



## REPORT/RECOMMENDATION

<b>To:</b> MAYOR AND COUNCIL	<b>Agenda Item</b> <u>IX. A.</u>
<b>From:</b> DEBRA MANGEN CITY CLERK	<input type="checkbox"/> Action
<b>Date:</b> SEPTEMBER 4, 2012	<input type="checkbox"/> Discussion
	<input checked="" type="checkbox"/> Information
<b>Subject:</b> CORRESPONDENCE RECEIVED SINCE LAST COUNCIL MEETING	

**INFORMATION/BACKGROUND:** Attached are copies of e-mails and letters received since the last Council meeting.

R I C H A R D L . E V A N S

August 23, 2012

The Honorable James Hovland  
The Honorable Joni Bennett  
The Honorable Mary Brindle  
The Honorable Josh Sprague  
The Honorable Ann Swenson  
Edina City Hall  
4801 West 50<sup>th</sup> Street  
Edina, MN 55424

Dear Mayor and Members of the City Council:

Last weekend I attended a presentation at Good Samaritan United Methodist Church featuring Mr. David Cobb of the organization Move to Amend. This organization is dedicated to passing an amendment to the United States Constitution that would state, among other things, that *"The rights protected by the Constitution of the United States are the rights of natural persons only."* Mr. Cobb, an entertaining and engaging speaker, at one point opened his shirt front, pointed to his "belly button" and noted that under the amendment he promotes, only entities that had "one of these" would enjoy constitutional rights. Mr. Cobb advocates for this change due to his belief (which I do not share) that large "trans-national corporations" are already in control of our government and that this amendment to the Constitution would help end that.

Mr. Cobb told the audience that his organization is seeking to have the Edina City Council endorse this proposal as it has been endorsed by the Minneapolis and St. Paul City Councils. I am writing to urge you to refrain from endorsing this ill-considered initiative. My objections to the proposed amendment to our Constitution could fill a book, but I will limit myself to a few points.

In the course of his presentation, I asked Mr. Cobb whether NBC would lose its constitutional rights under his proposal. He seemed to say that they would, though he also said that they would continue to enjoy freedom of the press. To seek clarification I asked him whether, under his amendment, Congress could pass a law forbidding any corporate-owned newspaper from endorsing the election or defeat of a candidate. He seemed to indicate that such a law would be valid under his amendment. After his presentation, several other supporters of the amendment approached me and said that they disagreed with his answer to my question. The confusion arises, I believe, because of the construction of his proposed amendment. The first section denies constitutional protection to entities who are not persons. The third section states: *"Nothing in this amendment shall be construed to abridge the freedom of the press."* In spite of Mr. Cobb's response to my question, some of the other amendment supporters felt this third section protected media corporations from restrictions on what they publish or broadcast. I think they are wrong and Mr. Cobb is correct. The freedom of the press exists and is recognized in the Constitution and has been defined over the years in cases decided by the Supreme Court. Thus, freedom of the press, as a concept, is established and defined in our law. The first section of the proposed amendment does not, by its terms, abridge, redefine or otherwise change the nature of any rights, but simply delineates who has standing to assert them. It does not seem to me that the third section re-grants standing to one who has none under the first section, though some of the amendment's supporters seem to think it does. More likely the amendment would simply result in the "unabridged" freedom of the press being available only to natural persons, which seemed to be Mr. Cobb's view. Given these diverse views, I am not sure anyone can be perfectly clear on how this all would be applied in the case of media companies. Yet that seems like a pretty important thing to be clear about.

Furthermore, even if section three of the proposal somehow re-vests constitutional rights in some corporations for the purpose of preserving freedom of the press, then the entire purpose of this exercise is significantly undermined. As you may know, NBC is owned jointly by Comcast and General Electric. ABC is owned by Walt Disney Corp. CBS is owned by National Amusements Corporation (a theater chain). If the proposed amendment is intended to limit the power of trans-national corporations, as Mr. Cobb asserts, it does a very poor job of it if it exempts the likes of GE and Walt Disney Corp. from its provisions. Indeed, if Mr. Cobb is correct and our government is controlled by large trans-national corporations, it seems like he has created an enormous loop-hole. Surely a large trans-national corporation bent on continuing its dominance of the United States government would have no problem acquiring or establishing a media corporation and exercising this exclusive "freedom of the press," while smaller companies, labor unions, associations and other legal entities lose all of their constitutional rights. And even those of us who do not subscribe to Mr. Cobb's view of the U.S. government must see that this "freedom of the press" loophole would be a fairly simple way for wealthy corporate interests to acquire significant rights that are denied to all other organizations. That is not a good result.

A more important objection to the proposed amendment is that this destruction of constitutional rights for entities without "belly buttons" will have far-reaching and negative consequences of profound importance to our democracy. In fact, as one contemplates the rights that would be impacted by this proposed amendment, its ramifications can become pretty frightening. Keeping in mind that the Bill of Rights and other parts of the Constitution are essentially limits on government action, one can imagine some fairly serious consequences of unleashing government action on those private entities that are stripped of these rights. Suppose a state passed a law permitting the Governor to conduct random searches of the offices of public employee unions without obtaining a warrant. Today, the union (sans "belly button") could go to federal court and assert its Fourth Amendment rights against unreasonable searches. Under this proposed amendment, however, they would have no such right. Or suppose a state passed a law that forbid one major political party (but not the other) from spending any money communicating with potential voters. Today, the political party (again, sans "belly button") could go to federal court and assert a violation not only of the First Amendment, but also of the equal protection clause of the Fourteenth Amendment. Under this proposed amendment they would enjoy no such protection.

