

**THE CITY COUNCIL
GRAND FORKS, NORTH DAKOTA
September 15, 1997**

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

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, September 15, 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; absent: Council Member Bakken - 1; 2 seats 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 issue.

PRESENTATION BY GOVERNOR SCHAFER

Mayor Owens introduced Governor Edward Schafer.

Governor Schafer reported on the State's efforts on flood recovery, and reported that there are areas within State that are also having problems as well as Grand Forks, and find out how City's efforts are going, efforts of concern, and that his staff, cabinet, etc. are willing and able to assist in any way they can. He stated he wanted to congratulate all in city government and citizens of community for incredible job that's been done here as city continues to recover from this disaster. He reported that 90% of the businesses are up and running, the vast majority of students have returned to schools, UND enrollment is strong, and city deserves credit for a job well done.

Governor Schafer reported on the State-wide disaster recovery and mitigation efforts. He reported that the State has had two state-wide and Presidential disaster declarations this year between January and April, that he activated the ND National Guard which completed two major operations: Operation Snowball for the severe winter storms that shut down good portion of our State, and Operation Good Neighbor which was involved in our spring flood. He reported that both of those missions were the largest of the National Guard in our State's history, involving over 2,400 soldiers, airmen and women around the State and cost our State about \$5.2 million for these operations. He reported they performed countless essential tasks throughout the State, ranging from unclogging our State highway system after severe snowstorms hit, rescuing people from flooded homes, removing dead cattle from the waterways in the western part of the State and providing security to Grand Forks when it was virtual ghost town. He reported that the State also provides a match for most of the FEMA programs that were put in place and the State match for those programs State-wide is expected to be about \$17 million. He reported that they came in from Devils Lake this afternoon and on-going flooding in that area has plagued for five years and to describe suffering and loss from that area are almost as difficult as it is to describe magnitude of loss that the spring flood caused in Grand Forks, that the Lake has doubled in size in the last four years and has consumed everything in its way, changing character and face of that area and for Devils Lake no recovery effort yet, but dealing with growing body of water.

Governor Schafer reported that the three-part plan for mitigating the effects of the flood includes raising the protective infrastructure there storing water in the upper basin and securing an emergency outlet. He reported this is a complicated plan and depends on wide variety of people, including federal government, local and state governments, downstream members in Minnesota and Canada. He reported that the road system has been devastated by the flood waters, that millions of dollars are being spent to maintain transportation routes for people throughout the region just to connect critical pathways for education, health care and commerce.

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Governor Schafer reported that in terms of the Grand Forks program, the State is paying 100% of the city-county-school district and park district costs for the FEMA program, that this includes the public assistance program within the city development of manufactured home sites for temporary housing and the individual family-grant programs; that the State is paying \$16.5 million for hazard mitigation programs in the city and has granted \$2.4 million from our State community block grant program. He reported that the Bank of North Dakota is providing low interest loans to the city to help cover what could be serious cash flow problems, bank loans do include a \$25 million line of credit to the City, with about \$8 million on that line; lent \$8.3 million to the School District and \$12 million to the University of North Dakota for cash flow basis while the reimbursements take place. He reported that the Bank of North Dakota has a \$35 million disaster loan program for Grand Forks businesses and that provides loans for rebuilding at low interest rates with very flexible payback terms. He reported that in addition to financial assistance the Bank has worked very hard to reduce red tape. He reviewed chart showing programs: FEMA, Corps of Engineers, Federal Highway Administration and State Water Commission show costs for nonfederal and State share, and State's cost for these four programs are est. at about \$52 million, and est. State's cost share of flood mitigation efforts will be in that \$50 to \$60 million range.

Governor Schafer reported that in addition to the financial assistance, the State has worked very hard to reduce red tape, provide technical support to speed up recovery efforts, that General Bjerke is State's coordinating officer and has worked full time on this disaster recovery since January and since April he has spent a majority of his time on Grand Forks issues; and additionally General Sagsveen has been assigned virtually to Grand Forks and every day is dealing with Grand Forks efforts. He reported that Capt. Mark Nelson of the North Dakota Highway Patrol was loaned to the City as acting police chief so Grand Forks could pursue a careful search for a replacement there. He also reported that he had issued a wide variety of executive orders suspending State laws to facilitate prompt reconstruction of damaged facilities, quicker acquisition to the damaged homes and provided State's one-stop shopping center for quick licensing and identification of contractors, etc. to get moving forward.

He reported that each agency in the State government has played a vital role in one way or another to help people in communities to recover from disasters: Department of Corrections for channeling adult offenders in probation program for assistance for sandbagging, North Dakota Development

Fund created loan program to help flood damaged businesses, State Bank efforts, State Electrical Board provided additional staff, State Highway Patrol in managed road closures and this is small example of where State agencies involved. He reported that the State has been criticized by some for not doing enough, but there are major differences between North Dakota and Minnesota, that North Dakota has State-owned bank and significant reserves are there to be used to loan State or local agencies money for emergencies, and vast majority of Minnesota's disaster recovery allocations were necessary to provide the State's match for federal programs and North Dakota was already doing this before Minnesota's special session because our Legislature made provisions to allow us to do that after they came out of session. He reported that the State's commitment towards flood recovery is an est. \$50 to \$60 million, which is \$94/per capita in North Dakota, which is four times what Minnesota's contribution is and are proud of taxpayers in North Dakota and their willingness to support these projects. He stated he wanted to open the dialogue to questions and would like to take time to interact a bit on questions they might have.

Council Member Hagness reported that the Flood Mitigation is through the State and whether that is through the Governor's Office or through State Legislation, matching funds for the City of Grand Forks. Governor Schafer reported they don't know what the design of the program is going to be , what total costs are nor what the nonfederal share might be; that they are going to evaluate the State's

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presence and it's going to be huge dollars but nonfederal share could top \$100 million and evaluate where State can help and as program gets designed, will make decision whether Governor can make decision or Legislature involved. He stated that he would want to consult Legislature.

Council Member Hagness reported that by February 28 the Corps of Engineers is going to ask for response from City for a dike diversion or whatever issue City takes, going to have to commit ourselves so can be submitted to Congress for FY 1998 and will have to know before that, would that be reason for special session because talking about \$116 million. Governor Schafer reported that could be reason for special session and if need to have special session, if can't solve this through the executive branch with the consultation agreement with legislative leaders and have to make changes in State law or statute, will have one. He stated that he and Gen. Sagsveen discussed on way here today, that they are aware of timetable and trying to get feel for the project and get the numbers but will stand with City as work out this project and that whatever needs to be done to move forward if acceptable and committed to by the people of Grand Forks and will have special session to do it.

Council Member Sande questioned why money is sitting in Bismarck and will any interest on buyout money be allocated to the people of Grand Forks. Governor Schafer reported that the buyout money hasn't been sitting in Bismarck as it's been FEMA dollars and there have been some difficulties in approaching that question, esp. on reimbursement with sewer backup

insurance as well as FEMA reimbursements. He reported that he asked Gen. Sagsveen to personally intervene on this issue and that he has two checks here from FEMA totaling about \$497,000 on this reimbursement, and will present them today. he reported they were able to solve this by taking the full list of homes, that FEMA was questioning some homes so entire listing was held; General Sagsveen was able to solve this by convincing FEMA to remove the homes in question and reimbursing the others.

