

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
JUNE 3, 2014  
7:00 P.M.**

**I. CALL TO ORDER**

Mayor Hovland called the meeting to order at 7:03 p.m.

**II. ROLL CALL**

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

**III. MEETING AGENDA – APPROVED**

**Member Bennett made a motion, seconded by Member Swenson, approving the meeting agenda.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland  
Motion carried.

**IV. CONSENT AGENDA IV.I – ADOPTED**

**Member Swenson made a motion, seconded by Member Sprague approving the consent agenda as revised to remove Item IV.I.C., Request for Purchase, 2014-2015 Salt Purchase; Item IV.I.I., Amendment Lunds Byerly's 71 France Addition Development Contract; and, Item IV.I.J., Ordinance No. 2014-07 Amending Chapter 8 Concerning Dogs, as follows:**

**IV.I.A. Approve regular and work session meeting minutes of May 20, 2014**

**IV.I.B. Receive payment of the following claims as shown in detail on the Check Register dated May 22, 2014, and consisting of 35 pages; General Fund \$149,261.40; Police Special Revenue \$2,541.79; General Debt Service Fund \$450.00; Working Capital Fund \$223,100.95; Equipment Replacement Fund \$8,848.70; Art Center Fund \$2,227.84; Golf Dome Fund \$162,191.87; Aquatic Center Fund \$6,113.64; Golf Course Fund \$19,669.01; Ice Arena Fund \$7,246.58; Edinborough Park Fund \$2,794.93; Centennial Lakes Park Fund \$10,530.89; Liquor Fund \$228,425.88; Utility Fund \$80,887.36; Storm Sewer Fund \$3,845.48; PSTF Agency Fund \$1,195.95; Centennial TIF District \$58,655.88; Grandview TIF District \$1,716.50; Southdale 2 District \$43,104.23; TOTAL \$1,012,808.88 and for receipt of payment of claims dated May 29, 2014, and consisting of 29 pages; General Fund \$165,025.63; Police Special Revenue \$455.95; Pedestrian and Cyclist Safety \$3,871.40; Working Capital Fund \$847,980.95; Equipment Replacement Fund \$110,054.00; Art Center Fund \$695.63; Golf Dome Fund \$670.14; Aquatic Center Fund \$10,105.04; Golf Course Fund \$28,698.15; Ice Arena Fund \$10,446.85; Edinborough Park Fund \$5,848.07; Centennial Lakes Park Fund \$13,450.38; Liquor Fund \$145,674.70; Utility Fund \$275,812.71; Storm Sewer Fund \$4,564.52; PSTF Agency Fund \$4,936.00; Centennial TIF District \$30,855.01; Southdale 2 District \$963.50; TOTAL \$1,660,108.63; and, Credit Card Transactions dated March 26, 2014 – April 25, 2014; TOTAL \$40,284.41**

**~~IV.I.C. Request for Purchase, 2014-2015 Salt Purchase~~**

**IV.I.D. Request for Purchase, 2014 Elgin Crosswind Street Sweeper, Public Works – Utilities, awarding the bid to the recommended low bidder, Mac Queen Equipment, Inc., State Contract #70741, at \$182,148.00**

**IV.I.E. Request for Purchase, Award of Bid – Improvement P-23 50<sup>th</sup> and France Parking and Wayfinding Improvements (Contracts 1, 2, 4 and 5), awarding the bid for Package 1 to the recommended low bidder, Blackstone Contractors, at \$447,000.00; and awarding the bid for Package 2 to the recommended low bidder, Restoration Systems, at \$863,000.00; awarding the bid for Package 4 to the recommended low bidder, Blackstone Contractors, at \$1,089,045.00; and, awarding the bid for Package 5 to the recommended low bidder, Superior Painting, at \$204,397.00**

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**IV.I.F. Reject Bid – Contract ENG 14-6 West 54<sup>th</sup> Street**

**IV.I.G. Authorize Cost Share Agreement and Maintenance Plan with Nine Mile Creek Watershed District**

**IV.I.H. Approve Change Order – Contract ENG 14-3 Bredesen Park D and Countryside F Neighborhood Roadway Improvements, Palda & Sons, Inc. at \$424,819.49 for watermain replacement**

~~**IV.I.I. Amendment Lunds Byerly's 71 France Addition Development Contract**~~

~~**IV.I.J. Ordinance No. 2014-07 Amending Chapter 8 Concerning Dogs**~~

**IV.I.K. Approve Request for Information for Consultant Services for Small Area Planning Process, Wooddale Avenue and Valley View Road**

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**ITEMS REMOVED FROM THE CONSENT AGENDA IV.I**

**IV.I.C. REQUEST FOR PURCHASE, 2014-2015 SALT PURCHASE – APPROVED**

Member Bennett recused herself from the vote as her husband was a pensioner of Cargill. **Member Swenson made a motion, seconded by Member Sprague, approving Request for Purchase, 2014-2015 Salt Purchase, awarding the bid to the recommended low bidder, Cargill, Inc., State Contract #77774, regular road salt at \$65.97 per ton; and, Contract #77778, treated road salt at \$81.39 per ton.**

Ayes: Brindle, Sprague, Swenson, Hovland

Nays: None

Abstain: Bennett

Motion carried.