Now the first thing that strikes me in all of this is that it seems contradictory for Mr. Cobb to believe that trans-national corporations control our government and, at the same time, that the "cure" is to give the government the unfettered power of a police state when it comes to unions, political parties, partnerships, clubs, churches and charitable organizations. But more importantly, the second thing that strikes me is that the removal of constitutional rights from "entities" created by law is to remove significant rights from the people who make up those organizations and to vest considerable power in the government to regulate the way people communicate and otherwise choose to act in concert. The proposed amendment would leave all rights intact as long as it was "every man for himself." But if groups of people were to form unions, corporations, partnerships, charitable organizations, associations or political parties under various state and federal laws providing for those organizations to be formed, the government would acquire the right to subject those groups to whatever treatment the government thought necessary. It is almost as if to say that people have constitutional rights, but if they ever try to use them effectively in concert, the rights are forfeit. This is a tremendous loss of freedom and a tremendous grant of authority to government, all in the name of protecting us from the government controlled by trans-national corporations.

I could write pages and pages of laws that might be passed by states or Congress to regulate the behavior of entities without "belly buttons," each of which would have a tremendous negative impact on the rights of natural persons in their conduct of every-day life. Churches, political parties, labor unions, corporations, partnerships, charitable organizations and political movements – all organized by people in furtherance of their joint and personal interests – would come under the definition of the proposed amendment as "entities, established by the laws of any State, the United States, or any foreign state." The people, acting in concert within any such organization would find their joint activity subject to limits, controls, prohibitions, requirements and invasions at the hands of government with no recourse to the Constitutional rights that have protected us for more than 200 years.

From the tenor of the presentation I attended, this issue appeared to pit conservatives against liberals. I believe that should not be the case. Conservatives and liberals actually focusing on the practical application of this proposed amendment should be in agreement. To illustrate, in 1957 a case reached the Supreme Court of the United States where the United States brought an action against the Auto Workers Union for violating a federal prohibition against labor unions endorsing candidates. The majority of the court sent the question back to the trial court for more evidence, and refused to decide the First Amendment issue presented by the case. The leading liberal justice on the Court, and a tireless champion of civil rights into the 1970's was Justice William O. Douglas, who had been appointed to the Court in 1939 by President Roosevelt and served for more than 36 years. Justice Douglas wrote an opinion critical of the majority for, as he saw it, dodging the Constitutional question. He was joined in this opinion by fellow FDR appointee Justice Hugo Black and Eisenhower appointee Chief Justice Earl Warren. He wrote:

“We deal here with a problem that is fundamental to the electoral process and to the operation of our democratic society. It is whether a union can express its views on the issues of an election and on the merits of the candidates, unrestrained and unfettered by the Congress. The principle at stake is not peculiar to unions. It is applicable as well to associations of manufacturers, retail and wholesale trade groups, consumers' leagues, farmers' unions, religious groups and every other association representing a segment of American life and taking an active part in our political campaigns and discussions. It is as important an issue as has come before the Court, for it reaches the very vitals of our system of government....”

“Under our Constitution it is We The People who are sovereign. The people have the final say. The legislators are their spokesmen. The people determine through their votes the destiny of the nation. It is therefore important - vitally important - that all channels of communication be open to them during every election, that no point of view be restrained or barred, and that the people have access to the views of every group in the community....”

“Some may think that one group or another should not express its views in an election because it is too powerful, because it advocates unpopular ideas, or because it has a record of lawless action. But these are not justifications for withholding First Amendment rights from any group - labor or corporate. First Amendment rights are part of the heritage of all persons and groups in this country. They are not to be dispensed or withheld merely because we or the Congress thinks the person or group is worthy or unworthy....”

I respectfully ask that you heed Justice Douglas' words with respect to the importance of the freedom of speech “of all persons and groups,” and that you contemplate the impact of the loss of the other precious freedoms that would be severely limited by this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Evans". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard L. Evans

Dear Mayor and City Council members,

As a resident of Paiute Pass for 33 years, I am compelled to write about the visibility problem at the intersection of Valley View Road and Sally Lane. I have observed the deterioration of sight lines throughout the years, especially as the evergreen trees to the East of that intersection have grown wider. For several years preceding my signing of the original petition, and again this year, I contacted the police officer(s) in charge of fielding calls about that intersection to discuss the situation. I am well aware that no accidents have yet occurred at that intersection; however that is not a reason to maintain the status quo. Those of us who use that route at least once a day are well aware that it is an accident waiting to happen!

For several years, I was told by the police officer(s) that a sidewalk was going to be built on Valley View Road, and that would alleviate the sight line problem. That never came to fruition, and it is time for this situation to be settled, and not allowed to drag on any further.

The emotional arguments of the homeowner with the trees are being allowed to dominate the rational issues of this situation. They failed to do their due diligence when they purchased the house with the trees, and now are not willing or able to accept the consequences. This is about more than disappointment and tears. This is about public safety!

