1000 square feet) of gross floor area of customer sales and service plus one space per 200 square foot (5.0 spaces per 1000 square feet) of storage and/or office gross floor area to five spaces per 1000 square feet of gross floor area; to allow building set back from seven feet to zero feet, and to allow an off-premise business sign, and recommended approval of the reduction in parking requirements from approximately 144 stalls to 118 stalls; to approve a zero lot line setback along the south wall of the proposed building and to deny the request for a joint off-premise business sign (ground monument type) along 32nd Avenue South with the adjacent lot owner to the south.

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

INTRODUCE ORDINANCE TO AMEND ZONING MAP TO INCLUDE WITHIN MEADOWLARK PUD, CONCEPT DEVELOPMENT PLAN, PARTS OF ADAMS-DOBMEIER 2ND SUBDIVISION AND ADAMS-DOBMEIER 3RD RESUBDIVISION

The Planning and Zoning Commission reported having considered the matter of the request from Dan Schmaltz on behalf of Sun Land West, LLC, for preliminary approval of an ordinance to amend the Zoning Map to exclude from the A-1 (Limited Development) District

and the I-2 (Heavy Industrial) District and to include within the Meadowlark PUD (Planned Unit Development), Concept Development Plan, all of Blocks 6, 7, 8 and 10, Adams-Dobmeier 2nd Subdivision, Grand Forks, ND and Lot 1, Block 1, Adams-Dobmeier 3rd Resubdivision, Grand Forks, ND (located between DeMers Avenue and 6th Avenue North and between North 55th Street and North 62nd Street), and recommended preliminary approval subject to special conditions shown on or attached to the review copy, to introduce the ordinance amending the zoning map and to set the date of the public hearing for July 21, 1997.

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

Council Member Sande 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 the I-2 (Heavy Industrial) District and to include within the Meadowlark PUD (Planned Unit Development), Concept Development Plan, all of Blocks 6, 7, 8 and 10, Adams-Dobmeier 2nd and Lot 1, Block 1, Adams-Dobmeier 3rd Resubdivision, Grand Forks, North Dakota", which was presented, read and passed on first reading.

INTRODUCE ORDINANCE TO AMEND ZONING MAP TO
INCLUDE WITHIN I-2 (HEAVY INDUSTRIAL) DISTRICT
A PORTION OF SW QUARTER OF SW QUARTER OF SECTION
28, T151N, R50W OF 5TH PM (COMMONLY REFERRED TO
FORMER LOCKWOOD GRADER TRACT)

The Planning and Zoning Commission reported having considered the matter of the request from Mitchell Gibb on behalf of residual Materials, Inc. for preliminary approval of an ordinance to amend the Zoning Map to exclude from the B-3 (General Business) District and to include within the I-2 (Heavy Industrial) District a portion of the Southwest Quarter of the Southwest Quarter of Section 28, Township 152 North, Range 50 West of the 5th Principal Meridian (commonly referred to as the former Lockwood Grader Tract) (located southwest of Mill road and north of 27th Avenue North), and recommended preliminary approval subject to submitting a request for annexation, to introduce the ordinance amending the zoning map and to set the date of the public hearing for July 21, 1997.

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

Council Member Sande 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 B-3 (General Business) District and to include within the I-2 (Heavy Industrial) District, a portion of the Southwest Quarter of the Southwest Quarter of Section 28, Township 152 North, Range 50 West of the 5th Principal Meridian (commonly referred to as the former Lockwood Grader Tract) to the city of Grand Forks, North Dakota", which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE TO AMEND STREET AND HIGH-
WAY PLAN TO INCLUDE PUBLIC R/W SHOWN AS DEDICATED
ON PLAT OF MAIER'S FOURTH RESUBDIVISION

The Planning and Zoning Commission reported having considered the matter of the request from Pat Downs on behalf of the Grand Forks Region Economic Development Corporation for final approval of the plat of Maier's Fourth Resubdivision to the city of Grand Forks, North Dakota, being a part of the Southwest Quarter of Section 7, Township 151 North, Range 50 West of the 5th Principal Meridian (this area located between South 48th Street and the BN/Santa Fe Railroad right of way and between 11th and 17th Avenues South), 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, to set the date of the public hearing for July 21, 1997, and approval to begin site preparation work.