**IV.I.I. LUNDS BYERLY'S 71 FRANCE ADDITION DEVELOPMENT CONTRACT AMENDMENT – APPROVED**

**Member Brindle made a motion, seconded by Member Swenson, approving Lunds Byerly's 71 France Addition Development Contract Amendment.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IV.I.J. ORDINANCE NO. 2014-07 AMENDING CHAPTER 8 CONCERNING DOGS – TABLED**

The Council expressed concern with the ordinance wording relating to damage and consent. Manager Neal suggested staff solicit the Council's comments prior to the July 1, 2014, Council meeting. **Member Brindle made a motion, seconded by Member Bennett, tabling consideration of Ordinance No. 2014-07 Amending Chapter 8 Concerning Dogs, to the July 1, 2014, Council meeting.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IV. CONSENT AGENDA IV.II – ADOPTED**

**Member Swenson made a motion, seconded by Member Brindle, approving the consent agenda as follows:**

**IV.II.A. Request for Purchase, Pamela Park Field Artificial Turf, Field Turf Synthetic Turf Sports Fields, awarding the bid to the recommended low bidder, Field Turf at \$379,540.71**

**IV.II.B. Request for Purchase, Award of Bid – Contract #13-6PK, Sports Dome, Arena Outdoor Refrigerated Rink Bid Package Two, awarding the bid to multiple vendors in multiple bid and quote categories at \$3,399,318.00 total quotes and bids**

**IV.II.C. Request for Purchase, Award of Bid – Contract #13-7Pk, Pamela Park Site Work, awarding the bid to multiple vendors in multiple bid and quote categories at \$1,622,858.00 total quotes and bids**

Ayes: Brindle, Sprague, Swenson, Hovland

Nays: Bennett

Motion carried.

**V. SPECIAL RECOGNITIONS AND PRESENTATIONS**

**V.A. LEGACY DESTINATION AWARD – CONSERVATION MINNESOTA – RECEIVED**

Sheila Smith, Executive Director of Minnesota Citizens for the Arts, and Paul Austin, Director of Conservation Minnesota, congratulated the City for its use of Legacy Amendment opportunities and declared Edina to be a Legacy Destination. The Council thanked Ms. Smith and Mr. Austin for recognizing Edina in this way.

**V.B. BICYCLE FRIENDLY COMMUNITY AWARD – LEAGUE OF AMERICAN BICYCLISTS – RECEIVED**

Steve Clark, League of American Bicyclists, described the mission of the League to help cities become bike friendly and congratulated Edina for receiving this recognition. Nick Mason, Bicycle Alliance of Minnesota, presented details on bicycle ridership and stated Edina had been awarded the Bicycle Friendly Community Bronze Award. He congratulated the City's leadership and the Bike Edina Task Force for their success in this regard.

The Council thanked Mr. Clark and Mr. Mason for their positive comments about Edina.

**V.C. HENNEPIN COUNTY SHERIFF RICHARD STANEK – RESCHEDULED**

This item to be rescheduled.

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

**VIA. CONSIDER VACATION OF PUBLIC RIGHT-OF-WAY, PORTION OF WEST 67<sup>TH</sup> STREET – RESOLUTION NO. 2014-61 ADOPTED**

Engineer Presentation

Engineer Millner presented the request of Xerxes Investors, LLC, for vacation of public right-of-way for a portion of West 67<sup>th</sup> Street to allow Hennepin County to resolve a gap in the property title. Attorney Knutson answered questions of the Council related to preservation of transportation rights-of-way.

Mayor Hovland opened the public hearing at 7:25 p.m.

Public Testimony

Jim Halvorsen, 6700 Xerxes Avenue, addressed the Council.

