

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
FEBRUARY 5, 2013  
7:00 P.M.**

**I. CALL TO ORDER**

Mayor Hovland called the meeting to order at 7:05 p.m.

**II. ROLL CALL**

Answering rollcall were Members Bennett, Brindle, Sprague, Swenson and Mayor Hovland.

**III. MEETING AGENDA APPROVED**

Member Swenson made a motion, seconded by Member Bennett, approving the meeting agenda, as modified to add Items V.A., Presentation by Human Rights and Relations Commission; and, VIII.H., Boards and Commissions Discussion.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IV. CONSENT AGENDA ADOPTED**

Member Brindle made a motion, seconded by Member Sprague, approving the consent agenda as revised to remove Items IV.C., Resolution No. 2013-18 approving Lot Division, 5700 and 5712 Grove Street; and, IV.D., Browndale Avenue Bridge Scour Repairs, Contract No. ENG13-6NB, as follows:

IV.A. Approve regular, closed session, and work session meeting minutes of January 22, 2013

IV.B. Receive payment of the following claims as shown in detail on the Check Register dated January 24, 2013, and consisting of 31 pages; General Fund \$186,916.06; Police Special Revenue \$307.48; Working Capital Fund \$39,284.33; Equipment Replacement Fund \$3,959.08; Art Center Fund \$4,452.21; Golf Dome Fund \$92.52; Aquatic Center Fund \$71.20; Golf Course Fund \$10,911.87; Ice Arena Fund \$682,145.71; Edinborough Park Fund \$16,073.89; Centennial Lakes Park Fund \$11,589.98; Liquor Fund \$164,980.15; Utility Fund \$29,580.29; Recycling Fund \$34,215.56; PSTF Agency Fund \$14,482.84; Centennial TIF District \$13,914.68; Payroll Fund \$5,577.19; TOTAL \$1,218,555.04; and, for approval of payment of claims dated January 31, 2013, and consisting of 30 pages; General Fund \$354,626.81; Police Special Revenue \$7,940.00; Working Capital Fund \$21,917.54; Equipment Replacement Fund \$4,625.72; Art Center Fund \$6,154.61; Aquatic Center Fund \$37.41; Golf Course Fund \$1,797.23; Ice Arena Fund \$17,027.42; Edinborough Park Fund \$18,178.49; Centennial Lakes Park Fund \$3,310.73; Liquor Fund \$151,547.07; Utility Fund \$218,287.53; Storm Sewer Fund \$5,060.00; Recycling Fund \$32.93; PSTF Agency Fund \$10,608.90; Centennial TIF District \$1,703.00; Grandview TIF District \$3,500.00; Payroll Fund \$2,062.15; TOTAL \$828,417.54.

~~IV.C. Resolution No. 2013-18 approving Lot Division, 5700 and 5712 Grove Street~~

~~IV.D. Browndale Avenue Bridge Scour Repairs, Contract No. ENG13-6NB~~

IV.E. Request for Purchase, Two Smithco Sand Rakes, Braemar Golf Course, awarding the bid to the recommended low bidder, Turfwerks at \$20,513.59

IV.F. Request for Purchase, Personal Protective Equipment, Fire Department, awarding the bid to the recommended low bidder, Jefferson Fire & Safety at \$48,225.46 and Fire Equipment Specialties at \$25,751.44 for a total purchase of \$73,976.90

IV.G. Approval of 2013 Minnesota Pay Equity Implementation Report

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**ITEMS REMOVED FROM THE CONSENT AGENDA**

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**IV.C. RESOLUTION NO. 2013-18 APPROVING LOT DIVISION, 5700 AND 5712 GROVE STREET – ADOPTED**

Community Development Director Teague answered questions of the Council relating to the narrow strip of undeveloped land to the west that was platted right-of-way for a future north/south street. He indicated the property to the north was a buildable and vacant lot, and its front yard setback would have to match the setback at 5700 Grove Street. **Member Swenson introduced and moved adoption of Resolution No. 2013-18, approving a Lot Division of 5700 and 5712 Grove Street.** Member Sprague seconded the motion.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IV.D. BROWDALE AVENUE BRIDGE SCOUR REPAIRS, CONTRACT NO. ENG13-6NB – APPROVED**