Council Member Sande reported that one of her constituents would like Governor Schafer to visit her house on Lincoln Drive in the worst part of the area; Governor Schafer stated he would catch up with her later to get address, that he wouldn't have time to do that today as he has an 8:00 o'clock flight, and if not make call, give her a call.

Council Member Carpenter reported that City would like to see special session, and supports excess sales tax generated coming back to the city of Grand Forks but if have to wait until the winter of 1999 to find out if the Legislature actually approves that, City won't be able to make any commitment on that money now because if the Legislature doesn't follow through in 1999 on Governor's recommendation the City will have to repay that money with property tax dollars which they can't afford to raise at this time. He stated he would like to urge Governor Schafer to consider the fact of an earlier special session or one that occurs in conjunction with the need for flood protection because we can't commit to spending that money that would have to be repaid by property tax dollars if don't get Legislative approval in 1999. He reported that the City has had to reduce its 1998 general fund budget by over \$1 million and spending down reserves, etc. and would be nice to have that commitment in effect so won't impact long term future of the City by cutting back maintenance and appropriate capital acquisitions because we don't now have money. Governor Schafer reported that he doesn't hear lot of people saying that we ought to have special session and the other issue that he disagrees with is knowing what's happening today, that if they had a special session which costs \$65,000/day with a minimum of three days according to the Constitution, \$150,000 just to start, what kind of monies you going to be assured of and you'll have no better way to plan knowing what money comes in than do right now. He reported that the increased sales tax revenues are approx. \$700,000 and est. that this could be by end of biennium \$6 million, but not sure, and this is reason why they set up program to lend the community \$25 million for cash flow purposes and should time come when they know

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exactly how much money is generated by the tax, they can use that money to reimburse the loan program. He stated he would urge City to continue with its programs, that they provided the financial capability of the City to do so and whether they reimburse those with sales tax dollars or other ways, need to move forward with these programs. He stated he was convinced that through legislative action they can pass this legislation and if he puts this legislation in his executive budget recommendation, that his recommendations for the last three sessions have been within one-half of one percent of his recommendations to the legislature, and thinks that's an important message. He reported that he also thinks that they better be prepared if had special session right now to face the State-wide impact of getting this done, because have huge livestock losses, agriculture losses and have had huge impacts on Devils Lake area, had

drought in northwestern area, and is not convinced he could convince full body of legislators to pass this tax, but if known how much it is, etc. can reimburse City and work hard to get done. Council Member Carpenter stated he didn't agree but that funding they have used is credited more for specific projects than on-going and didn't know that special session has to be tied to the sales tax revenue but the dollar amount commitment from the State for general revenue to the City to assist over the next couple years would be appropriate even if not tied to the sales tax and that the City needs in excess of \$1 million/year for the next three years to recuperate from the lost property tax revenues and also for School District which has taken significant hit and would say that the community of Grand Forks and School District and park District would need \$5 to \$10 million over the next three years to recuperate and continue to provide quality services that we have. Governor Schafer stated they would prefer to know exactly how many dollars working at and will go to bat and try to get that money reimbursed to the City on the increase sales tax, that they have had advantage of Bank of North Dakota to lend the City the money to get to these projects and will be there in partners with the City making sure it gets done.

Mayor Owens reported that this has never been an issue of party, been about people hurting and that's how he dealt with it and appreciates that. She stated that she realizes that they are dealing with an entire State and that we are part of it, that they have not denied any requests that the City has made and know that he addressed anything presented to him and trusts that he will continue to do that and if possible, help. She stated they appreciated his being here this evening and knowing that we have your continued support to recover; and that the city appreciates what he has done for us.

Governor Schafer stated he appreciated the opportunity to leave City with an invitation and that is if they have any follow-up thoughts, questions, ideas, please call them, drop them a note, and that they have committed General Sagsveen to be liaison with the City but want to have continued interaction and if any-thing from State, please feel free to be involved. He presented checks to the City.

APPROVE FINAL PLAT; AND ADOPT ORDINANCE NO. 3677,
AMENDING ZONING MAP TO INCLUDE WITHIN JOHNSON'S
PUD (PLANNED UNIT DEVELOPMENT), CONCEPT DEVELOP-
MENT PLAN, AMENDMENT NO. 10, WITH SUBSTANTIAL
CHANGE LYING IN LOT 1, BLOCK 1, COLUMBIA PARK 7TH
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 Columbia Park PUD (Planned Unit Development), Concept Development Plan, Amendment No. 9 and to include within the Johnson's PUD (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

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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 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 final approval subject to special conditions shown on or attached to the review copy and passage of the ordinance and refer to public safety committee a request considering the removal of street parking along the north side of 19th Avenue South between South Columbia road and South 29th Street.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this recommendation be and is hereby approved. Carried 11 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the ordinance adopted.

COUNCIL MEMBER HAMERLIK EXCUSED

ADOPT ORDINANCE NO. 3678 TO AMEND STREET
AND HIGHWAY PLAN TO INCLUDE PUBLIC R/W
SHOWN AS DEDICATED ON THE PLAT OF BIRKHOLZ
6TH ADDITION TO THE CITY OF GRAND FORKS, ND

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 Birkholz 6th Addition to the city of Grand Forks, North Dakota", which had been introduced and passed on its first reading on September 2, 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 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 Planning and Zoning Commission reported having considered the matter of the request from Wayne N. Stark on behalf of 1600 Central Avenue partnership for final approval of the plat of Birkholz 6th Addition to the city of Grand Forks, North Dakota (located in the northeast corner of the intersection of South 42nd Street and 24th Avenue South), and recommended final approval subject to special conditions shown on or attached to the review copy and passage of the ordinance amending the Street and Highway Map.

It was moved by Council Member Hagness and seconded by Council Member Babinchak that this recommendation be and is hereby approved. Carried 10 votes

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affirmative.

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 10; voting "nay": none. Mayor Owens declared the ordinance adopted.

ADOPT ORDINANCE NO. 3679, GRANTING EXTENSION
TO FRANCHISE AGREEMENT WITH NODAK ELECTRIC
COOPERATIVE FOR ELECTRICAL DISTRIBUTION SYSTEM

An ordinance entitled "An ordinance granting an extension to the franchise agreement between the city of Grand Forks and Nodak Electric Cooperative for an electrical distribution system", which had been introduced and passed on its first reading on September 2, 1997, was presented and read for consideration on second reading and final passage.

Council Member Hafner asked to be excused from voting on this matter. It was moved by Council Member Hagness and seconded by Council Member Babinchak that Council Member Hafner be excused from voting on this matter. Carried 9 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hagness - 9; voting "nay": none; Council Member Hafner excused from voting. Mayor Owens declared the ordinance adopted.

ADOPT ORDINANCE NO. 3680, AMENDING SECTION
6-0416 (1)(A) OF THE CITY CODE RELATING TO
OVERTIME COMPENSATION

An ordinance entitled "An ordinance amending Section 6-0416 (1)(A) of the Grand Forks City Code relating to overtime compensation", which had been introduced and passed on its first reading on September 2, 1997, was presented and read for consideration on second reading and final passable.

Upon call for the question of adoption of this ordinance and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness -

10; voting "nay": none. Mayor Owens declared the ordinance adopted.