**Member Swenson made a motion, seconded by Member Sprague, to close the public hearing.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

Mr. Knutson clarified that the consideration was to complete the vacation of the easement, and if someone thought they had an ownership interest, that person should seek advice from a private real estate attorney. The City was not determining ownership or transferring title with this action. **Member Sprague introduced and moved adoption of Resolution No. 2014-61, Vacating a Portion of West 67<sup>th</sup> Street.** Member Swenson seconded the motion.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**VII. COMMUNITY COMMENT**

Frank Lorenz, 7501 York Avenue South, Unit 720, presented concerns relating to traffic congestion on France and Penn Avenues due to road construction and the need for additional parking at 50<sup>th</sup> and France.

**VIII. REPORTS / RECOMMENDATIONS**

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**VIII.A. ORDINANCE NO. 2014-10 ZONING ORDINANCE AMENDMENT, ALLOWING R-1, R-2, AND PRD-1 PROPERTY TO BE CONSIDERED AS PART OF A PLANNED UNIT DEVELOPMENT – ADOPTED**

Community Development Director Teague indicated Ordinance No. 2014-10, was introduced on May 20, 2014 on a vote of 4-1 and if granted Second Reading, would amend the Zoning Ordinance to allow consideration of R-1, R-2, and PRD-1 property within a Planned Unit Development. He explained that the Planning Commission recommended adoption on a 4-1 vote.

The Council discussed the ordinance language and asked questions of Mr. Teague relating to examples of ‘thresholds’ and ‘triggers’ for different base zoning when applying PUD to residential properties. Mr. Teague explained ‘triggers’ might be considerations such as affordable housing, use of sustainable design principles, and pedestrian friendly design. ‘Threshold’ could be an acreage minimum. It was noted that this ordinance amendment will require neither triggers nor a threshold. **Member Swenson made a motion to grant Second Reading adopting Ordinance No. 2014-10, Amendment Regarding Planned Unit Development Applicability in the R-1, R-2, and PRD-1 District. Member Sprague seconded the motion.**

Rollcall:

Ayes: Brindle, Sprague, Swenson, Hovland

Nays: Bennett

Motion carried.

**VIII.B. ORDINANCE NO. 2014-9 AMENDING CHAPTERS 24 AND 26 CONCERNING OPERATION OF BICYCLES ON SIDEWALKS – ADOPTED**

Mr. Neal indicated the Council would be presented with two viewpoints: Edina Transportation Commission’s (ETC’s) recommendation to allow bicycles to operate on sidewalks; and, the Police Department’s recommendation to not consider such an ordinance amendment.

Transportation Planner Nolan presented the consideration of the ETC relating to Active (Safe) Routes to School and recommendation to amend Ordinance Chapters 24 and 26 to allow the operation of bicycles on sidewalks subject to several conditions. Mr. Nolan referenced the Engineering Department’s Advisory Communication finding this ordinance modification was in line with the City’s Living Streets Policy.

Jennifer Janovy, Bike Edina Chair, answered questions of the Council relating to operation of a motorized wheelchair, indicating such a vehicle would not be excluded from operation on sidewalks.

Council concern was expressed that State Statute permits the operation of a bicycle on a sidewalk and that the ETC recommendation included business districts such as 50<sup>th</sup> and France. Mr. Nolan explained that busy districts and locations where doors open onto sidewalks could be posted to prohibit operation of bicycles on sidewalks. The Council considered whether that would add a layer of complication and necessitate a higher level of public education.

Police Chief Nelson presented the outlook of the Police Department not supporting this ordinance amendment as the current ordinance provided a better atmosphere for enforcement. In addition, the Department was concerned that the amendment would result in more personal injury bicycling accidents, particularly to pedestrians. Chief Nelson indicated the Police Department does not have the resources to enforce the proposed ordinance amendment and preferred to keep the ordinance unchanged.

The Council acknowledged the safest facility for a bicyclist was on a dedicated bicycle path; however, the City did not have the resources to create such paths throughout the City. The Council discussed the use of bicycles on sidewalks and asked questions of Chief Nelson relating to enforcement and safety. **Member Swenson made a motion to grant First and waive Second Reading adopting Ordinance No. 2014-9, Amending Chapters 24 and 26 of the Edina City Code Concerning Operation of Bicycles on Sidewalks. Member Sprague seconded the motion.**

Mr. Nolan stated the ETC does not disagree with the safety issues raised by Chief Nelson; however, it was currently not legal to ride a bicycle on a sidewalk so bicyclists, motorists, and pedestrians have not yet been educated about how to do so safely. Mr. Millner indicated discussion had been held about the age of bicyclists and it was found that as age increases, bicyclists would move to the street because it was a faster route. Those who were not comfortable with using the street would prefer to remain on the sidewalk where the pace was slower.

