

FARGO CITY COMMISSION AGENDA
Monday, November 30, 2009 - 5:00 P.M.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON TV FARGO (Channel 99). They are broadcast each Monday at 5:00 p.m., Thursday at 7:00 p.m. and Saturday at 8:00 a.m.; and are also included in our video archive at www.cityoffargo.com/commission

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 16, 2009).

*** Consent Agenda - Approve the Following ***

- a. Revised and Reconstituted ADA Policy Including Grievance Procedure (2009) and Notification; appoint Bob Getz and Nate Bailly as ADA Co-Coordiators.
- b. Receive and file Summons and Complaint in the matter of Fred M. Hector, Jr. vs. the City of Fargo.
- c. Forgive the HOME funded housing rehab assistance in the amount of \$994.68 for improvements at 1527 2nd Avenue South due to a demonstrated hardship.
- d. Planning Department budget adjustment in the amount of \$2,000 and agreement with the UNC Highway Safety Research Center for a pedestrian safety guide for the Roosevelt Neighborhood Association.
- e. Acceptance of a Bureau of Justice Assistance Bulletproof Vest Partnership Grant in the amount of \$13,100 (CFDA #16.607).
- f. Health Department budget adjustments and grant agreement with the North Dakota Department of Health for H1N1 vaccination administration (CFDA #93.069).
- g. Health Department budget adjustments and contract with the North Dakota Department of Health for H1N1 vaccination planning (CFDA #93.069).
- h. Health Department budget adjustment and contract with the North Dakota Department of Health to cover contraceptives (CFDA #93.217 and #93.116).
- i. Contract with Clay County Public Health for provision of city readiness initiative grant activity.
- j. Applications for Games of Chance:
 - (1) Sigma Nu Fraternity for a raffle on 1/27/10.
 - (2) Fargo-Moorhead Curling Club for a sports pool and raffle on 2/28/10.
 - (3) Bennett Elementary PTA for bingo from 1/22/10 to 3/26/10.
 - (4) North Dakota Jaycees for a raffle on 12/12/09.
- k. Second Amendment to the Memorandum of Understanding between Tharaldson Ethanol/CRWUD/and the City of Fargo and First Amendment to the Joint Powers Agreement.

Change Order #1 from Heyer Engineering for an increase of \$12,715 for costs of providing additional design work for the skyway replacement.

- m. Automated Arm Refuse truck purchases from Northern Truck Equipment in the amount of \$199,497 and Sanitation Products in the amount of \$205,047.
- n. Sole source procurement of a recycling truck from Sanitation Products in the amount of \$135,739.
- o. Purchase of Robotic Total Station from Frontier Precision, Inc. in the amount of \$29,495.
- p. Contract and bond for the skyway replacement project.
- q. Bills.
- r. Create Improvement District No. 5700.

* * * Regular Agenda * * *

- 1. 2nd reading, waive reading and final adoption of an Ordinance Relating to City Street Lighting System Utility; 1st reading, 11/16/09.
- 2. Public Hearings - 5:15 p.m.:
 - a. Hearing on MIDA bond financing in the amount of \$10 million for MeritCare Hospital, MeritCare Medical Group and MeritCare Health Industries.
 - b. Petition requesting a zoning change from SR-3, Single-Dwelling and LC, Limited Commercial to GO, General Office on the west two hundred and ninety-two feet, Block 1, less the west ten feet thereof, Lewis Addition (1602 and 1616 S. Univ. Dr.).
 - (1) Approval recommended by the Planning Commission on 11/12/09.
 - (2) 1st reading of rezoning Ordinance.
- 3. Communication from residents of the Sunwood Addition regarding recent sewer backup.
- 4. Request from Minn-Kota PAAWS for a joint program with the City of Fargo to provide feline leukemia testing and vaccinations for feral cats living in Fargo.
- 5. Confirm recommendation of Metro Flood Work Group:
 - Recommend 500 year flood protection
 - Recommend removal of levee protection as primary flood mitigation
 - Recommend Corps study 3 flood mitigation options:
 - 35k cfs diversion in Minnesota
 - 30k cfs diversion in North Dakota
 - 35k cfs diversion in North Dakota
- 6. Recommendation for appointments to the Board of Health.

** The Board will meet in Executive Session authorized by NDCC, Section 44-04-19.2 to discuss matters surrounding the Devils Lake Emergency Outlet, NDPDES Permit No. ND-0026247.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310 or TDD 241-8258. Please contact us at least three business days in advance of public meetings to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo Web site at www.cityoffargo.com/commission



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE ENACTING ARTICLE 38-01
OF CHAPTER 38 OF THE FARGO MUNICIPAL CODE RELATING
TO CITY STREET LIGHTING SYSTEM UTILITY

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WHEREAS, electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code;

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the Board of City Commissioners of the City of Fargo, North Dakota, finds that it is necessary and appropriate to establish and create a utility system for the installation, operations, repair and maintenance of the city's street lighting system, as the same is authorized by law including N.D.C.C. Sections 40-05-01, 40-05.1-05 and 40-35-01, *et sequitur*;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Article 38-01 of Chapter 38 of the Fargo Municipal Code is hereby enacted to read as follows:

Section 1. Enactment.