COUNCIL MEMBER BEYER EXCUSED

HOLD PUBLIC HEARING ON APPLICATION FOR TAX
EXEMPTION, DESIGNATION OF CERTAIN COMMERCIAL
PROPERTIES AND APPROVE AGREEMENTS WITH BALTIC, LLP

The city auditor reported that a public hearing had been scheduled for this evening for the purpose of conducting a public hearing on a tax exemption within the city, the designation of certain commercial properties therein and the approval of agreements between the City and Baltic, LLP, its successors or assigns, as the owner of the commercial properties, all in accordance with the North Dakota Urban Renewal Law, NDCC, Chapter 40-58, that the proposed development or renewal area is Lot 2, Block 1, Baltic First Resubdivision (located at the intersection of 2nd Avenue North and North 3rd Street), and that the activities and services of the industrial or commercial enterprises proposed for the development or renewal area may compete with activities and services of other business enterprises within the city, 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

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comments to make on this matter. There were none.

It was moved by Council Member Glassheim and seconded by Council Member Sande to declare an insufficiency of protest on the application for tax exemption. Carried 9 votes affirmative.

Howard Swanson, city attorney, reported that this matter has previously been before the council and the council has approved the tax increment district calling for the sale of general obligation bonds, and what is being proposed is that the council approve and authorize proper City officials to enter into an agreement which would substitute increment tax exemption for the sale of the bonds. Mr. Swanson reported that the City will not be selling the general obligation bonds but for the same period of time that the bonds would be outstanding they will receive a tax exemption and is the same as what we have done in other tax increment areas (can either publicly sell the G.O. bonds or give tax exemption and removes from obligation of the City and it will have benefit of whatever exemption might be in existence for the term not to exceed 15 years.) He also noted that the exemption is only on the increment, that tax will still be paid on the existing value prior to improvement.

COUNCIL MEMBERS HAMERLIK AND BEYER RETURNED

It was moved by Council Member Hafner and seconded by Council Member Glassheim to approve and authorize proper City officials to enter into an agreement which would substitute increment tax exemption for the sale of the bonds. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer,

Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

ADOPT RESOLUTION VACATING VARIOUS EASEMENTS
AND 7TH AVENUE NORTH AND SUNLAND WEST AVENUE
R/W AS PLATTED AND DEDICATED ON THE PLAT OF
SUNLAND WEST SECOND RESUBDIVISION AND ALL OF
10TH AVENUE NORTH BETWEEN NORTH 52ND AND 55TH
STREETS

The city auditor reported that pursuant to instructions by the city council after having received a petition to vacate all utility easements, sidewalk and utility easements, 7th Avenue North and Sunland West Avenue rights of way as platted and dedicated on the plat of Sunland West Second Resubdivision and all of 10th Avenue North being bounded on the west by the extension of the east right of way line of North 55th Street and bounded on the east by the extension of the west right of way line of North 52nd Street as platted and dedicated on the plat of Rydell-West 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 with the auditor's office.

Mayor Owens called upon the audience to see if there was anyone present who had comments to make on this matter. There were no comments and the hearing was closed.

It was moved by Council Member Sande and seconded by Council Member Polovitz that we find and determine an insufficiency of protest to the proposed vacation. Carried 11 votes affirmative.

Council Member Hagness introduced the following resolution which was presented and read: Document No. 7364 - Resolution.

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

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DETERMINE INSUFFICIENCY OF PROTEST ON
PAVING PROJECT NO. 4660, DISTRICT NO. 552

The city auditor reported that the period for filing protests on the resolution of necessity for the improvements in and for Paving District No. 552, Project No. 4660, paving portions of 11th Avenue South, South 40th Street, 15th Avenue South, South 38th Street and 14th Avenue South, had expired on September 11, 1997, and that he had received no written protests.

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

Council Member Beyer introduced the following resolution as to protests which was presented and read: Document No. 7365 - Resolution.

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

that we do hereby find and determine an insufficiency of protest against Paving District No. 552, Project No. 4660, as no protests were filed, and further that the resolution be and is hereby adopted. Carried 11 votes affirmative.

RECEIVE TABULATION OF BIDS, ESTIMATE OF TOTAL
COST AND AWARD CONTRACT, PAVING PROJECT NO.
4660, DISTRICT NO. 552

The city auditor presented and read tabulation of bids which had been received and opened on September 8, 1997 for Paving Project No. 4660, District No. 552, paving on portions of 11th Avenue South, South 40th Street, 15th Avenue South, South 38th Street and 14th Avenue South, indicating that Nodak Contracting was the low bidder based upon their bid in the amount of \$457,025.00: Document No. 7366 - Bid Tabulation.

The city engineer's estimate of total cost on Paving Project No. 4660, District No. 552, in the amount of \$581,000.00, was presented and read.

Committee No. 3, Public Service, reported having considered the construction bids for Project No. 4660, District No. 552, paving Johnson's 4th Addition, and recommended that we accept the low bid of Nodak Contracting in the amount of \$457,025.00.

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

Council Member Hafner introduced the following resolution which was presented and read: Document No. 7367 - Resolution.

It was moved by Council Member Hafner and seconded by Council Member Hagness that this resolution awarding the contract for Paving Project No. 4660, District No. 552, to Nodak Contracting be and is hereby adopted. Upon roll call the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the resolution adopted and the contract awarded.

ADOPT FINAL BUDGET FOR THE CITY OF GRAND
FORKS FOR 1998 AND ANNUAL TAX LEVY

The city auditor reported that a notice calling the attention of the general public to the fact that the final budget of the City of Grand Forks, North Dakota for the year ending December 31, 1998 would be presented to the city council on Monday, September 15, 1997 at 7:00 o'clock p.m. at which time anyone interested might be heard, had been published as required; and presented the final budget of the City of Grand Forks for the period ending December 31, 1998.

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Mayor Owens asked for comments from the audience and from the council; there were no comments and the hearing was closed.

It was moved by Council Member Klave and seconded by Council Member Hamerlik to declare an insufficiency of protest on the budget. Carried 11 votes affirmative.

It was moved by Council Member Beyer and seconded by Council Member Carpenter to approve the adoption of the resolution of annual appropriation bill and tax levy and to introduce the following resolution adopting the budget: Document No. 7368 - Resolution.

Upon call for the question of adoption of the resolution and upon roll call the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried and the budget adopted.

REPORTS OF OFFICERS

The city auditor presented the cash balance report for the period ending July 31, 1997. It was moved by Council Member Beyer and seconded by Council Member Babinchak to receive and file the report. Carried 11 votes affirmative.

