



REPORT/RECOMMENDATION

To: MAYOR AND COUNCIL	Agenda Item # <u> VIII. G. </u>
From: Wayne D. Houle, PE Director of Engineering	<input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion <input type="checkbox"/> Information
Date: August 6, 2012	
Subject: Resolution No. 2012-98 Adopting Findings And Decision RE: Valley View Road And Sally Lane Tree Removal	

Recommendation:

Adopt either attached Resolution No. 2012-98 Version A or Resolution No. 2012-98 Version B, Adopting Findings And Decision Regarding Valley View Road And Sally Lane.

INFORMATION/BACKGROUND:

The Resolution No. 2012-98 Version A was included in the July 17, 2012 City Council packet. The City Council requested that our City Attorney revise this Resolution, which the revised resolution is referred to as Resolution No. 2012-98 Version B.

ATTACHMENTS:

- Resolution No. 2012-98 Version A
- Resolution No. 2012-98 Version B

RESOLUTION NO. 2012-98
ADOPTING FINDINGS AND DECISION RE:
VALLEY VIEW ROAD AND SALLY LANE TREE REMOVAL

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 City Council and staff received complaints from neighborhood residents relating to impaired sight lines at the intersection of Sally Lane and Valley View Drive.
- 1.02 City staff consulted with traffic engineers at WSB and Associates who performed an analysis of the sight lines at the intersection.
- 1.03 On September 30, 2011, WSB made its written report to City Engineer Wayne Houle.
- 1.04 The WSB report recommended the removal of all of the plantings in the Valley View Road right of way east of its intersection with Sally Lane located adjacent to 7025 Sally Lane. The plantings consist of six spruce trees located closest to the intersection and twenty-one arborvitae trees located further back from the intersection.
- 1.05 The WSB report also recommended the removal of three trees located in the Valley View Road right of way west of its intersection with Sally Lane adjacent to 7028 Sally Lane.
- 1.06 According to the WSB report, the removal of these trees are necessary to bring the intersection into compliance with the decision site distance standards in the MnDOT Road Design Manual Chapter 2-5.08.04.
- 1.07 Doug and Jill Benner are the owners of the home located at 7025 Sally Lane. Wayne Alexander is the owner of the home located at 7028 Sally Lane.
- 1.08 On September 30, 2011, City Engineer Wayne Houle sent Mr. and Mrs. Benner and Mr. Alexander the WSB report and advised them that it would be considered at the City Council's October 4 meeting.
- 1.09 On October 4, 2011, the City Council approved a motion requiring the adjacent property owners to remove the trees identified in the WSB report as interfering with the site lines at the intersection of Valley View Road and Sally Lane.
- 1.10 On October 14, 2011, City Engineer Houle sent a letter to the Benners and Mr. Alexander notifying them that they were obligated to remove the offending trees within 30 days.
- 1.11 On October 30, 2011, the Benners submitted a letter to the City Council, along with a report from consulting engineers RLK Incorporated, asking the Council to rescind the notice requiring removal of the trees.

- 1.12 At its November 1, 2011 meeting, the City Council suspended the 30-day notice until December 6, 2011 for a legal review by the City Attorney.
- 1.13 At its December 6, 2011 meeting, the Council revised its position and voted to require the delimiting of the spruce trees closest to the intersection to a height of eight feet, with the arborvitaes remaining.
- 1.14 At its December 20, 2011 meeting, the Council reaffirmed its position that the spruce trees be delimited to a height of eight feet.
- 1.15 At the City's initiative, City representatives and the Benners engaged in mediation. Benners have continually refused to either remove the trees in the right of way or to delimit the spruce trees closest to the intersection.

Section 2. FINDINGS.

- 2.01 All of the trees identified in the WSB report limit the site distances at the intersection of Sally Lane with Valley View Road and adversely impact safety at the intersection.
- 2.02 The WSB report utilizes the accepted MnDOT Road Design Manual standard and the presumptive ten second decision time standard for drivers on Sally Lane at the Valley View intersection. The WSB report assumes a 20 mph approach speed of vehicles on Valley View Road.
- 2.03 The report prepared by RLK at the request of Mr. and Mrs. Benner does not dispute the fact that the application of the presumptive ten second decision time standards and the 20 mph approach vehicle speed requires the removal of all the trees planted in the right of way adjacent to the Benner property to meet the required sight line distance.
- 2.04 The RLK report states that the existence of the trees in the right of way still allows a 200 foot stopping distance for vehicles on Valley View Drive to avoid a vehicle entering the intersection from Sally Lane. The RLK report recommends the installation of signs on Valley View Road to warn drivers of the approaching Sally Lane intersection.
- 2.05. WSB reviewed the RLK report. In its November 21, 2011 memorandum to City Engineer Houle it summarizes the difference in its approach from the emergency stopping analysis performed by RLK. The WSB memorandum states:

Stopping Sight Distance versus Intersection Sight Distance: RLK mentions the stopping sight distance criterion of 200'. This is a last resort way of avoiding an accident. Which means the approaching motorist locking up the breaks to avoid a collision. 200' of sight distance only allows for 4.5 seconds of decision making time, which is less than the 6.5 second Highway Capacity

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Manual default for driver gap acceptance. This is also assuming the approaching vehicle is not accelerating.