There are pros and cons to buying a residence on a corner lot, as there are pros and cons to buying property on a busy street. There is no written documentation from the City that officially suggests planting the trees to form a barrier. And I suggest that a clarification of the variance for not planting trees a certain number of feet from a roadway should impact the City Council's final decision.

The white line that has been painted as an extension of the existing STOP sign is no longer adequate for a safe sight line for people turning left from southbound Sally Lane onto Valley View Road. And the inevitable snow and ice from the coming winter complicate the issue, which is why a decision needs to be rendered now by the City Council, and adhered to by the homeowner.

As for the lilacs on the West side of that intersection, which was mentioned in the original petition, but is not part of this discussion, it is unfortunate that the homeowner does not take the same pride in his yard that the rest of the neighborhood does. His property is an embarrassing entrance to a neighborhood that takes pride in its' appearance. Perhaps the City Council could deal with that issue very soon.

Thank you for taking the time to read this letter, and please act in the best interests of safety for our neighborhood.

Sincerely,

Devie Koval  
6613 Paiute Pass  
Edina, MN 55439  
(952)944-2483

Susan Howl

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**From:** Lynette Biunno on behalf of Edina Mail  
**Sent:** Thursday, August 30, 2012 12:52 PM  
**Cc:** Susan Howl  
**Subject:** FW: Is Edina prepared for a 100 year storm



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)

...For Living, Learning, Raising Families & Doing Business

**From:** [jfhcrown@gmail.com](mailto:jfhcrown@gmail.com) [<mailto:jfhcrown@gmail.com>] **On Behalf Of** John Healey  
**Sent:** Thursday, August 30, 2012 11:51 AM  
**To:** [jonibennett12@comcast.net](mailto:jonibennett12@comcast.net); Edina Mail  
**Subject:** RE: Is Edina prepared for a 100 year storm

RE: City preparedness

Dear Mayor Hovland and Senior Council Member Bennett,

As I write, perhaps half of Louisiana is without power, they are expecting over a foot of rain. Many areas in the U.S. , including Duluth quite recently have been devastated by weather. There must be a lot to learn on what preparedness worked and what was missed.

The metro area on the other hand has been mostly spared for years.

Hopefully, Edina is up to date as much as possible to be battle hardened in case of any weather incident or other adversity .

Since our city management is more competent than ever, I suspect we are well prepared , but just wanted to ask.

Can storm water systems handle 12 inch or more rainfall ? Are city computer systems backed up off site out of state? Does Edina have generator capacity to run utilities/police/fire indefinitely and run city water plants ?

It may be really neat to periodically share physical preparations with the public via the Sun Current :) Endeavors like "code red" are very worthwhile. Great job there!!

Many thanks to all of you for a great conscientious job on council this year.

Regards,

John Healey  
4808 Upper Terrace  
952-929-8800

Susan Howl

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**From:** Lynette Biunno on behalf of Edina Mail  
**Sent:** Monday, August 27, 2012 9:19 AM  
**Cc:** Susan Howl  
**Subject:** FW: Update to email sent August 26 2012 entitled boulevards and watering



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)

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**From:** Kathy Dahlheimer [<mailto:kdahlheimer@comcast.net>]  
**Sent:** Sunday, August 26, 2012 2:11 PM  
**To:** Edina Mail  
**Subject:** Update to email sent August 26 2012 entitled boulevards and watering

Hello again...I just heard a bit more of the meeting from this past week and it seems that Josh Sprague brought this topic up already and I applaud that. While West 70th Street is bad so is Valley View as you go West from Concord. As Ms. Swenson mentioned it is dead and that is because noone watered it after the city did their job. I agree a different treatment is needed. While watering is a drag without irrigation, as a homeowner I would not be happy to have that in front of my home. Anyway glad it is a topic being discussed. Thanks. ~Kathleen Dahlheimer

## PACE funds a second Edina energy deal

by Mark Anderson

Published: August 22nd, 2012

### First community bank joins program, but rates remain high

The city of Edina approved on Tuesday its second use of an innovative financing tool to spur energy efficient upgrades in commercial buildings.

Edina will issue about \$40,000 of Property Assessed Clean Energy (PACE) bonds this summer to finance new lighting and other energy-saving kitchen improvements at Salut Bar Americain, owned by the Parasole Restaurant Holdings, Inc. near 50th and France.

The small project means big money: Parasole's contractor, Waconia-based Energy Misers LLC promised that the upgrades will deliver annual savings of \$16,400.

But the project shows that the work-in-progress [PACE program](#) still has room for improvement.

"It's an arduous process," said Alan Ackerberg, development manager with Parasole who is managing the project. "With the paperwork and the financial disclosure that was involved it could have been a several million-dollar project."

Ackerberg said he believes a smaller mom-and-pop organization would have trouble making it through the process.

The cost to borrowers remains high, too.