38-0101. Creation of Street Lighting System Utility.--Pursuant to the provisions of Section 40-05-01 and Chapter 40-05, N.D.C.C, all lands, easements, rights in land, facilities, poles, wires, cables, conduits and other electrical fixtures and equipment necessary for the proper maintenance and operation thereof heretofore or hereafter acquired by purchase, lease or otherwise and set aside by the board of city commissioners of the city of Fargo for a municipal street lighting system are hereby declared to be and shall henceforth constitute, be held, operated, maintained, improved, enlarged, and administered as a single system to be known as the street lighting system.

38-0102. Control of the System.--All properties and assets set aside or held by the board of city commissioners for the purpose of lighting streets and alleys and all moneys to be derived from the operations and maintenance of said assets shall at all times be under the management and control of the board and shall be operated under such rules, terms and conditions as the board may establish.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 38-0103. Rates and Charges to Be Established.--In order to provide funds to defray the
2 costs operating, maintaining and repairing the street lighting system and to provide for related
3 revenue transfers, the board of city commissioners shall from time to time determine, establish,
4 maintain and change, by resolution, a schedule of rates, charges and fees for all services,
5 facilities and benefits furnished by the street lighting system.

6 38-0104. Rates and Charges to be Billed and Collected.--The rates and charges shall be
7 billed and collected in the same manner and time as are bills for other utility services provided
8 by the city under article 16-03 of the Fargo Municipal Code.

9 38-0105. System to Be Self Supporting.--The street lighting system shall be operated
10 and maintained, and the rates and charges for use of the facilities, shall be such as to make the
11 system self-supporting, self-perpetuating and adequate to pay all of the costs of operations and
12 maintenance of the system, to fund the acquisition of capital equipment needed to maintain the
13 system assets, to provide for revenue transfers approved during the annual budget adoption, to
14 provide a reasonable operating reserves and to pay all obligations of the city incurred in
15 establishing, improving and extending the system provided, however, nothing herein shall be
16 deemed or construed to preclude the city from defraying all or any part of the expense of the
17 operation or of any improvement or extension of the system by the levy of special assessments,
18 or taxes, or to preclude the city from issuing general obligation bonds, whenever and to the
19 extent that such action is authorized in a manner provided by law and is deemed fair and
20 equitable by the board of city commissioners.

21 38-0106. Segregation of City of Fargo Street Lighting Fund.--All moneys received by
22 the city in respect of the service and facilities furnished and made available by the system shall
23 be paid into the treasury of the city and kept in a utility fund which shall be permanently
maintained on the books of the city, separate and distinct from other funds, shall be considered a
non-major utility fund for financial reporting and budgeting purposes, and shall be designated as
the Street Lighting System Fund.

38-0107. Installation of Street Lights.--The board of city commissioners may, from time
to time, designate where street lights shall be installed and the manner and procedures to be
followed in making such installations. The city engineer shall be responsible for the regulation,
control, maintenance, and expansion of the street lighting system.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

1 This ordinance shall be in full force and effect from and after its passage, approval and
2 publication.

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4 _____
Dennis R. Walaker, Mayor

(SEAL)

5 Attest:
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8 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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Finance Office

P.O. Box 2083
200 3rd Street North
Fargo, North Dakota 58107-2083
Phone: 701-241-1333
Fax: 701-241-1526

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TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE 

RE: RESOLUTION AUTHORIZING THE ISSUANCE OF MUNICIPAL INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR MERITCARE HOSPITAL, MERITCARE MEDICAL GROUP, AND MERITCARE HEALTH ENTERPRISES, INC.

DATE: NOVEMBER 24, 2009

Meritcare Hospital, Meritcare Medical Group and Meritcare Health Enterprises, Inc. have applied for and have been granted preliminary approval to issue up to \$10 million of revenue bonds as authorized NDCC 40-57. A public hearing is required to be held on November 30, 2009 to receive public comment on the issuance of these bonds.

After the public hearing is conducted, your approval of a resolution authorizing the issuance of revenue bonds is required.

Suggested Motion:

Approve a resolution authorizing the issuance of up to \$10 million of revenue bond for Meritcare Hospital, Meritcare Medical Group, and Meritcare Health Enterprises, Inc.



Member _____ offered the following resolution and moved its

adoption:

**RESOLUTION AUTHORIZING THE ISSUANCE OF
REVENUE BONDS UNDER CHAPTER 40-57, NDCC**

BE IT RESOLVED by the City Commissioners of the City of Fargo, Cass County, North Dakota, as follows:

Section 1. Policy and Purpose.

1.01. For the purpose of providing hospital, nursing home and other health care facilities and service, the City is authorized by Chapter 40-57, North Dakota Century Code, as amended (the "Act"), to enter into loan agreements with nonprofit corporations providing for the City to loan the proceeds derived from the issuance of revenue bonds to the nonprofit corporation to be used to pay the costs of a project as defined in Section 40-57-02 located in the City and providing for the repayment of the loan by the nonprofit corporation.