REPORT OF ZONING ADJUSTMENTS

A communication from Bev Collings, secretary, Board of Zoning Adjustments, was presented and read stating that the Board had held a public hearing in City Hall on Thursday, September 4, 1997, that notice had been published as required and that the following appeals were heard: 1) Dale and Tammy Jo Griggs, 1602 2nd Avenue North, request for variance to the accessory building requirements, with variance approved allowing 1,056 sq.ft. of accessory building area; 2) James Cooley, 1111 Walnut Street, request for variance to the accessory building requirements to erect an addition to an existing garage, with variance approved allowing 1144 sq.ft. of accessory building area; 3) Patricia Deraney, 1704 11th Avenue South, request for variance to the accessory building and side yard set-back requirements to construct an addition to the home, with variance approved allowing no less than two feet separation between existing detached garage and new addition to home and no less than a two foot and six inches side yard setback to the new addition; and any required fire separation must be installed on the required walls of the existing garage and new addition to the home; 4) John Herz, 1019 22nd Avenue South, request for variance to the accessory building requirements to erect an addition to the house, with variance approved allowing no less than nine feet between the existing detached garage and the new addition to the home, because the existing detached garage is only 3 feet to the side property line, and any required fire separation must be installed on the required walls of the existing garage and new addition to the home; 5) Jerry Bolessi on behalf of McDonalds Corporation, 1125 South Washington Street, request for variance to the impervious surface area and landscaping requirements to erect a restaurant, with variance approved allowing the parking setback to be no less than two feet and to eliminate the landscaping/bufferyard requirements on the side and rear yards; and 6) Duane St. Yves, 2113 11th Avenue North, request for variance to the accessory building requirements to erect a new detached garage, with variance approved allowing 1,029 sq.ft. of accessory building area to construct a new detached garage.

It was moved by Council Member Polovitz and seconded by Council Member

Glassheim that this report be and is hereby received and filed. Carried 11 votes affirmative.

APPROVE BILLS

Vendor Payment Listing No. 97-14, dated September 15, 1997, and totaling 15114
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\$5,464,432.79, all having been audited by the city auditor for payment in accordance with regulations, was presented and read.

It was moved by Council Member Carpenter and seconded by Council Member Sande 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, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried and the bills ordered paid.

APPROVE ANNUAL AUDIT FOR 1996

The Finance Committee reported having considered the matter of Comprehensive Annual Financial Report for year ended December 31, 1996, and recommended to approve the Comprehensive Annual Financial Report and to approve payment on the contract subject to final review by the State Auditor's Office.

It was moved by Council Member Babinchak and seconded by Council Member Carpenter 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, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

AUTHORIZE CALL FOR SPECIAL ELECTION IN WARDS 2 AND 3 FOR NOVEMBER 4, 1997

The Finance Committee reported having considered the matter of process for calling for special election, and recommended that we call for special election in both Wards 2 and 3, with petitions to be submitted by September 30 and call for election on November 4.

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

The city auditor reported on status of petitions, received today, for Third Ward with 138 signatures on the petitions calling for an election to fill Council Member Bruce Hanson's seat, and of those signatures only three would be technically valid.

Mr. Swanson reported that the city auditor provided him with copies of the petitions and the vast majority of those signing the petitions did not include within the petition their full address, omitted the city of Grand Forks, and despite that technical glitch it appears that the motion passed by the finance committee would still call for and provide for an election, but based upon prior rulings from his office on previous petitions submitted to the City, it does require the identification that the address

is within the city of Grand Forks for each individual signing the petition and consistent with Secretary of State's rulings.

After some discussion Council Member Hamerlik stated that if no outcry for an election in Ward 2, and as four months have gone by, moved to delete Ward 2 from the motion; Council Member Polovitz seconded the motion.

The city auditor reported that he had received communication from James Garlough that he was interested in running for seat in Ward 2.

There was discussion re. length of terms for vacant seats in Wards 2 and 3; Mr. Swanson reported that if they called for special election, that election would be to serve the balance of the remaining term, whether held this fall or next June. Mr. Swanson reported that the council has the authority to call for a special election without petition, and under terms of Statute those terms would

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come forward next June but only to fill balance of those terms. He also noted that the 15-day time period for citizens to call for an election has expired unless council were to appoint a member to serve until next election, that appointment would trigger new 15-day period to submit petitions, and would require council to call an election, however, the members of the ward may submit a non-binding petition to persuade council to call for an election. He also reported that any election must be held more than six months before your next regularly scheduled election. Mr. Swanson advised that if they don't act this evening, wouldn't provide sufficient time for Ward 2.

After further discussion and upon call for the question on the amendment, and upon roll call vote, the following voted "aye": Council Members Polovitz, Hamerlik, Beyer 3; voting "nay": Council Members Beach, Glassheim, Carpenter, Sande, Klave, Babinchak, Hafner, Hagness - 8. Mayor Owens declared the amendment defeated.

Upon call for the question on the original motion and upon roll call vote, the following voted "aye": Council Members Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness, Beach - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE REQUEST FROM THE EDGE TO HOLD
OCTOBERFEST IN DOWNTOWN ON SEPTEMBER 26-27

The Public Safety Committee reported having considered the request from The Edge to hold Octoberfest on September 27 in downtown Grand forks and blocking of North 3rd Street, 100 block, and recommended approval of the request for September 26 and 27, including use of city parking lot, establishing beer garden and with noise variance to 12:30 a.m., subject to coordinating the event with the police department.

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

Council Member Sande reported that it has come to her attention that The

Edge didn't get building permit and owner has number of other buildings downtown, no objection to approving this request, but wants council to be aware of this and not dealing with owner on other issues, and are requesting him to get building permits.

Upon call for the question and upon voice vote, the motion carried 11 votes affirmative.

APPROVE REQUEST FROM HAPPY HARRY'S BOTTLE
SHOP TO MOVE LICENSE TO NORTHWEST CORNER OF
GATEWAY DRIVE AND NORTH COLUMBIA ROAD

Committee No. 2, Public Safety, reported having considered the request from Happy Harry's Bottle Shop, 2215 Gateway Drive, to move license to northwest corner of Gateway and North Columbia Road, and recommended approval of the request to move the location of the retail liquor license.

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

AUTHORIZE EMERGENCY REPAIRS AT WATER RECLAMATION
PLANT

Committee No. 3, Public Service, reported having considered the matter of emergency repairs at water reclamation plan, and recommended approval of request

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for permission to order pumps for the sludge plant on sole source basis.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE EASEMENTS FOR VARIOUS PROJECTS

Committee No. 3, Public Service, reported having considered the temporary construction and permanent utility easement for storm sewer at east side of South 38th Street between 15th and 17th Avenues South, for and in consideration of the sum of \$1.00, Camen Homes, Inc., grantor, and recommended the proper City officials to execute the easement documents.

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

Committee No. 3, Public Service, reported having considered the matter of retaining wall and access easement for Upgrade Lift Station 7 at 3010 Gateway Drive (Lot K, Auditor's Subdivision No. 1 of part of the South One-half of Section 32-152-50, for and in consideration of the sum of \$1.00, H.E. Everson Company, grantor, and recommended the proper City officials execute the easement.

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

Committee No. 3, Public Service, reported having considered the matter of temporary construction easement, perpetual utility easement and perpetual roadway and utility easement for Watermain Project No. 4626 and Sanitary Sewer Project No. 4625, located on north side off 32nd Avenue South and east of Longview Addition, for and in consideration of the sum of \$1,250.00, Mary Jean VanPebrorgh, grantor, and recommended that we accept the easements for the amount of \$1,250.00 and authorize proper City officials to execute the same.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE AGREEMENTS FOR ENGINEERING SERVICES
FOR FLOOD CONTROL PROJECTS

Committee No. 3, Public Service, reported having considered the matter of agreements for design and construction engineering services for various flood control projects: CPS, Ltd. re. sluice gates on sewer outfalls along river, and recommended to approve the amendment to the agreement and to proceed with design and construction of the project, contingent upon review by the city attorney and the city engineer.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

Committee No. 3, Public Service, reported having considered the matter of agreements for design and construction engineering services for various flood control projects: Advanced Engineering re. sluice gates on sewer outfalls along

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English Coulee, and recommended to approve the contract for engineering services for design and construction of the project.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

Committee No. 3, Public Service, reported having considered the matter of agreements for design and construction engineering services for various flood control projects: KBM, Inc. re. storm water/flood pumping stations (1996 projects), and recommended to authorize staff to enter into

agreement with KBM, Inc. to provide design and construction engineering services.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ADVERTISEMENT FOR BIDS, SEWER PROJECT NO. 4669, DISTRICT NO. 386.1, SOUTHEND DRAINWAY, PHASE 1B

The city engineer's estimate of total cost of the construction of the southend drainway in the amount of \$ _____, was presented and read.

