

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Special Meeting: Wednesday: January 30, 2008:

Agreeable with a call for a Special Meeting issued by Mayor Walaker, the Board of City Commissioners of the City of Fargo, North Dakota, convened in a Special Meeting in the City Commissioners' Room at the City Hall at 11:00 o'clock a.m., on Wednesday, January 30, 2008.

The Commissioners present or absent were as shown following:

Present: Coates, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Annexation Agreement with Gerald Johnson, Michael Walsh and Connie Walsh
Approved:

The Board received a communication from Planning Director Jim Gilmour stating over the past several months the property owners who own a quarter section of land south of Fargo have been discussing annexation with Planning Department staff. He said the owners are planning to sell their property and it appears both the City of Fargo and the property owners would benefit from annexation into the City of Fargo at this time. The property, he said, is about 140 acres and located in the southeast corner of Section 12 of Stanley Township, a little less than a half mile from the Fargo City limits. He said the owners are Gerald Johnson, Michael Walsh and Connie Walsh. Mr. Gilmour said while the property is within the extraterritorial jurisdiction of the City of Fargo at this time, the City of Briarwood has expressed an interest in having a portion of this quarter of Section 12 in the extraterritorial zoning jurisdiction of Briarwood. The extraterritorial zoning jurisdiction agreement with Briarwood, he said, expires in November 2008, so it may be more difficult to annex the property after that date. He said the property owners are concerned that the City of Briarwood may take some legal action against them and the City of Fargo because of this annexation. Mr. Gilmour said because it would be in the best interest of the City of Fargo for this property to contain future urban development, he asked the City Attorney to draft an agreement to hold the property owners harmless from any claims, demands or lawsuits brought against the owners by any city, including the City of Briarwood. In addition to the property owned by the petitioners, he said, four additional properties are included in the Resolution of Annexation which consists of two publicly-owned lots included to provide access to University Drive and two other 300 foot wide pieces included to connect the petitioners' property to the existing city limits. He said one property is owned by the City of Fargo and the other is owned by Fred Hector, Jr.

In response to a question from Commissioner Coates regarding Briarwood's potential objection to the property owners petitioning for annexation, City Attorney Erik Johnson said the owners wanted assurance that they would be annexed into Fargo and would be held harmless in the event someone does file a claim.

In response to a question from Commissioner Wimmer about the property directly to the east, Mr. Gilmour said the parcel is not part of Briarwood and is called Walsh subdivision. He said the subdivision does not want to be annexed any sooner than necessary.

Commissioner Coates moved the agreement with Gerald Johnson, Michael Walsh and Connie Walsh to hold them harmless from claims, demands or lawsuits brought against them by any city as a result of their petition for annexation approved.

Second by Wimmer.

Commissioner Williams stated he will not support this request because the future site of the new high school will stretch City infrastructure needs and he does not agree with quickly scheduled special commission meetings.

On call of the roll Commissioners Coates, Wimmer and Walaker voted aye.

Commissioner Williams voted nay.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Resolution Annexing Approximately 153 Acres in Section 12 of Stanley Township into the City of Fargo:

Commissioner Coates offered the following Resolution and moved its adoption:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with about ninety-five thousand (95,000) inhabitants; and

WHEREAS, there is contiguous and adjacent to the City of Fargo, a tract or parcel of land hereinafter specifically described, containing approximately 153.38 acres, more or less, which tract or parcel of land is not presently a part of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, the following described land:

Parts of the East Half (E 1/2) of Section Twelve (12), Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the 5th Principal Meridian, Cass County, ND, being more fully described as follows:

Beginning at a point on the corporate limit line of the City of Fargo on the West line of the East half of said Section 12, said point located on a line parallel to and 426' South of the North line of said Section 12; thence South along the West line of the East half of said Section 12 a distance of 4857' more or less, to the Southwest (SW) corner of the East half of Section 12; thence East on the South line of the East half of Section 12 a distance of 2064' more or less, to the SW corner of Walsh's First Subdivision; thence North on the West line of Walsh's First Subdivision a distance of 295.00' (platted distance) to the NW corner of Lot 1, Block 1 of Walsh's First Subdivision; thence East along the North line of said Lot 1, Block 1 a distance of 235.00' (platted distance) to the NE corner of said Walsh's First Subdivision and the West line of Chisan First

Subdivision; thence North along said West line a distance of 962.41' more or less, to the NW corner of Lot 1, Block 2 of said Chrisan First Subdivision; thence East on the North line of said Lot 1, Block 2 a distance of 170' (platted distance) to the NE corner of said Block 2; thence North a distance of 70' (platted distance) to the SE corner of Lot 10, Block 1 of Chrisan First Subdivision; thence West on the South line of said Lot 10, Block 1 a distance of 170' (platted distance) to the SW corner of said Block 1; thence North on the West line of Block 1 a distance of 1204.00' (platted distance) to the NW corner of Lot 1, Block 1 of said Chrisan First Subdivision; thence East along North line of said Block 1 a distance of 169.74' (platted distance) to the NE corner of said Block 1; thence North along the extension of the East line of Block 1 a distance of 100' (platted distance) to the Northeast (NE) corner of Chrisan First Subdivision, said point also the point of intersection with the North line of the SE 1/4 of said Section 12; thence West along the North line of said SE 1/4 a distance of 2160' more or less, to a point on a line parallel to and 300' East of the West line of Section 12; thence North along said line parallel to and 300' East of the West line of Section 12 a distance of 2215' more or less, to a point on a line parallel to and 426' South of the North line of Section 12 and the corporate limit line of the City of Fargo, thence West on said corporate limit line a distance of 300' more or less, to the point of beginning.

Comprising 153.38 acres, more or less.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo once each week for two successive weeks, and a hearing be held on the 24th day of March, 2008, at 5:15 p.m., in the City Commission Room, City Hall, Fargo, North Dakota.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer and Walaker voted aye.

Commissioner Williams voted nay.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Commissioner Wimmer moved that the Board adjourn.

Second by Coates. All the Commissioners present voted aye and the motion was declared carried.

The time at adjournment was 11:10 o'clock a.m.