1.02. MeritCare Hospital, a North Dakota nonprofit corporation (the "Hospital"), MeritCare Medical Group, a North Dakota nonprofit corporation, (the "Clinic") and MeritCare Health Enterprises, Inc., a North Dakota nonprofit corporation ("Health Enterprises") and together with the Hospital and the Clinic, the "Obligated Group") have requested that the City issue its revenue bonds (the "Bonds") in the aggregate principal amount not to exceed \$10,000,000 under the provisions of the Act to finance the cost of a project on behalf of the Hospital and Clinic (the "Project") consisting of the acquisition and installation by the Hospital, the Clinic or Health Enterprises of various items of equipment in its facilities in the City of Fargo, including magnetic resonance imaging equipment, linear accelerator, and cardiac cath lab equipment, linear accelerator upgrading and the remodeling of its facilities. Hospital facilities and other healthcare facilities where the equipment will be located or the remodeling will occur are listed as follows:

<u>Address</u>	<u>Type of Facility</u>	<u>Approximate Square Footage of Building</u>
723-27 Broadway; 415-515 Mills Avenue	Hospital	477,674
720 North Fourth Street	Roger Maris Cancer Center	29,600
736 Broadway	Broadway Health Center	61,339
501 Fourth Street North	Warehouse/Computer Center	59,766

1720 South University Drive	Hospital	331,000
1717 South University Drive	Hospital Support	36,000
1711 South University Drive	Hospital Support	40,000
723-727 Broadway; 739-745 Broadway	Medical Group Main Clinic	167,805
2400 32 nd Avenue South	Medical Group SouthPointe Clinic	160,120
2701 13 th Avenue SW	Medical Group Southwest Clinic	20,974
4777 23 rd Avenue South	Future location	N/A
4754 Agassix Xing (Crossing)	Future location	N/A

1.03. The Project would increase the level of economic activity in the City and would assist in making available high quality health care services to the residents of the City and surrounding area.

1.04. The City is advised by representatives of the Obligated Group that with the aid of municipal financing, and the resulting lower borrowing cost, the Project would be significantly more feasible. The City is further advised by the Obligated Group that approval of municipal financing would be a significant inducement to the undertaking of the Project by the Obligated Group.

Section 2. Findings.

2.01. A public notice setting forth the competitive nature of the project and the date and time of a public hearing on the Project was published according to law. The public hearing has been held according to law.

2.02. Based upon the public hearing it appears the issuance of the Bonds is in the public interest and any competitive nature and impact and effect of the issue upon existing industry and business will not result in an unfair advantage for the proposed Project to the substantial detriment of existing enterprises.

Section 3. Approval and Authorization.

3.01. Subject to the mutual agreement of the City, the Obligated Group and the initial purchaser or purchaser of the Bonds as to the details of an indenture, loan agreement and/or other documents necessary to evidence and effect the financing of the Project and the issuance of the

bonds, the issuance of revenue bonds of the City, in one or more series, in an amount not to exceed \$10,000,000, is hereby approved and authorized to finance part of the cost of the project.

3.02. The Obligated Group shall not be required to advertise for public bids on any part of the project as the City hereby waives the requirements of Chapter 48-02, NDCC, as authorized by Section 40-57-03 (12), NDCC.

3.03. Neither this commitment nor any actions, agreements, or legal matters related hereto or executed in pursuance hereof, shall in any manner or form create an indebtedness or liability of the City.

3.04. Federal legislation has imposed a cap or limit on the amount of tax exempt private activity bonds which may be issued in each State. While the Obligated Group has informed the City that the principal amount of the Bonds will not count against said cap or limit, pursuant to the provisions of Section 146(g)(2) of the Internal Revenue Code of 1986, the City hereby states that it has not made inquiry and is without knowledge as to whether or not the Bonds to be issued pursuant to this resolution will exceed such limitation and/or any interest paid thereon will be exempt from taxation.

Dated this 30th day of November, 2009.

Approved: _____
Mayor, City of Fargo

Attest: _____
Deputy City Auditor

Commissioner _____ seconded the above resolution and upon vote being taken thereon the following voted in favor:

and the following voted against the same:

the following were absent and not voting:

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City of Fargo Staff Report			
Title:	Lewis Addition	Date:	10/29/09 As updated on 11/25/09
Location:	1602 and 1616 University Drive South	Staff Contact:	Mark Williams
Owner(s)/Applicant:	Robert C. Bakkum	Engineer:	N/A
Reason for Request:	Zoning Change from SR-2, SR-3, and LC to GO		
Status:	Planning Commission Public Hearing: 11-12-09 City Commission Public Hearing: 12/09/09		

Existing	Proposed
Land Use: Warehousing/storage/parking	Land Use: Commercial Parking
Zoning: SR-2 and SR-3 Single-dwelling and LC – Limited Commercial	Zoning: GO – General Office
<p>Uses Allowed: SR-2, SR-3 Allows detached houses, daycare centers up to 7 children, parks and open space, religious institutions, safety services, schools, and basic utilities</p> <p>LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.</p>	<p>Uses Allowed: GO – General Office. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, and commercial parking.</p>
Maximum Density Allowed: 5-8.7 dwelling units an acre	Maximum Density Allowed: 65% building coverage

Area Plans:
There is not an area plan that applies to this proposal.