Committee No. 3, Public Service, reported having considered the matter of plans and specifications for Project No. 4669, District No. 386.1, Southend Drainway, Phase 1B, from Chestnut to Highway 81, and recommended that we pass the resolution approving the plans and specifications for this construction and further that the city auditor be directed to advertise for bids on the project.

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

Council Member Hafner introduced the following resolution which was presented and read: Document No. 7369 - Resolution.

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

AUTHORIZE STAFF TO PROCEED WITH APPRAISALS FOR LANDFILL SITING, AND TO AUTHORIZE OFFICIALS TO NEGOTIATE WITH PROPERTY OWNERS

Committee No. 3, Public Service, reported having considered the matter of landfill siting, and recommended to authorize staff to proceed with full appraisals on Sites A (Section 19, Turtle River Twp.) and D (Section 25, Levant Twp.), and further to authorize proper City officials to negotiate with property owners on the two sites.

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

APPROVE REQUEST FOR WAIVER OF BUILDING PERMIT FEE FOR RED RIVER HIGH SCHOOL TO CONSTRUCT BUILDING AS CLASS PROJECT

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Committee No. 3, Public Service, reported having considered the request

from Red River High School for waiver of building permit fee to construct building as class project, and recommended to approve request for waiver of the building permit fee.

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

ACCEPT BIDS FOR PAVING AND STREET LIGHTING
PROJECTS NOS. 4680 AND 4681, CONGRESSIONAL
FIRST RESUBDIVISION

Committee No. 3, Public Service, reported having considered bids for paving and street lighting in Congressional First Resubdivision, Paving Project No. 4680 and Street Lighting Project No. 4681, and recommended to accept the bid of Valley Contracting Company in the amount of \$489,607.00.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried and the bid awarded.

Committee No. 3, Public Service, reported having considered bids for paving and street lighting in Congressional Second Resubdivision, Paving Project No. 4675 and Street Lighting Project No. 4676, and recommended that we accept the bids of Nodak Contracting in the amount of \$1,090,060.00.

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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried and the bid awarded.

DENY FORGIVENESS OF HOUSING REHAB LOANS

Committee No. 4, Urban Development, reported having considered the matter of request for forgiveness of housing rehab loans, and recommended that both requests from recipients of housing rehab loans be denied.

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

Committee No. 4, Urban Development, reported having considered the matter of applicant's request to change terms of current rental rehab loan program: Riverview Manor (former St. Anne's), and recommended that request from Mr. Stinson be denied and that the existing program requirements be adhered to.

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

Committee No. 4, Urban Development, reported having considered the matter of request from applicant for rental rehab funds for a project not within program guidelines, and recommended that the request from the Norby Company be denied and the company be invited to apply within the program guidelines.

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

Committee No. 4, Urban Development, reported having considered the matter of deadline date for submission of applications for 1997 Flood Disaster Rental

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Rehabilitation Program, and recommended that a deadline for submission of rental rehab applications be set at September 15, 1997, and advertised appropriately.

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

APPROVE INCREASE IN RENTAL REHAB PROGRAM

Committee No. 4, Urban Development, reported having considered the matter of increase in rental rehab budget, and recommended that the budget for the current Rental Rehab Program be increased by \$1.5 million for a total budget of \$4 million.

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, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

RE-ALLOCATE FUNDS FOR HABITAT FOR HUMANITIES FROM SUPPLEMENTAL PROGRAM FUNDS FOR NEW CONSTRUCTION OF SINGLE FAMILY HOMES

Committee No. 4, Urban Development, reported having considered the matter of lot sold by Habitat and use of funds, and recommended return of the original \$10,000 to the CDBG Program and that we re-allocate \$10,000 for Habitat for Humanities from the Supplemental Program funds for the purpose of new construction of single family homes.

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, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE CONVEYANCE OF LOTS IN CONGRESSIONAL FIRST RESUBDIVISION TO HABITAT FOR HUMANITIES

Committee No. 4, Urban Development, reported having considered the matter of lots for Habitat for 1998 and recommended that we approve the conveyance of two lots in the Congressional First Resubdivision to Habitat for Humanities and that two lots be picked in conjunction with Office of Urban Development, with houses to be built in 1998.

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, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE FINAL PLAT OF REPLAT OF LOT 1, BLOCK
1, COLUMBIA PARK 22ND ADDITION

The Planning and Zoning Commission reported having considered the matter of the request from Brad Spicer on behalf of the Big Sioux Travel Plaza for final approval (fast track of a minor subdivision) of a Replat of Lot 1, Block 1, Columbia Park 22nd Addition to the city of Grand Forks, North Dakota (located in the northeast corner of the intersection of South 42nd Street and 36th Avenue South), and recommended final approval subject to special conditions shown on or attached to the review copy.

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

AUTHORIZE CITY TO TAKE BIDS FOR CLEANING OF
SANITARY SEWERS (NON-FUNDED BY FEMA)

The Flood Response Committee reported having considered the matter of cleaning non-FEMA funded sewers, and recommended that the City take bids for the cleaning of sanitary sewers in Area 3 (of map) that FEMA and Corps would not clean.

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

AUTHORIZE DEMOLITION OF CITY-OWNED FLOOD
DAMAGED BUILDINGS

The Flood Response Committee reported having considered the matter of demolition of City-owned flood damaged buildings, and recommended that the residential property as follows either be sold if possible or be demolished and recommend demolition of commercial properties on listing: residential houses for water treatment plant expansion at 311 Minnesota Avenue, 618, 617 and 601 South 4th Street, 610, 620 and 622 South 3rd Street, 317 Minnesota Avenue and 609 South 4th Street, and commercial property as follows: former Adult Abuse at 111 South 4th Street, Larson building at 19 South 4th Street (DSR not yet written) and Sweet Clover/Valdak building at 421/423 South 3rd Street (DSR not yet written).

It was moved by Council Member Polovitz 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

The Flood Response Committee reported having considered the matter of City Center Mall, and recommended that we authorize staff to request bids for the demolition of the east side and roof of City Center Mall, and the west side buildings as an alternate and to obtain costs on the reparability of the west side buildings.

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

APPROVE LANDFILL TIPPING FEES FOR DEBRIS
MISSION

The Flood Response Committee reported having considered the matter of landfill tipping fees for USACE debris mission, and recommended the acceptance of proposal submitted by asst. director of public works (Charles Grotte) and waive \$4.17/ton.