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

Council Member Sande 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 Maier's Fourth Resubdivision to the city of Grand Forks, North Dakota", which was presented, read and passed on its first reading.

INTRODUCE ORDINANCE TO ANNEX ALL OF MAIER'S
FOURTH RESUBDIVISION, LESS PORTION PREVIOUSLY
ANNEXED AND TO INCLUDE ALL OF THAT TRACT OF
LAND COMMONLY REFERRED TO AS NSP SUBSTATION SITE

The Planning and Zoning Commission reported having considered the matter of the request from Pat Downs on behalf of the Grand Forks Region Economic Development Corporation for approval to annex to the city of Grand Forks, ND all of Maier's Fourth Resubdivision to the city of Grand Forks, North Dakota, including all of the NSP Substation site (this area is located between South 48th Street and the BN/Santa Fe Railroad right of way and between 11th and 17th Avenue South), and recommended approval of the ordinance to annex, to introduce the ordinance and to set the date of the public hearing for July 21, 1997.

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

Council Member Sande introduced an ordinance entitled "An ordinance to annex to the city of Grand Forks, North Dakota, all of Maier's Fourth Resubdivision, Grand Forks, North Dakota, less portion previously annexed and to include all of that tract of land commonly referred to as NSP Substation Site", which was presented, read and passed on first reading.

INTRODUCE ORDINANCE TO AMEND ZONING MAP TO
INCLUDE WITHIN INDUSTRIAL 2ND PUD, CONCEPT DE-
VELOPMENT PLAN,

AMENDMENT NO. 1, ALL OF MAIER'S
FIRST, SECOND AND THIRD ADDITIONS, MAIER'S
FOURTH RESUBDIVISION AND NSP SUBSTATION SITE

The City Planning and Zoning Commission reported having considered the matter of the request from Pat Downs on behalf of the Grand Forks Region Economic Development Corporation for final approval of an ordinance to amend the Zoning Map to exclude from Industrial 2nd PUD (Planned Unit Development), Concept Development Plan and to include within industrial 2nd PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1, all of Maier's First Addition, Maier's Second Addition, Maier's Third Addition, Maier's Fourth Resubdivision and Northern States Power Substation Site (this area is located between South 48th Street and the BN/Santa Fe Railroad right of way and between 11th and 17th Avenue South), and recommended preliminary approval subject to special conditions shown on or attached to the review copy, to introduce the ordinance amending the zoning map and to set the date of the public hearing for July 21, 1997.

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

Council Member Sande 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 Industrial 2nd PUD (Planned Unit Development), Concept Development Plan and to include within Industrial 2nd PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1, all of Maier's First Addition, Maier's Second Addition, Maier's Third Addition, Maier's Fourth Resubdivision, and Northern States Power Substation Site to the city of Grand Forks, North Dakota" which was presented, read and passed on first reading.

APPROVE ESTIMATES, VARIOUS PROJECTS

Estimate Summary No. 299, dated June 30, 1997, and totaling \$1,532,534.83, was presented and read.

It was moved by Council Babinchak 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. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Hanson, 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 projects in a satisfactory manner, and recommending acceptance by the council: Paving Project No. 4185.5; Paving Project No. 4414; Sewer Project No. 4514, District No. 375; Watermain Project No. 4515, District No. 249; and Sewer Project No. 4516, District No. 376.