The Council found that bicycling on sidewalks was already occurring and because Edina did not have an off-road bicycle system or regional trail, support was expressed for the amendment as it allowed the City to develop a system of routes based on ability. The correspondences submitted by Bicycling and Walking Program Manager Steve Clark and Dr. Paul Moritz were referenced that detailed the higher incident of accidents between cyclist and vehicles when cyclists unexpectedly enter traffic from a sidewalk or side path. Concern was expressed relating to allowing bicycling in congested business districts, confusion that might result about which business districts were and were not posted, and complication of enforcement.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson

Nay: Hovland

Motion carried.

***VIII.C. ORDINANCE NO. 2014-8 AMENDING CHAPTERS 4 AND 6 CONCERNING ON-SALE LIQUOR LICENSES WITH AMUSEMENT DEVICES – FIRST READING GRANTED***

Economic Development Manager Presentation

Economic Development Manager Neuendorf reviewed the proposal of Simon Properties to reoccupy the mostly vacant third floor space at Southdale Center by extensively remodeling much of that level to accommodate a new destination restaurant, Dave and Busters. However, the City's code prohibited issuing an on-sale intoxicating liquor license to this type of business. He presented the basis of staff's recommendation to amend City Code to allow the issuance of full-service liquor licenses with restaurants that also offer amusement games of skill.

Proponent Presentation

John Phipps, Simon Properties, described the difficulty in leasing this space, alternatives that have not been successful, and belief that a destination retailer such as Dave and Busters would be a good fit. He stated their support for the ordinance amendment and asked for the Council's favorable consideration. Mr. Phipps explained Dave and Busters were located in a variety of Simon malls and while the layout might be different, the format remained the same. This location would be unique in not having an outdoor entrance.

The Council acknowledged that Simon Properties had made a transformative investment into common areas of over \$15 million in addition to a \$5 million loan from the City. Ben Martin, Southdale Shopping Center Manager, stated that investment had significantly impacted occupancy of the main wing for the better, reaching nearly full occupancy. However, the second wing had been more challenging. It was believed that Dave and Busters would result in a positive impact to lease the second wing and bring Southdale Center to nearly full occupancy.

Lisa Warren, Vice President of Development with Dave and Busters, presented the company's history, business concept, flexible format that adapted to the market, customer and sales profile. She stated Dave and Busters was excited about the offering in Edina at Southdale Center, finding it an attractive market. Ms. Warren presented a preliminary floor plan.

Jill Valachovic, Dave and Busters, described Dave and Busters' amusement offerings and stated no game paid out more than \$10 worth of redeemable tickets in a single play. Dave and Busters anticipated hiring 140 to 160 employees. Ms. Valachovic reviewed Dave and Busters' community partnerships, daily operations, house policies, and high level/robust training and certification required of employees, floor captains, and managers.

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Ms. Warren stated this plan provided more booth seating than a prototypical plan and peak hours were 5 p.m. to 9 p.m. on weekends. The national food-to-beverage ratio was 70% food to 30% beverage. Mr. Martin explained when Southdale Center was not open, that wing of the mall would be cordoned off with stanchions to direct Dave and Busters' customers to the exit.

Mr. Neal stated the issue before the Council was the ordinance amendment and the questions relating to security, and exiting Southdale Center had not yet been reviewed by Police Chief Nelson or the Fire Department. Chief Nelson answered questions of the Council relating to public safety and indicated that in 2014, there were 40 calls for service at the Maple Grove Dave and Busters, two being medical related. In 2013, Southdale Center had 714 calls for service. The Council considered the distance of Southdale Center from residential property due to the lateness of hour Dave and Busters would be open. Chief Nelson stated he found Dave and Busters' house policies to be more restrictive than the norm and Maple Grove had indicated Dave and Busters was a good corporate citizen and friendly/cooperative with the Police Department.

The Council asked questions of Mr. Neuendorf and Mr. Teague about the ordinance language. Ms. Warren explained how Dave and Busters' house policies were developed through 30 years of practice and 70 successful locations. At the request of Council, Ms. Valachovic described a 'tower of beer' that was a 50 oz. pitcher served to three customers, noting each customer was asked for identification.

Mr. Phipps stated Simon Properties had a positive experience with Dave and Busters, which started in 1996, and Simon Properties intended to continue to invest in this concept. Ms. Valachovic stated in most locations, the minor policy does not allow for anyone under the age of 18 without a parent or guardian; however, in some locations the minor policy does not allow for anyone under the age of 21 without a parent or guardian. **Member Sprague made a motion to grant First Reading to Ordinance No. 2014-8, Amending Chapters 4 and 6 of the Edina City Code Concerning Alcoholic Beverages and Amusement Devices. Member Brindle seconded the motion.**

The Council indicated it was impressed with the management of Southdale Center by Simon Properties. Support was expressed for the ordinance amendment based on Simon Properties' positive experience and track record with Dave and Busters. It was acknowledged that Maple Grove also had a positive experience with Dave and Busters and there was benefit from 30 years of experience in developing a good business plan and effective house policies.