Staff Analysis:
The property is located at 1602 and 1616 University Drive South is legally described as the West 292 Feet of Block 1, Lewis Addition. 1602 University Drive South is a parking lot and a structure that use to be a church. The property is currently used as storage for Innovis Health and roughly the west half is zoned SR-3 with the remaining east half zoned SR-2. The property was utilized as office for architects prior to Innovis purchasing it approximately 15 years ago. It has not been utilized as a church since then. The hope is to remove the structure because of deterioration and convert the property into parking. Parking lots are not an allowed use in SR zoning districts. Thus the reason for the rezone to GO – General Office.

1616 University Drive South is a parking lot with a small shed that stores maintenance equipment. The property is currently zoned LC – Limited Commercial. The reason for the rezone to GO – General office is to maintain consistency with the above tract of land since they are both contiguous.

Initially, Innovis Health had sought a zone change for only the property located at 1602 University Drive South. The zone change was needed in order for Innovis Health to have the appropriate zoning to move forward with their plans to raze the old church structure and reconstruct the site with a new parking lot. However, the day prior to the scheduled September 9, 2009 Planning Commission hearing on the zone change request, several neighbors submitted protest petitions. As there was not time to adequately address the neighbors' concerns,

Innovis Health requested and was granted a one month continuation.

Innovis Health hosted an informational neighborhood meeting on 10/6/09 to answer questions and listen to concerns from neighboring property owners. Innovis Health began the meeting by telling the group about their plans. The neighbors were told that the church structure was in very poor condition and needed to be torn down. Innovis Health also stated that additional parking was needed on the north side of their facility to accommodate patients. Innovis Health stated they contacted the city and were told that the existing zoning would not allow them to construct a standalone parking lot. Innovis Health stated they were only seeking the zone change so that they could put in their parking lot. The neighbors stated they would prefer to see the old church remain and that they were concerned that the property could be sold and developed with non-compatible uses if it were zoned LC – Limited Commercial. Therefore, GO – General Office was suggested as a better fit. Innovis Health agreed and formally withdrew their LC – Limited Commercial zone change request and submitted a request for GO – General Office.

Zoning:

The Zoning Change Criteria are listed below:

- 1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**

Religious institutions are allowed in SR zoning districts. This property has not been utilized as a church since the LDC was adopted in 1998. Since that time, the property has been used for commercial purposes and should be brought into compliance with the correct zoning. General Office allows parking lots as a primary use and provides a better transition to residential. (criteria satisfied)

- 2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**

Yes, the necessary utilities, services, facilities and programs are currently in place to serve this area. (criteria satisfied)

- 3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**

Staff has no quantitative data that would support the notion that the proposed zoning change would or would not have an adverse effect on the value of the properties within the neighborhood. Staff believes this zoning change provides for an adequate transition from more intense commercial use to residential. After the structure is removed and the parking lot is built, parking buffers and landscaping per section 20-0705 of the LDC will be required. (criteria satisfied)

- 4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**

The proposed zoning change is consistent with the LDC, the Growth Plan, and other adopted policies of the City. The request provides for an adequate transition between zoning districts. In addition, the request brings the land use of the property into compliance with current LDC requirements. (criteria satisfied)

Update: Two days before the scheduled November 12, 2009 Planning Commission public hearing, staff received 5 letters of protest from neighboring property owners. Staff did present this new information to the Planning Commission at the November 12, 2009 public hearing. These new letters of protest were from the same property owners that had filed the initial protest petition. Staff contends that the efforts made by the petitioner to move away from the original zone change request of Limited Commercial, coupled with the inclusion and proposed down zoning of 1616 University Drive South from Limited Commercial to General Office, sufficiently mitigates that potential concerns and harms raised by the neighboring property owners filing

protest. After the November 12, 2009 public hearing, staff received one additional letter of protest.

Planning Commission Recommendation:

In a unanimous (6-0) decision, the Planning Commission moved the findings of staff be accepted and approval be recommended to the City Commission of the proposed zoning change as outlined within the staff report on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code.

Staff Recommendation:

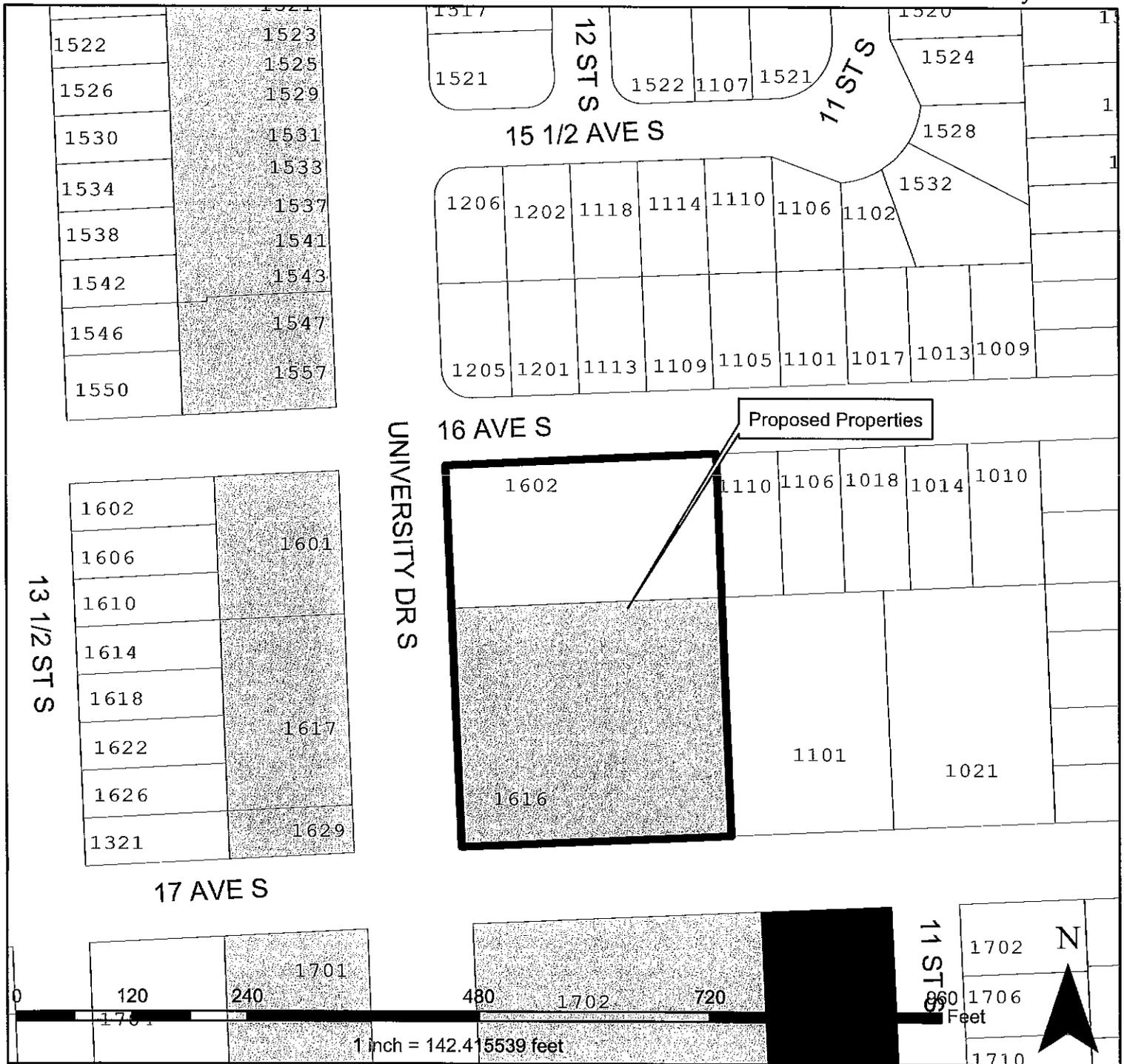
Suggested Motion "To accept the findings of staff and the Planning Commission and hereby move to approve the proposed zoning change, as outlined within the staff report, on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

City Commission Decision: 11/30/09

Zoning Change - SR-3 & LC to GO

Lewis Addition

1602 & 1616
University Dr S



Legend

- | | | | |
|-----|------|-------------------|------|
| AG | MR-2 | LI | SR-3 |
| DMU | MR-3 | MHP | SR-4 |
| GC | NC | MR-1 | SR-5 |
| GI | NO | City Limits | |
| GO | P/I | Proposed Property | |
| LC | SR-2 | | |



Fargo Planning Commission
November 12, 2009

Zoning Change - SR-3 & LC to GO

Lewis Addition

1602 & 1616
University Dr S



Fargo Planning Commission
November 12, 2009

November 3, 2009

Fargo City Planner
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

To Whom It May Concern:

We are writing this letter to protest the request of a Zoning Change from SR-3 Single-Dwelling to GO General Office on the north one hundred and fifty feet of the west two hundred and ninety two feet, Block 1, less the west ten feet thereof, Lewis Addition to the City of Fargo, Cass County, North Dakota.

RE: Tract of land located at 1602 South University Drive.

Our home is located directly east from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. We did meet with Innovis Health on October 6, 2009. James Hinderaker also attended that meeting.

The most recent letter we received from Fargo Planning and Development in regard to this issue was dated October 26, 2009. That letter states that Innovis Health has requested to change the zoning from residential to GO General Office. Your letter dated October 26 states that any protest must be in writing and submitted to the Auditor's Office and City Planner before the scheduled public hearing on November 12.

After meeting with Innovis Health on October 6 and discussing the issue further, we wish to request that the above-noted tract of land remain zoned as residential (SR-3). We feel that change to any other zoning would severely negatively impact our neighborhood, both from environmental point of view and, of course, financially by decreasing the property value of all residential houses in the vicinity of the proposed zoning change. We have lived in our home for 20 years and wish to preserve the value of our home and atmosphere of our residential neighborhood. Once rezoned, there will be no turning back.