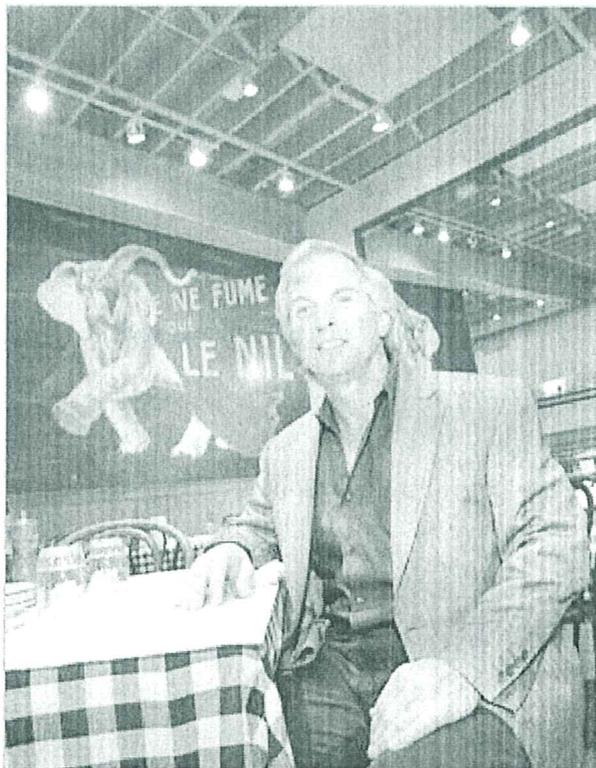
PACE took a step toward lowering costs on this project by persuading Bremer Bank to become the first community bank in the nation to invest in the bonds. Bremer agreed to a 5.5 percent yield on the [five-year bonds](#), well below the 7 percent paid to the California equity firm that funded last fall's first Edina PACE bond. But the rate jumped back up when the city reinstated a 2 percent administrative fee that it waived in that first go-round.

Still, Ackerberg said he's happy with the results.

The PACE bonds will provide \$39,308 toward a \$50,000 retrofit, with Xcel Energy rebates providing another \$11,000.

With no down payment required, Ackerberg said the monthly energy savings will exceed its debt service, meaning an immediate improvement in its cash flow.

"The savings should pay back the investment in two and a half years, and beyond that it's all gravy," Ackerberg said. "It's a no-brainer." He said Parasole plans to explore using PACE at



Parasole Restaurants gained big energy savings by installing LED lighting and efficient kitchen controls in their last two restaurant build-outs. Development manager Alan Ackerberg is aiming to repeat those gains with a retrofit at Salut Bar Americain at 5034 France Ave. S. in Edina. (Staff photo: Bill Klotz)

another restaurant it owns in the city.

Ackerberg said Parasole had other financing options, but the company worried that it could limit its ability to borrow for other projects. Banks see restaurants and energy investments as higher risk, Ackerberg said, and borrowing from banks would have tied up the company's collateral.

"We're growing and we didn't want to tie up a lot of our credit in this loan," Ackerberg said. Parasole and Energy Misers' principal Bill Bieganek also pursued loans through the St. Paul Port Authority and the Center for Energy and the Environment, but didn't want to provide the personal guarantees those to programs required as security.

PACE offers a different kind of security for investors. The Minnesota Legislature adopted the model in 2010, one of 29 states that authorized the tool. It enables municipalities to issue revenue bonds for renewable energy investments on private properties — commercial properties only in Edina.

The PACE advantage is that the city treats the debt as a special assessment, meaning PACE repayments are collected as part of the property's real estate taxes.

And it puts the PACE obligation in the same senior position held by city's property taxes in the event of a default, and that helped persuade Bremer Bank to buy the bonds, according to Greg Hohlen, Bremer Bank's SBA lending manager in St. Cloud who is working on this transaction.

"When it was clear that we would be on par with the real estate, that we'd be repaid before the first mortgage holder, then we were comfortable," Hohlen said.

Jeremy Kalin, principal with Minneapolis-based Eutectics Consulting, which advised both of Edina's PACE beneficiaries, has been recruiting Bremer and other Minnesota investors for years. He's counting on Bremer being the first of many Minnesota investors to join the PACE bond market and drive down the rates. Up till now, almost all PACE investment nationwide has been by a few California private equity investors.

"When we lessen the distance between the borrower and the local government and the bank that brings these financings closer to mainstream," Kalin said. He also pointed out that local banks gain Community Reinvestment Act credits — indicating service in their local markets — by buying PACE bonds, and that gives them a regulatory benefit.

The rates investors require should also come down as investors learn more about PACE, said Stefanie Galey, an attorney and municipal bond specialist with Faegre Baker Daniels in Minneapolis. "When they see that these will be treated just like property tax in a default, I don't see any reason why they won't be willing to purchase these bonds at lower prices."

Edina Mayor James Hovland said the city council also wants to bring the rates down, and it's going to review its administrative costs and may be able to reduce or eliminate the 2 percent fee.

Edina remains the only Minnesota city using PACE, but Kalin said that Eden Prairie, Eagan and Dakota County are all considering adopting it.

Eagan City Administrator Tom Hedges said his city has just started a formal review of creating a PACE bond. "We've done a lot of work on energy retrofits, and we're very familiar with PACE," Hedges said. "There's momentum here to get behind it."