Engineer Houle answered questions of the Council relating to the Browndale Avenue bridge scour repairs that were expected to commence upon approval. Mr. Teague described staff's efforts to recoup costs and indicated the project had been redesigned to install oversized riprap with a boulder appearance that could withstand higher springtime flows. **Member Brindle made a motion, seconded by Member Swenson, approving the Browndale Avenue bridge scour repairs, Contract No. ENG13-6NB.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**V. SPECIAL RECOGNITIONS AND PRESENTATIONS**

**V.A. PRESENTATION BY HUMAN RIGHTS AND RELATIONS COMMISSION**

Meg Newell, Human Rights and Relations Commissioner, invited all to attend the April 22, 2013, Edina Reads spring event during which the novel *A Thinking Man's Bully* and the negative force of bullying would be addressed.

**VI. PUBLIC HEARINGS HELD – Affidavits of Notice presented and ordered placed on file.**

**VI.A. VARIANCE APPEAL, 5801 CRESCENT TERRACE – CONTINUED TO FEBRUARY 19, 2013**

It was noted the applicant and appellant had requested to continue consideration of the variance appeal to February 19, 2013. **Member Bennett made a motion, seconded by Member Sprague, to continue consideration of Variance Appeal, 5801 Crescent Terrace, to February 19, 2013.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**VII. COMMUNITY COMMENT**

No one appeared to comment.

**VIII. REPORTS / RECOMMENDATIONS**

**VIII.A. SKETCH PLAN REVIEWED, 4412 MORNINGSIDE ROAD AND 4232 OAKDALE AVENUE**

Community Development Director Presentation

Community Development Director Teague presented the request of the Sidell family for sketch plan review. It was noted the applicant had originally submitted a subdivision application to divide this property into eight lots with a cul-de-sac off Morningside Road to provide access to six of the new lots. That request required three variances. The Planning Commission, at its December 12, 2012, meeting recommended the applicant consider an alternative way to develop the property. As a result, the applicant prepared three alternatives that were presented to the Planning Commission on January 23, 2013, and would be presented again tonight. Mr. Teague indicated the Council was being asked to review and offer comments on the sketch plan.

Proponent Presentation

Frank Sidell, 4232 Oakdale Avenue, introduced Sidell family members and stated the Sidell family had lived in the Morningside area for 50 years, prior to it becoming part of Edina, and would like to create a legacy for his father, Franklin DuBois Sidell, who liked larger lots with room for children to play, offering privacy

and serenity. However, his mother's goal was to maximize the value and pass it on to her children through her estate. He described the character of Morningside, finding it to be very eclectic with no two houses the same. Mr. Sidell stated that he had performed a walking inventory of Morningside, and that by his count the neighborhood contained 633 homes, that 65 had been rebuilt or heavily remodeled in the past years, that more than one-third had garages in the front and that more than one-third were on lots larger than 50 feet in width. Mr. Sidell described the features and advantages of an eight-lot conforming concept requiring no variances and a modified original concept with a slight modification for a 44-foot road right-of-way and 24-foot paved surface with a center of permeable pavers to increase infiltration. This allowed pulling the road away from the newly constructed home at 4408 Morningside Road and relocating its driveway to the cul-de-sac to increase safety. Mr. Sidell acknowledged that the conforming concept was met by resident opposition to the through street. He identified the benefits of the modified original concept as no 50 foot lots, lower housing density, need for only three minor variances, less impact on trees, and a cul-de-sac that would maintain the peace and serenity of the existing property

Mr. Sidell presented the elements in Sketch Plan A and in Sketch Plan B, each requiring 26 variances. He stated it had been proposed to construct a sidewalk from the cul-de-sac to the City-owned lot on the corner but the family was not in favor because it was not a programmed park, the hill was too steep for a safe walkway without 65 steps and a railing; and, there was already a sidewalk 200 feet to the east on Lynn Avenue. He noted the cul-de-sac had been proposed to save mature trees and not disturb a steep sloped area on the site.