In the October 6 meeting with Innovis Health, we brought up current issues many of our residents have raised before to Innovis Health. In regard to current issues, Innovis Health stated they had no control over any of the factors and that those issues would just need to be continually tolerated by the neighborhood. We feel that, allowing Innovis Health to

further expand into our neighborhood by rezoning to either Commercial or General Office would further increase undesirable conditions.

It is further concerning that the latest letter from the Fargo City Planning and Development office has described the proposed zoning change of TWO tracts of land so that it appears as ONE tract of land being affected. This does not reflect the fact that there is a serious concern by neighborhood residents regarding the tract of land located at 1602.

We ask that you take a careful look at the Petition and that you be aware that, while one tract of land (located at 1616 South University Drive) is being requested to be changed from LC Limited Commercial to GO General Office, the other tract of land is the area of our concern. We ask that you take into serious consideration our concerns and that you reject the petition to change the zoning of the 1602 tract of land from Residential to GO General Office. We are asking that you honor the request of private home owners in our area over the request of commercialized business and allow us to retain the SR-3 Single-Dwelling zoning.

Sincerely,

A handwritten signature in cursive script that reads "Larry & Kathy Larson". The signature is written in black ink and is positioned above the typed name and address.

Larry and Kathy Larson
1110 16th Ave South
Fargo, ND 58103

November 3, 2009

Fargo Planning Commission
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

To Whom It May Concern:

We are writing this letter to protest the request of a Zoning Change from SR-3 Single-Dwelling to GO General Office on the north one hundred and fifty feet of the west two hundred and ninety two feet, Block 1, less the west ten feet thereof, Lewis Addition to the City of Fargo, Cass County, North Dakota.

RE: Tract of land located at 1602 South University Drive.

Our home is located diagonally across 16th Avenue from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. We did meet with Innovis Health on October 6, 2009. James Hinderaker also attended that meeting.

The most recent letter we received from Fargo Planning and Development in regard to this issue was dated October 26, 2009. That letter states that Innovis Health has requested to change the zoning from residential to GO General Office. Your letter dated October 26 states that any protest must be in writing and submitted to the Auditor's Office and City Planner before the scheduled public hearing on November 12.

After meeting with Innovis Health on October 6 and discussing the issue further, we wish to request that the above-noted tract of land remain zoned as residential (SR-3). We feel that change to any other zoning would severely negatively impact our neighborhood, both from environmental point of view and, of course, financially by decreasing the property value of all residential houses in the vicinity of the proposed zoning change. We have lived in our home for almost 25 years and wish to preserve the value of our home and atmosphere of our residential neighborhood. Once rezoned, there will be no turning back.

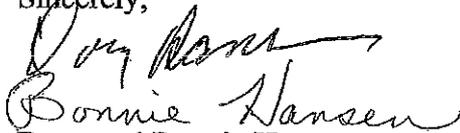
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further expand into our neighborhood by rezoning to either Commercial or General Office would further increase undesirable conditions.

It is further concerning that the latest letter from the Fargo City Planning and Development office has described the proposed zoning change of TWO tracts of land so that it appears as ONE tract of land being affected. This does not reflect the fact that there is a serious concern by neighborhood residents regarding the tract of land located at 1602.

We ask that you take a careful look at the Petition and that you be aware that, while one tract of land (located at 1616 South University Drive) is being requested to be changed from LC Limited Commercial to GO General Office, the other tract of land is the area of our concern. We ask that you take into serious consideration our concerns and that you reject the petition to change the zoning of the 1602 tract of land from Residential to GO General Office. We are asking that you honor the request of private home owners in our area over the request of commercialized business and allow us to retain the SR-3 Single-Dwelling zoning.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Hansen". The signature is written in dark ink and is positioned above the typed name.

Doug and Bonnie Hansen
1105 16th Ave South
Fargo, ND 58103
701-232-7584

November 9, 2009

City Planner
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

To Whom It May Concern:

We are writing this letter to protest the request of a Zoning Change from SR-3 Single-Dwelling to GO General Office on the north one hundred and fifty feet of the west two hundred and ninety two feet, Block 1, less the west ten feet thereof, Lewis Addition to the City of Fargo, Cass County, North Dakota.

RE: Tract of land located at 1602 South University Drive.

Our home is located east from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. James Hinderaker also attended that meeting.

The most recent letter we received from Fargo Planning and Development in regard to this issue was dated October 26, 2009. That letter states that Innovis Health has requested to change the zoning from residential to GO General Office. Your letter dated October 26 states that any protest must be in writing and submitted to the Auditor's Office and City Planner before the scheduled public hearing on November 12.

After meeting with Innovis Health on October 6 and discussing the issue further, we wish to request that the above-noted tract of land remain zoned as residential (SR-3). We feel that change to any other zoning would severely negatively impact our neighborhood, both from environmental point of view and, of course, financially by decreasing the property value of all residential houses in the vicinity of the proposed zoning change. We have lived in our home for 13 years and wish to preserve the value of our home and atmosphere of our residential neighborhood. Once rezoned, there will be no turning back.