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

REFER VARIOUS ITEMS TO COMMITTEE

Various items were presented to the council/committee for consideration and/or referral to committee:

1) Council Member Beyer questioned why trucks hauling debris from Lincoln Park area south on Belmont Road to burn site, and who approved. It was noted that Belmont Road is signed for "no truck traffic" and if road damaged, who is responsible. Mr. Swanson stated that wouldn't eliminate use of that street for direct or ultimate destination of those trucks. He also noted that the hauling is being done under the direction of the Army Corps of Engineers and also following review of EPA, who has people on site and are doing some testing for various contaminants and all materials are being monitored through EPA. He also reported that prior to any burn or disposal there is some separation going on and they are removing certain articles so they are not burned with general debris. He also noted that with respect to the cost of repairing the road that would fall within a category that would be eligible for application to FEMA for public assistance, and some documentation should be occurring as to condition of the road prior to the haul and what occurs later. Mr. Vein stated they would check on that; and that State law will allow that type of burn to take place with burn permit. Mr. Swanson reported that last week he did review what activities were being undertaken on the demolition and the contractor was knocking homes down within the foundation walls and not removing any debris, that they did place an objection with the Army Corps of Engineers because under standard specifications they were to remove the debris, haul out, knock foundation down to a minimum of 4 ft. and begin capping utilities and City interpreted that to occur on a site by site basis, the contractor was arguing that they would be allowed to knock them all down and then come in and remove, and that as of this morning the Corps of Engineers was issuing an additional addendum to the contract requiring them to begin removing on a site by site basis as opposed to broader block by block basis; all specifications and contracting were let under the Army Corps of Engineers.

COUNCIL MEMBER HANSON EXCUSED

2) Council Member Beyer questioned status of Elks Building, lower levels destroyed, upper level is being inhabited but they have to make expenditure of large amounts of money to stay there; that if building treated as one structure will exceed 50% damage, that the edge of the parking lot is in the floodplain, the Elks building is not; however, those property owners were required to have flood insurance because garages in floodplain. Mr. Swanson reported that is a matter that has been under consideration and discussion, based on numbers provided to the City and in reviewing structure as a whole, damage is not over 50% damage. He stated that because way condominium by-laws established, any buyout program for that particular structure becomes very difficult, that they acquire individual units but unless 100% participation you never acquire the property, and from what he has been told not everyone willing to sell and that the upper units except for HVAC and some electrical did not sustain

substantial damage to the units, but lower level almost 100% damage. He stated property is not in any buyout phases approved; that townhouses are being treated differently because of by-laws on townhouses; that they are not certain whether there are any other condominium units which might come into play in any buyout area and if not, that may be an area where City treat condominium unit differently than they might under other circumstances, that property unique and problems also unique. He stated that unless council wishes to take particular action on that building, he has no answers at this time, that they are continuing to review with National Flood Insurance Program individuals as well as FEMA representative. Council Member Beyer questioned if they do the dike and have to buy out that building, is it advantageous for council to allow those 11 units to be rebuilt if have to buy out in three years.

3) Council Member Beyer questioned status of hiring of city planner, Mayor Owens stated process is not yet complete. Council Member Carpenter requested that no advertisements take place for either chief of police or planning director positions until council makes determination of whether under civil service or contract basis.

4) Council Member Babinchak presented the matter of directing Human Resources to look at disaster pay policy, including storm days, etc. so have policy in place.

5) Council Member Beach presented the matter of restructuring of city government; referred to urban development committee for consideration and report back.

6) Council Member Hagness suggested that mayor have electronic panel showing council person wishing to be recognized.

7) matter of formal request from International Building Concepts for proposal re. establishment of a manufacturing plant to produce homes for low and middle income earners. The matter was referred to the Growth Fund Committee for consideration.

ACCEPT BIDS FOR DEBRIS REMOVAL

The Flood Response Committee reported having considered the matter of bids for debris removal, and recommended to accept the low bid of Magnus Trucking & Construction in the amount of \$255,120.00.

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

ACCEPT BID FOR CITY HALL GENERAL CONSTRUCTION

The Flood Response Committee reported having considered the matter of bids for flood-related projects: a) City Hall general construction, and recommended to accept low bid of

Lakehead Construction in the amount of \$387,000 and to authorize proper City officials to enter into the contract.