Peter Knaeble, Civil Engineer with Terra Engineering representing the proponent, advised that the variances for sketch plans A and B related only to lot size, and that other variances might be sought for construction of homes on those lots.

The Council discussed the elements proposed in each of the three concepts and unanimously preferred the modified original concept because it would lower density with 75-foot lots that created pleasant space between houses that residents prefer, preserve the grand tree canopy, maintain the charm, beauty, and serenity of the original 50-acre park-like estate. Support was expressed for the conservation easement, thoughtful rain garden feature, pervious paver roadway enhancement, and 18-foot westerly shift in the roadway.

Members Sprague, Brindle, and Mayor Hovland supported orientation of homes toward the cul-de-sac to create a holistic experience for neighbors and a greater sense of community. In addition, orienting the homes toward the cul-de-sac would lessen pressure on the intersections of Oakdale and Morningside by concentrating traffic starts within the cul-de-sac, and result in most of the traffic coming/going toward the new roadway instead of shining headlights towards homes along the south side of Morningside.

Members Bennett and Swenson supported turning the two southernmost lots to face Morningside Road to encourage a sense of community, beyond a micro neighborhood, and engage new residents on the north side with existing residents on south side of Morningside Road. It was noted that the house to the east of the proposed cul-de-sac faces Morningside Road and while that garage could be relocated to the cul-de-sac, the front of the house and porch would face Morningside Road. Member Bennett added that homes facing Morningside Road would provide a more welcoming, safer environment for pedestrians and could have a calming effect on traffic on Morningside Road

The Council thanked Mr. Sidell for his thoughtful consideration of the neighborhood.

**VIII.B. RESOLUTION NO. 2013-17 – CALLING FOR A PUBLIC HEARING ON A PROJECT BY CALVIN CHRISTIAN SCHOOL OF MINNEAPOLIS – ADOPTED**

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Finance Director Wallin indicated the resolution under consideration calls for a public hearing. It was noted that in 2008, Calvin Christian School had requested the City issue tax exempt bonding to fund a project; however, that proposal was turned down. As a result, the School obtained taxable funding and was now requesting a public hearing to convert that taxable debt into tax-exempt conduit bank qualified debt issued by the City of Lilydale. It was noted the City of Edina would have no responsibility for the debt being proposed, if approved, and the purpose of the public hearing was to provide opportunity for residents to testify. Those comments would then be forwarded to the City of Lilydale.

The Council discussed the request, noting if a public hearing was held, adoption of a resolution would be required indicating the public hearing had been held and expressing the Council's consent to Lilydale to issue the debt.

Steve Fenlon, 2042 Charlton Ridge, St. Paul, Midwest Healthcare Capital and the Calvin Christian School's consultant, indicated it was not contemplated that the City Edina would be required to enter into a Joint Powers Agreement, although sample documents shared with a resident had included one. He explained the School pursued a nexus issuer under Minnesota Statute that allowed the City of Lilydale, whose citizens had Calvin Christian School as an alternative for its residents, to issue the bonding note. However, the City in which the facility was located was required to hold the public hearing.

The Council discussed the request. Mr. Wallin indicated the Council had approved similar conduit financing a number of times including Fairview Southdale Hospital, Vernon Terrace for senior housing, Volunteers of America for relocation of its state headquarters to Edina, and the high rise adjacent to Edinborough Park. Member Bennett distinguished those uses of conduit bonding by the public purposes served.

Mr. Fenlon advised it was the role of bond counsel, not the issuer or governmental entity, to undertake a study and offer an opinion as to whether there was public good. In this case, it was for an educational alternative that was not funded by the taxpayer. He clarified when the City of Lilydale issued the note, it would not become an obligation of any taxpayer in Lilydale or Edina but would offer Calvin Christian School, a nonprofit, a reduction in overhead to operate at no cost to any citizen or city or taxpayer.

Manager Neal indicated this item was reviewed by the City's bond counsel and determined it was legal to consider but discretionary, and that it was the Council's role to determine whether or not it found a public purpose. He noted Calvin Christian School could not access this form of financing unless the City of Edina held a public hearing, even if Edina was not undertaking the financing.

Members Bennett and Swenson indicated they served on the Council in 2008 when this request had been considered and denied, and their position had not changed. They found the request infringed upon separation of church and state since religious training was intrinsically entwined with its education of students.