#### **Salut upgrades using PACE**

Investment: \$50,000

Projected annual saving: \$16,409

Source: *Energy Misers LLC*

Complete URL: <http://finance-commerce.com/2012/08/pace-funds-a-second-edina-energy-deal/>

Susan Howl

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**From:** Lynette Biunno on behalf of Edina Mail  
**Sent:** Tuesday, August 28, 2012 8:30 AM  
**Cc:** Susan Howl  
**Subject:** FW: Vacant lot at corner of Littel and Lynn in Morningide



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

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**From:** Tom & Judy Plant [<mailto:jplant1@comcast.net>]  
**Sent:** Monday, August 27, 2012 5:15 PM  
**To:** Edina Mail; [jonibennett12@comcast.net](mailto:jonibennett12@comcast.net); Mary Brindle; [joshsprague@edinarealty.com](mailto:joshsprague@edinarealty.com); [swensonann1@gmail.com](mailto:swensonann1@gmail.com); Scott Neal  
**Subject:** Vacant lot at corner of Littel and Lynn in Morningide

Dear Mayor Hovland, City Council Members and City Manager Neal,

We live at the 4350 Morningside Rd, on the corner of Morningside and Lynn. Along with many of our neighbors, we've watched with increasing dismay the construction of the house at 4234 Lynn Avenue and the destruction of the peaceful little glade that was the vacant lot next to it. I believe the vacant lot is owned by the city. We are writing to express our concern and desire that the vacant lot be restored as closely as possible to its condition before construction of the new house began. The massive rock wall that now abuts the lot needs to be softened with vegetation and the shade trees that have been removed should be replanted. It's not necessary, in our opinion, to formally landscape the lot. That would only require intensive maintenance that most likely won't be available. However, grass, a variety of shade trees, and some vines or bushes planted on or adjacent to the wall would do the trick. Since the city was gracious enough to allow the use of the lot for the construction of the new home, we do not think the city should foot the bill for the lot's restoration. Please do the right thing and require the builder and new home owners to put things back as closely as possible to the way they were.

Thank you for your time and consideration.

Sincerely,

Tom and Judy Plant

952-922-0354

Susan Howl

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**From:** Lynette Biunno  
**Sent:** Monday, August 27, 2012 9:19 AM  
**Cc:** Susan Howl  
**Subject:** FW: For City Council Boulevards and watering

Good morning,

This message has been forwarded to the Mayor and Council members, David Goergen and Byron Theis.



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389  
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**From:** Kathy Dahlheimer [<mailto:kdahlheimer@comcast.net>]  
**Sent:** Saturday, August 25, 2012 10:46 AM  
**To:** Edina Mail  
**Subject:** For City Council Boulevards and watering

Hello:

I have had a couple of situations at my home at 4801 West 60th Str. One case required new sod and in the latest just a lot of attention to watering to make sure it came back after installing new copper pipe to street after leak. The city put in the sod last year and then came around a number of times with water truck. It is, however clearly up to the homeowner to water enough to make sure everything goes back to normal. I have noted on my usual driving routes which include Valley View Road going west from Concord that most of the boulevards are completely dead. It seems sort of a waste to put sod in and apparently homeowners are not watering. The same is true on West 70th Street which could be so beautiful but frankly looks awful with all that dead grass in contrast with the lawns at least being somewhat green (bad year without irrigation). Does the city have any say about that? It really looks bad. So much money is spent on these projects but they can't look very good unless the homeowners participate.

Another place I drive daily is the intersection of 50th Street and Wooddale. Not sure what the accident rate is there but I hate that place. For example person driving south on Wooddale has two choices...get in turn lane or stay in main lane which is also turn left lane. The oncoming traffic is the same. Many people turn there...people then go in the turn lane to get around but that is confusing to the oncoming traffic turning etc. etc. It seems like those north and south turn lanes should be straight and turn right lanes and the lane next to middle left turn lane. Of course there may be other better ideas but I have personally witnessed so much confusion there at busy times it seems like it could be simplified easily.

Those two items have been in my mind to mention so finally got a minute to do that. Would like to say I had occasion recently with my service line leak and replacement to have the water department out and response time and helpfulness of the employees is excellent. Dave Gorgen also answered some questions and is very responsive. It took a very long time to find the shut off but they kept at it and bringing in new people to help. They also assisted me in hiring Suburban Water and Sewer to do the work (on very short notice) while other companies had months waiting time. I know Suburban works often with the city and Kevin is great to work with and his team worked very hard to get it done quickly. I would not have found them without the Edina water guys' help. Services in Edina are really good...thank you.

Susan Howl

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From: Lynette Biunno on behalf of Edina Mail  
Sent: Wednesday, August 22, 2012 9:21 AM  
Cc: Susan Howl  
Subject: FW: green space

Lynette Biunno, Receptionist  
952-927-8861 | Fax 952-826-0389  
[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)  
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-----Original Message-----

From: Michelle Horan [<mailto:mhoran00@gmail.com>]  
Sent: Tuesday, August 21, 2012 6:54 PM  
To: Scott Neal; Edina Mail; [jonibennett12@comcast.net](mailto:jonibennett12@comcast.net)  
Subject: green space

Joni, Scott and Mayor Hovland,

This is Michelle Horan, from the RSW committee and I live on Lynn Ave. I need to ask you about the landscaping plan on the corner of Lynn and Littel. I was aware that Tim Rudnicki wanted to inquire about the process of how decisions were made about city green space and specifically how the decision to utilize the green space by the new owners of the neighboring property (friends of ours). I live five houses down from that space and was never asked my opinion. Now I find out that there is a landscaping project already started and we were never informed in any step of the process. I would like to know why Mr. Rudnicki and Mr. Parish became the spokesperson for the neighborhood when we were never asked our input.