It was moved by Council Member Polovitz 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

ADOPT RESOLUTION RE. FANNIE MAE LAND
ACQUISITION AND INFRASTRUCTURE FINANCING IN
GRAND FORKS

The Flood Response Committee reported having considered the matter of Fannie Mae land acquisition and infrastructure of Housing Authority and Grand Forks Homes,

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Inc., and recommended that we approve the resolution as drafted by the city attorney: Document No. 7370 - Resolution.

It was moved by Council Member Polovitz 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried and the resolution adopted.

APPROVE BUILD-OUT OF UNUSED AREAS OF SECOND
AND THIRD FLOORS OF CITY HALL

The Flood Response Committee reported having considered the matter of the build-out of the second and third floors of City Hall, and recommended

that we approve the build-out of these areas at an estimated cost of \$80,000.

It was moved by Council Member Polovitz 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, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

GRANT PRELIMINARY APPROVAL OF CONCEPT OF
VICTORY REHAB PROGRAM

The Flood Response Committee reported having considered the matter of Victory Rehab Program and recommended to give preliminary approval in concept and direct staff to provide detailed draft of documents.

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

Council Member Carpenter reported that when these items had been held at previous council meeting with additional information to be presented to the council.

John O'Leary, executive director of the Urban Development Office, reported that last Friday was the closeout date, that originally approx. 103 residents who had indicated an interest in Phase III, which is the buyout program, and that number has increased to 157 as of today, and out of the 157 half are homes that look as though they should not be bought out, homes with less than 60% damage, and balance of those houses have experienced substantial damage and if that number increases up to 200, would give total of 100 homes and homes not expensive and that portion of the program could cost approx. \$6 million dollars for the buyout of homes in Phase III. He reported that it was suggested that they use the Victory Volunteers to fix those homes that aren't substantially damaged and to help the Victory people buy materials and in other ways cause assistance to happen. He reported that if the number climbs to 200, there are another 100 homes in this category of seriously damaged dwellings that are over 50% but not beyond repair. He reported that if each house reached \$15,000 which was recommended by staff, would bring the cost of this program to \$1.5 million, and that council could acquire all the homes in Phase III for around \$6 million and provide grants to homes that have greater than 50% damage but not beyond repair for an additional \$1.5 million, and would bring the total cost of the project to \$7.5 million, which would take care of approx. 200 homes in Phase III.

Mr. O'Leary reported that the second part of what they had looked at two weeks ago had to do with rehab of homes that were owned by low and moderate income people; that they have checked with FEMA and SBA and are unable to give solid answer as to how many homes that would involve. He reported that through the Victory Program they have approx. 400 home owners that have signed up for that part of the program, but actual numbers larger than the 400 on their waiting

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list. He reported that Phase III much easier to take care of.

Mr. O'Leary reported that there were a lot of homes at 49% or 48% that are likely to come in to appeal deadline date of September 12. Mr. O'Leary reported to get program cost took average households in Phase III and house with substantial damage are lower priced homes. Council Member Carpenter questioned whether those bought out would be eligible for the voucher program, and Mr. O'Leary reported that would be separate suggestion.

Council Member Hagness asked council not to delay this again, including Vail Circle, South 24th Street, areas between 6th and 10th Avenues North, and with amount of \$15,000 would help them put their homes together.

Mr. O'Leary reported that he was not sure they should be voting on Victory B which is program for low and moderate income people, and that he doesn't have good figures for rehab program for low and moderate income people. He reported that they would be voting on Phase III, buyout program for homes that are demolished or rehabbed if salvageable, are outside the flood plain, with greater than 50% damage, using average purchase price of \$60,000 for average purchase and max. \$15,000 in rehab costs and with Volunteers may not run that high, first determination will be whether salvageable or not. It was also noted that if house rehabbed would they be eligible for refund of those funds; Mr. O'Leary reported that if allowable under CDBG regulations to go back in and retroactively compensate a homeowner for damages he has repaired, but to place monetary value difficult, difficult to administer, etc. and doesn't have problem.

Council Member Hamerlik reported he has some concerns, and has been assured each time that people who have already rehabbed their homes would be included in the program and would be advertised accordingly, but hearing now that those people are not included. Mr. O'Leary reported that there are two programs, with second program being one to help low and moderate income people to rehab their houses which has been on your desks for two weeks, don't know how much that program is going to cost if approved, make retroactive and go back in with \$15,000 to assist those with serious debt to try to repair their homes, and program still on desks. He also reported that it would be council's decision as to whether or not want to provide a grant to those with more than 50% damage, whose house was inspected and who proceeded with repair of those, to provide some monetary assistance to those families and would be possible to do that under Phase III.

Mr. O'Leary also reported that there are no income guidelines on Phase III and guidelines show 50% damage. He reported that question before council tonight is whether they want to do this, want to make retroactive for those who went ahead and did work with their repairs.

Council Member Carpenter moved an amendment to the motion that the Victory Rehab Program include a retroactive provision for those in the rehab portion of that program; Council Member Hamerlik seconded the motion.

Council Member Glassheim questioned how they would treat the land, if City purchased property. Mr. O'Leary reported that Mr. Swanson has pointed out some interesting legal problems; and reported that the best way to treat this would be to purchase house and lot and to resell lot. It was noted that Tri-chairs had discussed and offer back to original homeowner to rebuild, then give to Housing Authority who would use for infill housing and sell for affordable housing, and seems like best way to do this; that

there needs to be details in the program about logistics about way buyout would happen and can be handled by city attorney and Tri-chairs. He also reported that those people who would be eligible would need to support their repairs with appropriate receipts and would not be duplicative of other assistance.

Council Members Carpenter and Hamerlik agreed that the program motion include the
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program be reopened to September 25.

Upon call for the question and upon voice vote, the motion carried 11 votes affirmative.

Mr. Swanson reported there are two areas of concern re. resale of property to the former owner, that is not provided for under ND existing law, that if the City acquires property except for certain exceptions, that has to be put up for public bid, and his recommendation was that if it was the intention of the owner to rebuild on the lot, not to sell the lot to the City, simply sell the structure. He reported that the other item he had concerns about was who qualifies for acquisition and who qualifies for rehabilitation, need to have some articulable and rational standard that can be identified rather than some type of subjective opinion and not aware of how occurs. Mr. O'Leary reported that he has their consultant to address the second issue, how to quantify the whole inspection process so have fair, equitable measurements for inspection so people being treated consistently and they have promised to draft something for council's perusal. Mr. Swanson reported that the council would have ability to amend ordinance as to resale of public property but questioned why would they want to purchase property and then sell back, raise issues re. titles, etc. and didn't know what City would gain by purchasing lot if the property owner wanted to rebuild. Council Member Carpenter stated concern is have City deal with basement issues, etc. and Mr. Swanson stated he would rather address those concerns, because under federal law if have had significant contamination from fuel oil and if become title owner of the property under federal law have environmental responsibility for ultimate cleanup and subsequent damages, exposure we don't need to acquire. He reported that if issues for leveling basement, capping utilities, etc. those can be specifically addressed within the confines of the program. Council Member Beyer suggested that the City not purchase any lots, let property owner sell or use lot, and City avoiding all issues. Mr. O'Leary reported that there are some 25 ft. lots; however, Grand Forks Homes has capacity to put infill housing on some of those lots and can do that pretty easily, infrastructure is in place and has seen some wonderful infill housing designs which would fit in with older neighborhoods and can do that very expeditiously.

Council Members Hagness and Hafner called for the question. Carried 11 votes affirmative.