In the October 6 meeting with Innovis Health, we brought up current issues many of our residents have raised before to Innovis Health. In regard to current issues, Innovis Health stated they had no control over any of the factors and that those issues would just need to be continually tolerated by the neighborhood. We feel that, allowing Innovis Health to further expand into our neighborhood by rezoning to either Commercial or General Office would further increase undesirable conditions.

It is further concerning that the latest letter from the Fargo City Planning and Development office has described the proposed zoning change of TWO tracts of land so that it appears as ONE tract of land being affected. This does not reflect the fact that there is a serious concern by neighborhood residents regarding the tract of land located at 1602.

We ask that you take a careful look at the Petition and that you be aware that, while one tract of land (located at 1616 South University Drive) is being requested to be changed from LC Limited Commercial to GO General Office, the other tract of land is the area of our concern. We ask that you take into serious consideration our concerns and that you reject the petition to change the zoning of the 1602 tract of land from Residential to GO General Office. We are asking that you honor the request of private home owners in our area over the request of commercialized business and allow us to retain the SR-3 Single-Dwelling zoning.

Sincerely,

A handwritten signature in black ink that reads "Don & LaVonne Rudolph". The signature is written in a cursive, flowing style.

Don and LaVonne Rudolph
1018 16th Ave South
Fargo, ND 58103

November 3, 2009

City Planner
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

To Whom It May Concern:

We are writing this letter to protest the request of a Zoning Change from SR-3 Single-Dwelling to GO General Office on the north one hundred and fifty feet of the west two hundred and ninety two feet, Block 1, less the west ten feet thereof, Lewis Addition to the City of Fargo, Cass County, North Dakota.

RE: Tract of land located at 1602 South University Drive.

Our home is located across 16th Avenue from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. James Hinderaker also attended that meeting.

The most recent letter we received from Fargo Planning and Development in regard to this issue was dated October 26, 2009. That letter states that Innovis Health has requested to change the zoning from residential to GO General Office. Your letter dated October 26 states that any protest must be in writing and submitted to the Auditor's Office and City Planner before the scheduled public hearing on November 12.

After meeting with Innovis Health on October 6 and discussing the issue further, we wish to request that the above-noted tract of land remain zoned as residential (SR-3). We feel that change to any other zoning would severely negatively impact our neighborhood, both from environmental point of view and, of course, financially by decreasing the property value of all residential houses in the vicinity of the proposed zoning change. We have lived in our home for 12 years and wish to preserve the value of our home and atmosphere of our residential neighborhood. Once rezoned, there will be no turning back.

In the October 6 meeting with Innovis Health, we brought up current issues many of our residents have raised before to Innovis Health. In regard to current issues, Innovis Health stated they had no control over any of the factors and that those issues would just need to be continually tolerated by the neighborhood. We feel that, allowing Innovis Health to further expand into our neighborhood by rezoning to either Commercial or General Office would further increase undesirable conditions.

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We ask that you take a careful look at the Petition and that you be aware that, while one tract of land (located at 1616 South University Drive) is being requested to be changed from LC Limited Commercial to GO General Office, the other tract of land is the area of our concern. We ask that you take into serious consideration our concerns and that you reject the petition to change the zoning of the 1602 tract of land from Residential to GO General Office. We are asking that you honor the request of private home owners in our area over the request of commercialized business and allow us to retain the SR-3 Single-Dwelling zoning.

Sincerely,

A handwritten signature in black ink that reads "Todd & Karleen Anderson". The signature is written in a cursive, flowing style.

Todd and Karleen Anderson
1109 16th Ave South
Fargo, ND 58103

November 3, 2009

Fargo Planning Commission
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

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RE: Tract of land located at 1602 South University Drive.

Our home is located east from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. We did meet with Innovis Health on October 6, 2009. James Hinderaker also attended that meeting.

The most recent letter we received from Fargo Planning and Development in regard to this issue was dated October 26, 2009. That letter states that Innovis Health has requested to change the zoning from residential to GO General Office. Your letter dated October 26 states that any protest must be in writing and submitted to the Auditor's Office and City Planner before the scheduled public hearing on November 12.

After meeting with Innovis Health on October 6 and discussing the issue further, we wish to request that the above-noted tract of land remain zoned as residential (SR-3). We feel that change to any other zoning would severely negatively impact our neighborhood, both from environmental point of view and, of course, financially by decreasing the property value of all residential houses in the vicinity of the proposed zoning change. We have lived in our home for 40 years and wish to preserve the value of our home and atmosphere of our residential neighborhood. Once rezoned, there will be no turning back.

In the October 6 meeting with Innovis Health, we brought up current issues many of our residents have raised before to Innovis Health. In regard to current issues, Innovis Health stated they had no control over any of the factors and that those issues would just need to be continually tolerated by the neighborhood. We feel that, allowing Innovis Health to

further expand into our neighborhood by rezoning to either Commercial or General Office would further increase undesirable conditions.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn and Angie Schlicht".

Glenn and Angie Schlicht
1106 16th Ave South
Fargo, ND 58103

November 3, 2009

City Planner
200 Third Street North
Fargo, ND 58102

ATTENTION: City Planner (LDC 20-0906.G)

To Whom It May Concern:

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RE: Tract of land located at 1602 South University Drive.