I know the goal is to beautify the space, which I am supportive of but what about the process? Who pays for this improvement? Is this a city expenditure and if so is it a necessary one?

I appreciate your efforts to help our neighborhood and look forward to your feedback.

Thanks,

Michelle Horan  
[mhoran00@gmail.com](mailto:mhoran00@gmail.com)  
952 929 0165

Susan Howl

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**From:** Lynette Biunno on behalf of Edina Mail  
**Sent:** Wednesday, August 22, 2012 3:26 PM  
**To:** Sherry Engelman; John Keprios  
**Cc:** Susan Howl  
**Subject:** FW: City Council & Edina Health Committee--Supporting Community Gardens

Good afternoon,

This message has been forwarded to the Mayor and Council members, Sherry Engelman and John Keprios.



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)

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**From:** LAURA MELTON [<mailto:hopenelton@hotmail.com>]  
**Sent:** Wednesday, August 22, 2012 3:21 PM  
**To:** Edina Mail  
**Subject:** City Council & Edina Health Committee--Supporting Community Gardens

Dear Members of the City Council and the Health Committee

My name is Hope Melton (Laura legal first name). I live at 4825 Valley View Road, and I do a little gardening around my home, a few vegetables and flowers.

I enthusiastically support a Community Garden Resolution that would promote gardens on both public and private lands.

The creation of community gardens fits well with the city's efforts to create neighborhood associations that engage in all sorts of social capital building efforts. It would be a wonderful opportunity for Edina's healthy and engaged older residents (and there are many) to get together with younger generations in producing healthy food, lovely flowers, and just a place to learn gardening and have fun! I can also see healthy recipe exchanges offering opportunities for cross-cultural learning.

Thanks for all your efforts to create a healthier community.

Sincerely,

Hope Melton

L Hope Melton, MA MCRP  
Hopeful Ventures  
Elders in Community: Re-Imagining the Future  
952-926-3959  
[hopenelton@hotmail.com](mailto:hopenelton@hotmail.com)

Susan Howl

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From: Lynette Biunno on behalf of Edina Mail  
Sent: Thursday, August 23, 2012 8:33 AM  
Cc: Susan Howl  
Subject: FW: Green Space for Lynn/Littel Street

Lynette Biunno, Receptionist  
952-927-8861 | Fax 952-826-0389  
[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)

...For Living, Learning, Raising Families & Doing Business -----Original Message-----

From: Mindy Greeley [<mailto:mindygreeley@comcast.net>]  
Sent: Wednesday, August 22, 2012 6:07 PM  
To: Scott Neal; Edina Mail; [jonibennett12@comcast.net](mailto:jonibennett12@comcast.net)  
Subject: Green Space for Lynn/Littel Street

My name is Mindy Greeley. My address is 4232 Lynn Avenue. I live directly across from the green space and the new home being built on Lynn Avenue and Littel Street.

First off, I love the new home being built. It is very tasteful and will add value to Lynn Avenue and the entire Morningside neighborhood. However, it was unfortunate that several trees had to be cut down in the process, (I wish it were the cotton woods). I was relieved to learn that the trees will be replaced. I am sure it will look great once the entire project is done.

I am concerned that only two residents, Tim Rudnicki and Rob Parish were asked for their input regarding the improvements to the landscaping. It would make sense that the neighbors that actually border the green space would have input as well.

Thank you for your time.

Regards,

Mindy Greeley

Susan Howl

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**From:** Lynette Biunno  
**Sent:** Friday, August 24, 2012 4:03 PM  
**Cc:** Susan Howl  
**Subject:** FW: Mayor Hovland & City Council Members



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

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...For Living, Learning, Raising Families & Doing Business

**From:** LOIS RING [<mailto:llrdesigns@msn.com>]  
**Sent:** Friday, August 24, 2012 3:45 PM  
**To:** Lynette Biunno  
**Subject:** For: Mayor Hovland & City Council Members

All:

The below is from the Edina Patch. I live at Centennial Lakes Village Homes and a monthly fee is paid into the Centennial Lakes Park fund by each owner since the inception of our condominium association. My question: Is this the same fund as the loan to Simon Properties is derived from? Where exactly do our park fees go? We have 250 units so it is \$45,000 annually.

Thank you,

Lois Ring  
7440 Edinborough Way

Edina City Council last month approved a \$5 million, zero-interest loan to Simon Property Group to help incentivize the overhaul of the aging mall. The loan only covers improvements to the common areas of the mall, with parent company Simon Properties reported to invest \$14 million of its own money into the project.

The \$5 million loan is coming solely from the Centennial Lakes TIF district and the funds will be repaid directly to that district, according to city staff.



August 21, 2012

City of Edina

Mayor Hovland and the City Council  
4801 W. 50th St.  
Edina, MN 55424

Dear Mayor Hovland and Council Members:

I am writing on behalf of the Community Health Committee. We applaud the Mayor and City Council in embarking on *do.town* with the vision of "communities where people live longer, healthier lives." A key component of leading longer, healthier lives involves healthy eating.