Upon call for the question, as amended, with staff to work out details, and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak,

Hafner, Hagness -11; voting "nay": none. Mayor Owens declared the motion passed.

TABLE MATTER OF HOME IMPROVEMENT PROGRAM

The city auditor reported that this matter contained the same recommendation as previous item (and were combined as coming from the Flood Response Committee) so the motion was to give preliminary approval in concept and to direct staff to provide detailed draft and documents. It was moved by Council Member Polovitz and seconded by Council Member Glasheim that this recommendation be and is hereby approved.

Council Member Hafner reported that this is known as Victory B and urged everyone to vote against this motion as it is open-ended program, have no way of knowing cost of the program but would be in favor if came up with plan could be in favor of it. Council Member Hamerlik suggested that they not deny but table for further information.

It was reported that this program is in the matrix and put \$20 million for these activities which would also include some of the rehab activities just programmed for Phase III and that he has asked consultants to continue to work on this to

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try to put fiscal note on this issue and when get better answer will bring something back for review. Council Member Glasheim suggested putting some type of individual cap on this program rather than tabling.

After further discussion it was moved by Council Hafner and seconded by Council Member Polovitz to table this matter for further study. Carried 11 votes affirmative.

CONSIDER MATTER OF ALLEY ADJACENT TO BELMONT SCHOOL BACK TO SCHOOL DISTRICT

The Flood Response Committee reported having considered the matter of deeding alley property adj. to Belmont School back to School District, and recommended to authorize City officials to execute a quit claim deed reconveying property to the School District.

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

Joe Belcourt, 423 Chestnut Street, reported that he lives near the alley that the City will be deeding back to the Belmont School and would like council to consider a number of issues concerning the deeding of that alley back to the School District. He reported that the School District has purchased house next to his, at 419 Chestnut, and that the alley will be placed there, and would like council to consider the following conditions re. deeding back of that property because of traffic flow and tendency of drivers, requiring speed bumps in the alley south of Belmont School, locate alley so near homes requiring sound barrier between alley and the two adjacent homes on Belmont and Chestnut; and was encouraging the council to utilize the \$1.28 million appropriated to the School District by the Flood Recovery Committee to be used in the purchase of

flood-damaged homes throughout the city rather than the purchase of undamaged homes or homes damaged partially in the Belmont School area merely for green space and park areas, that these property owners do not want to sell, the School Board and design engineers have indicated that there is sufficient play area at Belmont School and they do not need these additional homes for playgrounds. He reported that the council has received a letter from the six home owners many who were here this evening and who live south of Belmont School and have indicated their desire to keep their homes because they have restored their basements, etc. since the flood and asked council not to destroy good homes when that money could be more wisely used to help other home owners in serious need because of the flood.

He asked council to consider and address each of the issues he has spoken of this evening.

It was moved by Council Member Hafner and seconded by Council Member Polovitz to add speed bumps in the alley and a suitable sound barrier.

Mr. Swanson reported that the council will run into title difficulty, this property was acquired by a deed from the School District a number of years ago and is conditioned upon the fact that this premise be used for an alley and in the event that the property is not used as a public alley, it reverts automatically as a matter of law to the School District, and by adding the amendment cannot force the School District to install speed bumps and a sound barrier if the original property is no longer used as an alley. He noted that they can ask but cannot require it.

Council Member Hafner changed his amendment to ask the School District to consider those items, and Council Member Polovitz seconded. Carried 11 votes affirmative.

Upon call for the question on the original motion, as amended, and upon voice vote, the motion carried 11 votes affirmative.

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AUTHORIZE HIRING CITY PLANNER UNDER CONTRACT

The Committee of the Whole considered the matter of hiring city planner under contract and approval of RFP for executive search firm and recommended to hire the city planner under contract and to approve an RFP for executive search firm.

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

COMMUNICATIONS FROM THE MAYOR

Mayor Owens reported that the National League of Cities will be meeting in Philadelphia and that three council members, Council Members Beach, Hamerlik and Carpenter, who wished to attend, and reported that she will not be attending and asked that the three members attend the meeting, and will return to the two members next year.

Mayor Owens reported that on September 29 they will meet to consider downtown and ULI report.

Mayor Owens presented the matter of unused leave time by employees who have been unable to use their vacation time because of flood, and asked that employees be allowed to carry over what they normally can and pool extra time to be used over two-year period of time. Council Member Hagness asked that this matter be referred to the finance committee with recommendation back to council.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS SEWER PROJECT NO. 4523
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Sewer Project No. 4523, District No. 377, is estimated to be \$63,000.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7371 - Resolution.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS PAVING PROJECT NO. 4526
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Paving Project No. 4526, District No. 547, is estimated to be \$116,100.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7372 - Resolution.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS PAVING PROJECT NO. 4479
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Paving Project No. 4479, District No. 543, is estimated to be \$174,000.00 and directing that special assessments be levied for the payment of

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the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7373 - Resolution.

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

Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS SIDEWALK PROJECT NO. 4593
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Sidewalk Project No. 4593, District No. 15, is estimated to be \$3,800.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7374 - Resolution.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS SIDEWALK PROJECT NO. 4617
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Sidewalk Project No. 4617, District No. 16, is estimated to be \$1,700.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7375 - Resolution.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS PAVING PROJECT NO. 4418
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Paving Project No. 4418, District No. 542, is estimated to be \$1,020,541.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission, which was presented and read: Document No. 7376 - Resolution.

It was moved by Council Member Hagness and seconded by Council Member Beyer that this resolution be and is hereby adopted. Carried 11 votes affirmative.

ADOPT RESOLUTION DIRECTING SPECIAL ASSESSMENT
COMMISSION TO ASSESS SEWER PROJECT NO. 4562
ON ESTIMATED COST BASIS

Council Member Hagness introduced the following resolution certifying that the total cost of Sewer Project No. 4562, District No. 379, is estimated to be \$109,000.00, and directing that special assessments be levied for the payment of the entire cost of said work and that the city auditor be directed to so notify the chairman of the Special Assessment Commission,

which was presented and read: Document No. 7377 - Resolution.

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

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this resolution be and is hereby adopted. Carried 11 votes affirmative.

APPROVE LOCATION FOR VOLUNTEER HOUSING

The Flood Response Committee reported having considered the matter of location of volunteer housing and recommended that the City initiate a contract with the North Star Inn for housing volunteer labor in the rebuilding phase of recover, contract for 7 months, with an option for 18 months, at \$10.00 per bed.

It was moved by Council Member Glassheim and seconded by Council Member Beyer 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, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

EXTEND EXISTENCE OF FLOOD RESPONSE COMMITTEE AND ADD ADDITIONAL MEMBER

The Flood Response Committee reported having considered the matter of Flood Response Committee and recommended that the Flood Response Committee be extended to January 1 and another person be added to the committee.

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

Council Member Carpenter stated he was concerned re. continually extending the flood response committee, that a lot of items going to that committee that should go to appropriate standing committees, that the last time this committee's existence was extended he had asked that those items go to the appropriate committee but that is not being done. He stated they need to more specifically identify agendas for flood response, either establish purpose and it goes to end of purpose or end completely.

Upon call for the question and upon voice vote, the motion carried 11 votes affirmative.

It was moved by Council Member Hagness that Council Member Carpenter be the additional member to the flood response committee, Council Member Hafner seconded the motion.