- 2.06 The City Council believes that the appropriate decision from a safety standpoint is to improve the sight distance impairment for vehicles turning onto Valley View Drive from Sally Lane rather than rely on the ability of drivers on Valley View Road to make an emergency stop to avoid a collision.
- 2.07 The Council is appreciative of the fact that the removal of all the trees will impact the Benners' property.
- 2.08 When issues are brought to its attention, City staff and the Council have the legal right and obligation to address safety issues caused by obstructions existing in its Right of Way.

Section 3. DECISION.

The City Attorney is directed to take all necessary legal steps to cause the delimiting to a height of eight (8) feet of the six spruce trees adjacent to 7025 Sally Lane and the removal of the three lilac bushes adjacent to 7028 Sally Lane properties identified in the WSB report as interfering with the sight line standard.

Adopted by the City Council of the City of Edina, Minnesota on August 6, 2012.

ATTEST: _____
Debra A. Mangen, City Clerk

James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)ss.
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of August 6, 2012, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2012.

City Clerk

AUG 03 2012

July 28, 2012

Edina City Council
4801 West 50th Street
Edina, MN 55424-1394



Re: Save the Trees

Dear Honorable Mayor Hovland and Council Members:

This letter is submitted by the undersigned to petition the City of Edina to stop all actions against the Benner family of 7025 Sally Lane to further trim, de-limb, or remove any of the 28 trees (22 Arborvitae and 6 evergreens) that stand between their yard and Valley View Road.

During the last year the Benners have been continuously contacted with respect to these trees:

- First, they were required to remove them all at their own expense.
- Then, when the Benners appealed this they were required to trim the six evergreens back slightly. (They did this, and the City Engineer pronounced the matter closed.)
- Then, the City Council changed its mind and required them to be de-limbed to a height of eight feet.
- The family appealed this, and the City determined that formal mediation should ensue.
- The Benners agreed, entered into mediation with the City, and offered the removal of the two corner evergreens as a means to begin a mediated compromise. However, the mediation was terminated by the professional mediator when he determined the City was not mediating in good faith.
- Now the City has resumed it's determination that the 6 evergreens should be de-limbed up eight feet.

We ask that all actions against these trees be stopped for the following reasons:

- These trees were planted by the previous homeowner in 1992 at the suggestion of the City of Edina itself as a means to grow a natural, green, safety, sight, and noise barrier for the protection of children playing in the yard and for the quiet enjoyment of their home for the family. One of the reasons the Benners purchased the property in 2001 was the beauty and utility of the trees. The City Council is aware that it was the City itself who suggested the trees be planted in the first place.
- There is no violation of any section of the City Code. The Benners have hired their own attorney in order to defend the trees, and a review of the City Code by the law firm concluded there is no violation.
- De-limbing the trees up 8 feet will endanger their health and create an eyesore. The trees stand approximately 16 feet. Removing the bottom half of the branches will remove 7/8 of the foliage, which may kill the trees. If they do live, they will look strange, with only 1/8 of their foliage in a cone at the top.
- The City will violate its own code if the de-limbing occurs. Section 830 of the Code indicates that the City will take all steps possible to NOT destroy or injure trees.
- There is no official safety concern at the intersection. A traffic study conducted by engineering firm RLK Incorporated concludes this. Also, residents in the neighborhood have indicated the same in writing to the City. According to the Edina Police Department, there are no recorded accidents at the intersection.
- The City has never once clearly identified a valid, legal reason to either trim, de-limb, or remove these beautiful trees. Legal counsel believes this is because there is no valid, legal reason.
- A petition, which started all this, is not legitimate. It was represented to signers to have the aim of trimming back (not up) the two corner trees to be compliant with a Clear View requirement in the City Code (the two corner trees are compliant according to the Edina Police Department). However, the written petition was for the complete removal of all 28 trees. This misrepresentation by the organizers

of the petition (whether deliberate or not), once discovered, caused multiple signers to formally revoke their signatures in writing to the City. The petition is, at a minimum, of questionable legitimacy. The City Council is aware of this issue.