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

**GRANT TENTATIVE APPROVAL OF PURCHASE OF
PROPERTY IN SUN LAND WEST AND REFER TO
FLOOD RESPONSE COMMITTEE WITH POWER TO ACT**

Mr. Swanson reported that at a previous meeting the council had directed city staff to begin negotiations with the owners of Sun Land West with intent to acquire that property, that it is his understanding that a purchase price has been arrived at, that he does not know what that price equates to on a per lot basis, that he is making council aware because they have proposed draft language of a purchase agreement with the owners of the property and they are considering asking the City to enter into a trade agreement, which falls under some tax consequences which they can avoid, ie., capital gains on land if we have a like property trade, up to that point had been discussing on a cash purchase basis; that assuming that all the requirements of a like trade can be met, they have no objections but didn't know what council's attitude might be and whatever action the council might wish to take, suggested that any approvals be subject to city attorney review and an appraisal being obtained. He stated that insofar as they would be using CDBG funds there is a need that the property have a relationship to an appraised value. Council Member Hagness stated that an even trade would not include the Aurora property.

Mr. O'Leary reported that Joel Manske, Housing Authority, has been discussing this with Mr. Danks, owner of Sun Land West property, the issue is whether or not the City wants to acquire any of the homes already on the site, that they have looked at those homes and think the asking price is too high. He reported that staff recommends not to acquire those, that as Mr. Swanson indicated we need an appraisal under the CDBG regulations so we don't overpay for the property, and staff's recommendation is to proceed with the purchase of the parcel at the requested price, about \$6,000/lot, \$20,000 per acre average for total of \$1.4 million plus. He stated that advantage of this is that property ready to go, 28 lots subdivided with infrastructure in and could be building now. Mr. O'Leary reported they had received copy of the covenants, which are pretty standard issue covenants, only one property owner involved and covenants City would have are more restrictive than those on the land, and property owner in place would be happy to look at those covenants. It was noted that there wouldn't be any mobile homes without basements on the property.

It was moved by Council Member Hagness and seconded by Council Member Klave to proceed with the purchase of the parcel in Sun Land West at the requested price, \$6,000 per lot or \$20,000 per acre, with CDBG funds.

Council Member Carpenter stated that it was inappropriate to take action on this without any

information, without consideration through proper committees.

Mr. O'Leary reported that the flood response committee did act on this, did approve it and authorized staff to enter into discussions on whether city would be interested in purchasing the land in conjunction with the buildings that are already on the land.

Council Member Klave questioned whether the City had any land to exchange for the parcel in Sun Land West. Mr. Swanson stated that the owners of Sun Land West have identified property on the west side of 55th that City would acquire at an equivalent price, and once the City acquired that property there would be an exchange, that they have done this before on other parcels of property but doesn't have the details. He stated the reason this was brought up was because previously discussed in terms of direct purchase, not in terms of trade, and he needed indication so could properly draft any type of proposed purchase agreement as to whether consider trade or not.

Council Member Klave withdrew his second to the motion so that this could go back to the proper committee to determine whether cash purchase or trade purchase in the best interest of the City.

Council Member Hagness did not withdraw his motion because that would delay action for two weeks, that this has been through committee and know purchase price and options, and would include, if it can be negotiated, the exchange of property for the same price. Council Member Glasheim seconded the motion.

Mr. O'Leary reported that the amount that the flood response committee heard is the number that's been verbally agreed to with the seller, there are two options, one with or without the developed houses (3 manufactured homes on lots that are already on site and are for sale and that seller asking for too much money for them - \$80,000 to \$110,000) so recommendation is not to purchase those but to purchase the balance of the available developed land and undeveloped land that's platted land and that's agreeable to the seller.

Council Member Glasheim asked if the council could give tentative approval and refer to flood response committee with power to act. Council Member Hagness agreed to include in his motion.

Mr. Swanson stated that he was looking for guidance or direction from this body whether to follow through in drafting a purchase agreement that would contemplate a like exchange.

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

ADJOURN

It was moved by Council Member Beyer and seconded by Council Member Hafner that we do now adjourn until Monday, July 21, 1997 at 7:00 o'clock p.m.
Carried 12 votes affirmative.

Respectfully submitted,

John M. Schmisek
City Auditor

Approved:

Patricia A. Owens, Mayor