Council Members Hamerlik and Beyer stated they were willing to serve on that committee.

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

AUTHORIZE FUNDING FOR BELMONT SCHOOL, THAT

FUNDS NOT BE USED TO PURCHASE LESS THAN THREE
CONTIGUOUS LOTS

The Flood Response Committee reported having considered the matter of acquisition plan for properties near Belmont School, and recommended that the council appropriate \$1.28 million and further to exclude the area south of Belmont School.

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

The city auditor reported that the intention of this motion was to make the School System a sub-grantee of the CDBG funds and they would end up doing purchasing of the property.

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Mr. O'Leary reported that the original amounts of \$1.1 million included willing sellers on parcel 1 and parcels 3 and 4 to the south of Belmont School, and reported that the Flood Response Committee decided to limit acquisition amount to that area west of Belmont between Walnut and Chestnut Streets and south of 4th Avenue South; there are 4-5 properties where property owners have indicated they are not interested in selling, those are included in this amount so if change their minds during negotiations the School Board would have enough funds to acquire all that property, and if back-out non-interested sellers, the total project cost of \$695,240. He reported that the extension of the school received lot of support from neighbors, that for years they have been trying to revitalize that area through various programs, thinks important to have first class school, it attracts people, keeps people, enhances property and best money to spend in this neighborhood to protect the integrity of that area.

Larry Hoiberg, rep. School District, reported in answer to questions why they would be coming to the City for funding, that they have been hit very hard by the flood and School Board made many hard decisions over past few months, that the Belmont/Lincoln communities wanted school back in their area, and School Board did make decision to rebuild on the Belmont site, that the play area left after meeting all the code requirements to replace building is about one-half acre, that will allow playground equipment and small field. He reported that most of the elementary schools that they build new have about 8 acres of land and put together with the park Board which usually has approx. 10 acres additional, so about a 20-acre site. He reported that the reason they are trying to buy some additional land is to have more play area for physical education program and intermurals and that the Park Board is also interested in possibly relocating some of the activities that they have over at Central Park, ie., hockey facility, so that this would be convenient for this community and they presently can't do that on the present site, and they got along on the old Belmont site, but when rebuilding hope that they could have a long term plan where they could obtain more land and now don't have resources to purchase that property and asked for City's support and help. Council Member Hafner reported that in Mr. Hoiberg's remarks at the flood response committee they had determined which ones would agree to selling their and that they weren't going to go through any condemnation procedures so all the land to the west of the School is by voluntary sale; Mr. Hoiberg reported that they made personal contacts and had property owners sign letter of commitment that they were willing to negotiate sale of their property, but

no price ever negotiated and their approach would only go to willing buyers. they wouldn't condemn and over period of years some of those property owners may change their minds.

Council Member Hafner stated that the kids attending this school deserve a fraction of play area other schools have, and only way to do is to buy properties when available. It was reported that there would be approx. 300 students at Belmont; it was noted that Century has approx 8 acres plus Park Board property of approx. 12 acres; Kelly and Schroeder each have about 20 acres and that those schools have more than double students than Belmont would have. Mr. Hoiberg stated that plan for the alley between Chestnut and Walnut are as follows: to leave alley until obtain whole block, and Council Member Beyer stated that if don't have to spend funds for three years, that there are many unknowns and would like to see School District negotiate with home owners and give plan of what to do with alley, concerned with safety. Mr. Hoiberg stated it was hard to negotiate until have resources and know what limitations are, but need more play area for those kids and if City could help would be opportunity for those kids. Mr. Hoiberg reported that FEMA will help purchase property if not rebuilding in the floodplain and are doing that.

There was some discussion re. purchase of lots, that if they purchase some lots and leave one house standing, almost means forced sale. Mr. Hoiberg stated that they had discussed and met with property owners interested in selling their property, that delay in decision makes it harder for them to purchase lots.

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Council Member Hafner reported that the question is for School District to work out problems and then to come back to committee. Mr. Hoiberg reported that at the present time, School District would own land unless there was land Park District wanted to use where they would give long-term lease but School District takes pride in property, keeps yards up and would fence alley and would make considerations as that, but their intent is to maintain property.

After further discussion it was moved by Council Member Hagness and seconded by Council Member Carpenter that the motion be amended to appropriate up to \$700,000 to the School District for the purchase of properties. Carried 11 votes affirmative.

An amendment was then moved by Council Member Glassheim that none of the money be used to demolish houses on less than three contiguous lots; Council Member Sande seconded the motion. Upon call for the question and upon roll call the following voted "aye": Council Members Hamerlik, Glassheim, Sande, Klave, Beyer, Babinchak - 6; voting "nay": Council Members Beach, Polovitz, Carpenter, Hafner, Hagness - 5. Mayor Owens declared the motion carried.

Upon call for the question on the motion as amended and upon roll call vote, the following voted "aye": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Hafner, Hagness - 11; voting "nay": none. Mayor Owens declared the motion carried.

APPROVE VARIANCE TO NOISE ORDINANCE FOR BLOCK
PARTY ON WEST FALLCREEK COURT ON SEPTEMBER 20

Committee No. 2, Public Safety, reported having considered the request for block party on West Fallcreek Court on September 20, 1997, 6:00 to 11:00 p.m., to block West Fallcreek Court from 2506 to 2518 West Fallcreek, and for variance to the noise ordinance, and recommended approval.

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

REFER VARIOUS ITEMS TO COMMITTEE

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

- 1) Council Member Sande presented the matter of people in the downtown area rehabbing without building permits; Mayor Owens referred the matter to the public service committee.
- 2) Council Member Beyer reported that the matter of the storm sewer line on Park District land behind Rolling Hills cul-de-sac, and that line not televised; the matter was referred to the engineering department.
- 3) Council Member Beyer reported that she has received complaints re. TCI Cable service and if there was some way to improve their service, cable service goes out. Mr. Swanson reported they have received a number of those complaints in his office, there are some provisions of franchise agreement that enter into it, did do some investigating in May and June, and their facility flooded and they were not occupying their building, and with respect to answer on billing errors they were advised by TCI that there was a computer/billing error and they were giving credit back to those people. He reported that those people who may not have been in their homes are getting billed for cable service during the month even though not in their homes, and TCI is right to make that charge (service there though not used) and service not available after certain length of time, they make credit. He reported that under most recent television act by Congress, City has very little authority even under franchise agreement to address issues like that, don't have ability to leverage TCI. Mr. Swanson also noted that TCI doesn't have 15130
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an exclusive franchise agreement, other group(s) could come in; and further that the City does log its complaints and log is kept. He also noted that TCI also suffered significant damage during the flood, and could address correspondence to TCI and invite them to finance committee and address issues. Council Member Beyer asked that this matter be referred to the finance committee; Mayor referred to the finance committee for consideration.

- 4) Council Member Hafner asked if meeting of the council be held after business hours.
- 4) Council Member Hamerlik presented the matter of signage at 9th Avenue North and North 25th Street; Mayor Owens referred the matter to public safety committee.
- 5) Council Member Glassheim presented the matter of plan for mowing grass on bought out properties; Mayor Owens referred the matter to the flood response committee.

ADJOURN

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

Respectfully submitted,

John M. Schmisek
City Auditor

Approved:

Patricia A. Owens, Mayor