- The City is failing to sincerely work with the homeowners. One example is its refusal to mediate in good faith (causing the mediator to terminate mediation), when it was the City itself that suggested it.

Each time the City attempts to force action against the trees, the Benner family has responded with logic and facts to support a request for the City to desist, either by appearing at City Council meetings to present their case, by their legal counsel contacting the City in writing, or by entering into mediation.

Each time the City has taken the matter under advisement, and followed up with a different requirement to take action on the trees (and each time not citing a specific reason). This is looking like harassment.

We respectfully petition the City of Edina to cease and desist all actions related to this matter, and leave the trees, and the Benner family, at peace.

Sincerely,

(Please see attached signature pages)

Signature

Name

Address

Douglas W Benner

DOUGLAS W BENNER

7025 SALLY LN

Till D. Benner

Till D. Benner

7025 Sally Lane

PATRICK Crowor

Patrick Crowor

7142 Valley View Rd

~~Patrick Skubo~~
Robert B. Tolles

~~Patrick Skubo~~
Mary Skubo

7146 Valley View

Hannah Tolles

Robert B. Tolles

7143 Valley View

Elizabeth Benner

Hannah Tolles

7143 Valley View

Kerry Webb

Elizabeth Benner

7025 SALLY LANE

Jay Fleming

Kerry Webb

7132 Valley View RD

Wayne Alexander

Kerry Webb

" "

Judi Obeid

Jay Fleming

7021 Sally Lane

Hazem Obeid

WAYNE ALEXANDER

7088 SALLY LN

Hanzeh Obeid

Judi Obeid

7024 Sally Ln

Azmiel Obeid

Hazem Obeid

7024 Sally Ln

Christy Anderson

Hanzeh Obeid

7024 Sally Lane

Chris Nielsen

Azmiel Obeid

7024 Sally Lane

Dan Jakob

Christy Anderson

7016 Sally Ln.

Katherine Kleynhans

Chris Nielsen

7013 Sally Lane

BEN KLEYNHANS

Dan Jakob

7008 Sally Lane

BEN KLEYNHANS

KATHERINE KLEYNHANS

7005 SALLY LANE

STEPHEN ANDERSON

BEN KLEYNHANS

7005 SALLY LN

Kari Jakob

STEPHEN ANDERSON

7016 SALLY LN.

ANDREA MURRAY

Kari Jakob

7149 Valley View Rd

Kent Murray

ANDREA MURRAY

6712 Samuel Rd.

Edd Hanson

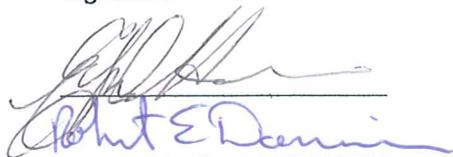
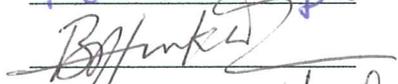
Kent Murray

6712 Samuel Rd.

Edd Hanson

6717 Samuel Rd



Signature	Name	Address
	Robert Darwin	6717 Samuel St.
Judy Darwin	Judy Darwin	7144 Valley View Rd
Robert Ralph	ROBERT RALPH	7145 Valley View
	Basu Hurokadi	7134 Valley View Rd.
Aruna M Humbal	Aruna Humbal	7134 Valley View Rd
Midge Elder	Midge Elder	7138 Valley View, Rd.
Jennifer Nelson	JENNIFER ELDER	7138 Valley View Rd.
Steve Nelson	Jennifer Nelson	5900 Chapel Drive
Barbara Deegan	Steve Nelson	3900 Chapel dr
Dan Deegan	Barbara Deegan	6608 Sally Lane
Sam Shuster	DAN DEEGAN	4608 Sally Lane
Sara Shuster	SAM SHUSTER	6712 Apache Rd
Lisa Brecount	Sara Shuster	6712 Apache Rd.
Jennine Westling	Lisa Brecount	6719 Apache Rd
Mark Ahmann	JENNINE WESTLING	6620 PAWNEE ROAD
Jill Seuffert	Mark Ahmann	7008 Sally Lane
Ron Steubs	Jill Seuffert	6608 Painte Pass
Leslie Steubs	Eric Seuffert	6916 Painte Dr.
Kelley Steubs	Ron Steubs	6916 Painte Dr.
Thomas A. Ries	Leslie Steubs	6821 Sally Lane
	Kelley Steubs	6821 Sally Lane
	THOMAS A. RIES	6821 Sally Lane
		6600 SALLY LN.



Signature

Name

Address

Ted
Hubert

TEED Colwell
Mike Hurley

6611 Pawnee Rd, 55439,
6605 Pawnee Rd