Mr. Fenlon indicated in 2008, Calvin Christian School had not done an adequate job explaining the criteria and that the allocation would be clearly tied to academic, athletic, or administration. The dollars were not spent where religious training or worship occurred. Mr. Fenlon noted Calvin Christian School was a 50-year citizen of Edina that had provided an educational alternative for its residents and should warrant holding a public hearing to allow it to exist. He stated if requested, the proponent could provide a list of other religious colleges, high schools, and elementary schools allowed to use this financing through the State. In addition, the proponent was willing to bring in bond counsel to satisfy the Council's concerns related to separation of church and state.

Members Brindle and Sprague stated support for the resolution to hold the public hearing as Mr. Fenlon had presented a compelling argument. In addition, there would be no recourse on the City to undertake

this role. Mayor Hovland stated that while he had voted against this consideration in 2008, he supported holding a public hearing to receive input on how the secular interest would be satisfied. **Member Sprague introduced and moved adoption of Resolution No. 2013-17, calling for a public hearing on March 5, 2013 for a project by Calvin Christian School of Minneapolis.** Member Brindle seconded the motion.

Ayes: Brindle, Sprague, Hovland

Nays: Bennett, Swenson

Motion carried.

**VIII.C. NEW WINE & BEER LICENSES APPROVED – HELLO PIZZA, 3904 SUNNYSIDE ROAD**

Member Bennett disclosed that her son worked for this appellant at another location so she would recuse herself from this consideration.

City Clerk Mangen presented the request of Grey Ghost Grub LLC, dba as Hello Pizza, 3904 Sunnyside Road, for new On-Sale Wine and 3.2 Beer Licenses. It was noted the applicant had filed the necessary paperwork, paid applicable fees, and inspections and investigations had been completed.

Mr. Teague answered questions of the Council relating to the nonconformity of this use due to not having enough parking spaces. It was noted this use would move into the former bakery space, which was similarly under parked, but the use would not be expanded in any way.

Ann Kim, 5416 Brookview Avenue, applicant, described the seating arrangement and indicated they expected slice business over lunchtime and family business in the evening that would be enhanced by offering wine/beer. **Member Sprague made a motion, seconded by Member Brindle, approving an On-Sale Wine and 3.2 Beer License to Grey Ghost Grub LLC, dba as Hello Pizza, at 3904 Sunnyside Road for the period beginning February 6, 2013, and ending March 31, 2013.**

Ayes: Brindle, Sprague, Swenson, Hovland

Nays: None

Abstain: Bennett

Motion carried.

**VIII.D. NEIGHBORHOOD BOUNDARIES AND NAMES AND THE RELATED NEIGHBORHOOD ASSOCIATION POLICY – TABLED**

Assistant Manager Kurt provided a summary of the Neighborhood Associations Policy, noting its purpose was to recognize neighborhood associations to facilitate communication, foster interaction, and build a better community through cooperative action. She described anticipated City support and Plan components. Ms. Kurt answered questions of the Council relating to neighborhood associations including jurisdictional sizes and viability of smaller-sized neighborhood associations, noting it had been recommended the best practice was a range between 250 and 2,000 households. She displayed a comparative maps depicting two cities, one in which association boundaries had evolved organically and another that had taken a more holistic approach.

The Council discussed the proposed process and questions were raised relating to the need for governmental intervention to create recognized neighborhood associations, name each, and identify the boundaries, especially since some neighborhood associations already exist and residents had the ability to be informed through the City's website and newsletter without creating a government-led structure. The Council acknowledged that the process, though well advertised, had identified some residents were still not aware the process was underway, demonstrating a need to establish an efficient and cost effective City-wide communication link beyond what was legally required. It was mentioned that a Neighborhood Association Policy could become part of a toolset of democratic governance to set up more participatory, deliberative and collaborative governing, providing a more dynamic approach to get residents from all areas of Edina involved.

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The Council discussed the concern expressed by residents of Sunnyside and Country Club to retain existing neighborhood names and boundaries as defined by the natural features of the creek and geography. Support was expressed to consider that request by creating a flexible Policy without orphan neighborhoods.