Cities play a central role in the effort to improve community health. There are a variety of strategies that cities can employ to improve the quality and access of healthy food for their residents. An important element in attaining our vision are the actions taken in City operated facilities and sponsored events.

Currently, the Edina Parks & Recreation Department is working toward a department policy to ensure at least 40% of foods served by City operated concessions meet nutrition standards established by the City. Implementation of practice changes are in process with the Aquatics Center and Edinborough Park having met this goal. We strongly support these efforts and the leadership the department is taking.

We recommend the City build on the efforts of the Park & Recreation Department to provide an environment that supports healthy food and beverage choices by residents, visitors and employees in all City-operated facilities and sponsored events. Our specific recommendation is for the City to:

Adopt a City vending and procurement policy that establishes nutrition standards for food and beverages served and sold on City property and at City-sponsored events (including concessions, vending, events and meal programs). City standards may differ by venue or type of event.

Across the country, cities are taking action to increase the availability of healthy foods, decrease unhealthy options, and are being mindful of advertising of unhealthy foods, particularly in facilities serving youth. Some studies have demonstrated that reducing unhealthy options and increasing healthy options (accompanied by strategic pricing) at public facilities encourages healthier choices by consumers. The attached document, *Leadership for Healthy Communities Advancing Policies to Support Healthy Eating and Active Living* (p.12-15), provides further information and examples of city policies as well as other low/no-cost policy options to increase healthy eating. Additionally, we have provided some nutritional standards information that may be useful should the City decide to implement a policy.

Understanding that the City will need to consider all factors related to implementing our recommendation, we hope the City will build on the Park & Recreation initiative, providing healthier options in all food and beverage environments operated by the City. Thank you for considering our position and recommendation.

Sincerely,

Matt Doscotch, Chair  
Edina Community Health Committee

**Edina Police Department**

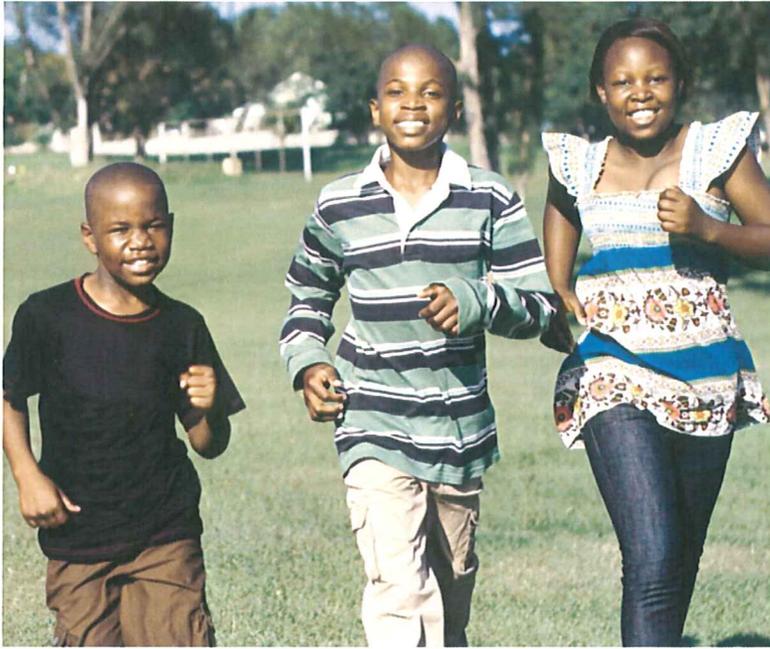
4801 West 50th Street  
Edina, Minnesota  
55424-1394

**Administration (952) 826-1610**

Fax (952) 826-1607  
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# Leadership for Healthy Communities

Advancing Policies to Support Healthy Eating and Active Living



## Obesity Prevention on a Budget: Low- and No-Cost Policy Options to Increase Healthy Eating and Active Living



*The toolkit presents a range of budget-conscious policy approaches that leverage existing resources and partnerships to reduce local obesity rates by increasing opportunities for healthy eating and physical activity.*

In response to the national childhood obesity epidemic, many local, state and federal leaders have advanced policies that provide children with greater opportunities to eat nutritious foods and engage in safe physical activity. Yet, the recent recession has made it much more difficult for officials at every level of government to provide services that meet the ongoing needs of their communities. As of February 2011, at least 46 states and the District of Columbia had to make cuts to social services, with most cuts affecting children, the elderly and the disabled.<sup>1</sup>

Compounding the daunting economic climate is the fact that childhood obesity results in severe financial and health consequences that cannot be ignored.<sup>2</sup> Obesity and its related health care expenses are estimated to cost the United States as much as \$147 billion annually,<sup>3,4</sup> with additional costs associated with lost worker productivity. Moreover, obese individuals are more likely to experience burdensome chronic diseases, such as type 2 diabetes, cardiovascular disease and high blood pressure. These steep financial and human costs make obesity prevention both an economic and health necessity.

In order to support policymakers who want to address obesity in communities and states with limited budgets, *Leadership for Healthy Communities* has developed the following low- and no-cost policy toolkit. The toolkit presents a range of budget-conscious policy approaches that leverage existing resources and partnerships to reduce local obesity rates by increasing opportunities for healthy eating and physical activity.