Our home is located diagonally across 16th Avenue from the above-mentioned property.

After the initial letter from you dated August 21, multiple residents wrote to you to voice objections to the change of the above-noted tract of land from residential to the, then proposed, commercial zoning. It was recommended that the neighbors meet with Innovis Health to discuss our concerns. James Hinderaker also attended that meeting.

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Sincerely,



Darren and Carly Dalbey
1101 16th Ave South
Fargo, ND 58103

262

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN LEWIS ADDITION TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

1
2 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
3 City of Fargo have held hearings pursuant to published notice to consider the proposed rezoning of
4 certain parcels of land lying in Lewis Addition to the City of Fargo, Cass County, North Dakota;
and,

5 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
6 request on November 12, 2009; and,

7 WHEREAS, the rezoning changes were approved by the City Commission on November
8 30, 2009,

9 NOW, THEREFORE,

10 Be It Ordained by the Board of City Commissioners of the City of Fargo:

11 Section 1. The following described property:

12 The West 292 feet of Block One (1), Less the West 10 feet thereof, Lewis
13 Addition, to the City of Fargo, Cass County, North Dakota,

14 is hereby rezoned from "SR-3", Single-Dwelling, District and "LC", Limited Commercial, District
15 to "GO", General Office, District.

16 Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his
office so as to conform with and carry out the provisions of this ordinance.

17 Section 3. This ordinance shall be in full force and effect from and after its passage and
18 approval.

19
20 _____
Dennis R. Walaker, Mayor

21 (SEAL)
22 Attest:

23 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

November 20, 2009

Fargo City Commission
City Hall
200 3rd Street North
Fargo, ND 58102

Gentlemen:

A number of north Fargo residents from the Sunwood Addition (9 1/2 and 10th Streets) wish to be placed on the agenda for the upcoming City Commission meeting to be held on November 30, 2009 at 5 pm.

The homeowners wish to voice their concerns about resolution of the damage in our homes caused by the sanitation sewer backup on November 4, 2009.

Respectfully,

Michael and Sue Joelson

Michael and Sue Joelson
3133 9 1/2 Street North

Barbara Meslin - 3131 10th St. N
Lorald & Jan Ruth - 3146 N. 10th St.
Clarence & Marilyn Peterson 3127 N 10th St.
Beverly Schoss - 3117 9 1/2 St N

Alvin & Ruth Taylor 3128 9 1/2 St N
Leo & Gayle Enfle 3134 No 10th St.
Anne He & George Latam 3138 10th St N
Judith Gustafson 3140 10th St.

Mike & Judy Muhl 3137 10th St No
Michael J. Patis 3129 9 1/2 St. N.
Doris J. Wanberg 3133 10th St N.
Bob & TRUDY WIMMER 3129 10TH S N.
Karen B. Deray 3141 9 1/2 St N
Alan & Kathleen 3152 - 10th St No.



Spay-Neuter
Assistance

4

24 November 2009

Fargo City Commission
200 3rd Street North
Fargo, ND 58102

Dear Mayor Walaker & Fargo City Commissioners:

Minn-Kota PAAWS would like to propose a joint effort between our organization and the city of Fargo.

Based on conversations with animal control officers and our own survey of the five mobile home parks in the city, we estimate that Fargo has between 300-500 feral, unsterilized cats living around the trailer homes. There are also other areas around the city with a similar feral cat problem.

This is an unhealthy situation and will result in an even bigger problem for animal control and the city's pound if we cannot put a stop to the increasing numbers of homeless, unsterilized cats in these areas. There is also a definite potential for serious public health and liability issues, for instance if one of these cats were to bite a child or a city employee.

Minn-Kota PAAWS, the area's only provider of low-cost spay-neuter services for pets from low-income households and feral cats, requests that the Commission contribute \$20/cat to the cost of feline leukemia testing and vaccinations for feral cats living in Fargo. PAAWS will provide the surgical services for these cats using funds from grants and local fund raising.

Although it is the mission of PAAWS to capture, test, vaccinate and sterilize these animals, we cannot do it alone. We sincerely hope that the Commission will see it is in Fargo's best interest to contribute to this effort.

Now is the time! Spring litters will simply overwhelm us with an even larger number of ferals.

Thank you for your consideration of this request. I look forward to your response and to working together to solve this growing problem.

Sincerely,

Carol Sawicki, PAAWS Clinic Manager

PAAWS (People Advocating Animal Welfare Services)
PO Box 45 Moorhead, MN 56561 or 2125 1st Ave. S. Fargo 58103
(701) 356-0523; paaawsproject@aol.com; www.paaawsproject.org

6

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR DENNIS WALAKER *Dennis Walaker*
DATE: NOVEMBER 24, 2009
SUBJECT: BOARD OF HEALTH APPOINTMENTS

The terms of Kay Leclerc and Michelle Donarski on the Board of Health expire on December 31, 2009.

Both Ms. Leclerc and Ms. Donarski have agreed to continue serving on the Board and I am recommending their reappointment for three-year terms.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Kay Leclerc and Michelle Donarski to the Board of Health for three-year terms ending December 31, 2012.

wwappt09boh