The Council agreed it was a laudable intent for the City to become a better communicator with its residents and develop a greater sense of community; however, this process had not been a positive experience for all due to concern the process would result in balkanization of the community. The Council concurred there was need for additional conversation related to the Policy, whether to conduct a survey of "shoulder blocks," timing to allow a neighborhood name or boundary change to come forward, and whether to consider a narrower scope, such as a pilot program. **Member Sprague made a motion, seconded by Member Bennett, tabling further consideration of neighborhood boundaries and names and the related Neighborhood Association Policy to a future Work Session.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

### ***VIII.E. CITY MANAGER EMPLOYMENT AGREEMENT – APPROVED***

Mayor Hovland indicated the Council met in Closed Session on January 29, 2013, regarding Mr. Neal's job performance and modified the existing contract to extend the term for two years. Mr. Neal referenced the edited agreement and indicated the City Attorney made a material change to add a cap to the City's liability, in compliance with State Code. **Member Swenson made a motion, seconded by Member Sprague, approving the City Manager Employment Agreement as modified.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

### ***VIII.F. CITY OF EDINA AND EDINA PUBLIC SCHOOLS PARTNERSHIP GOALS – APPROVED***

Mr. Neal indicated the 2013 Commitment to Partnership had been developed in cooperation with Edina Public School Superintendent Dressen and was based on the November 30, 2012, joint staff meeting. It was noted the partnership goals had been approved by the School Board at its January 7, 2013, meeting. If adopted by the Council, the goals would be put into action with periodic reports provided to the Council and School Board throughout the year. Mr. Neal noted Safe Routes to School was a work plan item to accomplish in 2013. The Council agreed this topic should be taken up administratively, at the next joint meeting, or considered as an administrative amendment. **Member Bennett made a motion, seconded by Member Sprague, approving City of Edina and Edina Public Schools partnership goals.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

### ***VIII.G. MEMORANDUM OF UNDERSTANDING WITH EDINA CRIME PREVENTION FUND, FALL INTO THE ARTS FESTIVAL – APPROVED***

Mr. Neal presented the proposed Memorandum of Understanding (MOU) for the annual Fall into the Arts Festival, a major fund raising event for the Edina Crime Prevention Fund. The MOU had been prepared by the City Attorney and approved by the Crime Prevention Fund Board of Directors at its January 18, 2013, meeting. The Council reviewed the language of the MOU and requested revisions under Facilities, last line, to indicate: "...shall restore full use of the park to the City within 12 hours..." Additional modifications were requested: Reimbursable Expenses, line 1, to replace the word "it" with the words "the City;" Severability, Section 16.E., change 'become' to 'becomes and, replace the word "will" with the word "shall." It was noted that contributions to projects from the Edina Crime Prevention Fund totaled \$32,768.

**Member Swenson made a motion, seconded by Member Bennett, approving the Memorandum of Understanding with Edina Crime Prevention Fund, Fall into the Arts Festival, as revised.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**VIII.H. BOARDS AND COMMISSIONS DISCUSSION**

Member Bennett made a motion, seconded by Member Swenson, approving the removal of Lisa Finsness from the Human Rights and Relations Commission, with gratitude for her service.

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

**IX. CORRESPONDENCE AND PETITIONS**

**IX.A. CORRESPONDENCE**

Mayor Hovland acknowledged the Council's receipt of various correspondence.

**IX.B. MINUTES:**

1. **VETERANS MEMORIAL COMMITTEE, OCTOBER 19, 2013**
2. **PLANNING COMMISSION MINUTES, JANUARY 9, 2013**
3. **HUMAN RIGHTS AND RELATIONS COMMISSION, NOVEMBER 27, 2012**

Informational; no action required.

**X. MAYOR AND COUNCIL COMMENTS** – Received

**XI. MANAGER'S COMMENTS** – Received

**XII. ADJOURNMENT**

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:26 p.m.

Respectfully submitted,

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Debra A. Mangen, City Clerk

Minutes approved by Edina City Council, February 19, 2013.

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James B. Hovland, Mayor

Video Copy of the February 5, 2013, meeting available.