Concern was expressed relating to this particular model and promotion of liquor, which was not a good match for Edina, as well as the imbalance between private profit and public expense (Police Department). The options were raised to require a minor policy for 21 years of age rather than 18 years of age and to restrict this type of use to certain properties. The Council reviewed the properties where this use could be requested. Attorney Knutson advised that if the amendment was approved, any business meeting these criteria could proceed. Council support was expressed to consider, prior to second reading, language requiring the leased space be at least 30,000 square feet in gross floor area and in a building similar to Southdale Center.

Ayes: Brindle, Sprague, Hovland

Nays: Bennett, Swenson

Motion carried.

### **VIII.D. METROPOLITAN COUNCIL LIVABLE COMMUNITY GRANT AWARD – 66 WEST APARTMENTS BY BEACON**

Mr. Neal explained that Beacon Interfaith Housing Collaborative had a limited number of days to apply for grant funding and the City had not yet taken steps to approve that project. He noted the proposed language was written in a speculative fashion that would allow Beacon to move forward without binding the City in a regulatory or legislative standpoint or to accommodate that type of housing. **Member Swenson made a motion, seconded by Member Bennett, indicating the City was receptive and willing to accept LCA grant funds if the Beacon application was successful.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**VIII.E. SPECIAL ASSESSMENT POLICY 50<sup>TH</sup> AND FRANCE COMMERCIAL DISTRICT – APPROVED**

Mr. Neuendorf presented staff's recommendation to clarify the method used to distribute special assessments for the \$5.8 million restoration and improvement project for the 50<sup>th</sup> and France commercial area. If approved, this policy would supplement the City's existing policy that governed all types of special assessment projects. **Member Brindle made a motion, seconded by Member Bennett, approving Special Assessment Policy to clarify the method to distribute special assessments in the 50<sup>th</sup> and France commercial area.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

Member Brindle left the Chambers.

**VIII.F. RESOLUTION NO. 2014-62 ADOPTED – ACCEPTING VARIOUS GRANTS AND DONATIONS**

Mayor Hovland explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations. **Member Swenson introduced and moved adoption of Resolution No. 2014-62 accepting various grants and donations.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Sprague, Swenson, Hovland

Member Brindle was out of the Council Chambers for this vote.

Motion carried.

**VIII.G. CITYWIDE MARKED CROSSWALK STANDARD – APPROVED**

Mr. Nolan presented the recommendation of staff and the ETC for standardized crosswalk markings based on Council direction at its February 3, 2014, meeting.

Member Brindle returned to the Chambers.

The Council discussed crosswalk marking options and visibility and durability of each method. Mr. Nolan answered questions of the Council relating to long-term staff costs. Mr. Millner advised that Public Works was at the limit of what could be marked each year without impacting level of service. **Member Sprague made a motion, seconded by Member Bennett approving the Citywide marked crosswalk standard.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IX. CORRESPONDENCE AND PETITIONS**

**IX.A. CORRESPONDENCE**

**IX.B. ENERGY & ENVIRONMENT COMMISSION ADVISORY COMMUNICATION: EEP/PACE**

**IX.C. ENERGY & ENVIRONMENT COMMISSION ADVISORY COMMUNICATION: PLASTIC WATER BOTTLES**

**IX.D. MINUTES:**

1. **ART & CULTURE COMMISSION MINUTES, APRIL 24, 2014**

2. **EDINA TRANSPORTATION COMMISSION, APRIL 17, 2014**

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

**X. AVIATION NOISE UPDATE – Received**

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

**XII. MANAGER'S COMMENTS**

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**XII.A. SOUTHDAL 2 AFFORDABLE HOUSING** – Received

**XII.B. COMPREHENSIVE PLAN AMENDMENT RE: RESIDENTIAL DENSITY IN MIXED USE AREA** – Received

**XII.C. NEW SALES TAX CHANGES** – To be presented June 17, 2014

**XII.D. FOURTH OF JULY CELEBRATION** – Received

Informational; no action required.

**XIII. ADJOURNMENT**

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:45 p.m.

Respectfully submitted,

Minutes approved by Edina City Council, June 17, 2014.

Video Copy of the June 3, 2014, meeting available.

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Debra A. Mangen, City Clerk

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James B. Hovland, Mayor