Organized by policy option, each section includes an explanation of the suggested policy approach, steps that policymakers and others can take to implement it, a brief discussion of fiscal and practical considerations and a case study of a community that implemented a similar policy.

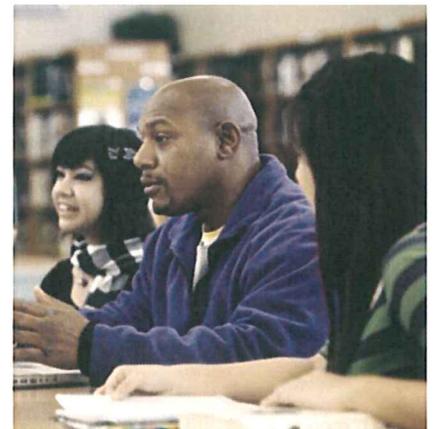


The policy options include:

- Establishing an Obesity Prevention Council or Task Force
- Developing a Public-Use Plan, Public Dedication Ordinance or Zoning Code that Promotes Active Living
- Establishing Joint-Use Agreements for Recreational Areas
- Implementing Supervised Recess in Schools
- Setting Up and Promoting Farmers' Markets
- Encouraging Government and Public Facilities to Procure Healthier Foods and Beverages
- Restricting Marketing of Unhealthy Foods In and Near Schools

### Establishing an Obesity Prevention Council or Task Force

Obesity prevention councils and task forces can be used in states and localities to develop tailored obesity prevention strategies. These councils and task forces can take a range of forms, from interagency and public-private partnerships to special policy or legislative committees. Traditionally, members either volunteer or are appointed to serve on the committee or task force. The advisory bodies are typically cooperative in nature, and are authorized to develop policy recommendations that promote opportunities for community residents to live healthy, active lives. By using local or state obesity data and enlisting participation from residents, businesses and universities, these councils and task forces can make considerable progress in preventing and reducing obesity.



#### ACTION STEPS

- **Government officials** can build support for an obesity prevention council by communicating to public and private stakeholders, including the community at large, the costs of obesity as well as the social and economic benefits of addressing it. They also can encourage participation in the obesity prevention council.
- **State legislators and city and county council members** can authorize the establishment of an obesity prevention council and/or legislative task force.
- **Governors and mayors** can create local advisory committees and recruit agencies, individuals and organizations to participate.
- **Residents** can reinforce the value of the obesity prevention council by holding policymakers to account for its establishment and follow through on the council's findings and recommendations.

## FISCAL NOTE

The direct cost of an obesity prevention council to the public is likely to be negligible and mainly for the space and meeting resources needed to convene and staff the committee. If needed, leaders can engage members of businesses and the nonprofit sector as partners to defray costs associated with meeting logistics, staffing and communicating, and implementing recommendations. That being said, it is likely that obesity councils and/or task forces may provide recommendations for policies that may impact public budgets. State and local governments can minimize the cost of such recommendations by leveraging resources across governmental agencies and/or engaging other public and private entities to implement and fund solutions.

## POLICY AND PROCESS CONSIDERATIONS

- ✓ **Legislative authority.** Enacting a policy to authorize the council lends legitimacy and creates accountability for participants.
- ✓ **Building support.** Engaging the community early in the process can help garner support for the council's efforts and ensure buy-in for its findings and recommendations. Publicizing the council's efforts also can increase prestige associated with participation and increase the interest of funders and the community.
- ✓ **Recruiting participants.** Establishing partnerships with the private sector can help defray costs and ensure that the council considers their interests. Recruiting those from various sectors with an interest in preventing and reducing obesity, including health officials, researchers, businesses, schools and community members, can help ensure that councils and/or task forces represent a broad perspective.
- ✓ **Staffing.** Ensuring that the council is adequately and professionally staffed will allow it to function efficiently and effectively while keeping participants engaged.
- ✓ **Sustainability.** The timeframe for councils or task forces can be very long or very short depending on the manner in which they are established. In order to ensure long-term sustainability and impact, committee members should continually assess, evaluate and report on the implementation of its recommendations.

## CASE STUDY

In 1999, the Louisiana legislature authorized the Louisiana Council on Obesity Prevention and Management (LA Obesity Council).<sup>5</sup> Housed in the Department of Health and Hospitals, the council is comprised of representatives from government agencies, healthcare facilities, universities, research facilities, professional associations, insurance, business/industry and nonprofit organizations. The council meets quarterly to “strengthen the alignment, development and implementation of programs, projects and research to respond to the public health challenge of obesity.”<sup>6</sup> Working from a three-year strategic plan, council objectives focus on environmental change, capacity building, education and awareness. A part-time coordinator staffs the council, which is responsible for publishing an annual report,

organizing events and making periodic presentations to the state legislature on the council's activities. In their 2008 summary report, the LA Obesity Council lists many accomplishments including the implementation of a school wellness policy, a report card on physical activity in the state, a healthy food retail study and the continuation of an award program for excellence in education to prevent childhood obesity.<sup>7</sup>

## Developing a Public-Use Plan, Public Dedication Ordinance or Zoning Code that Promotes Active Living

Research has identified the role that the built environment—or lack thereof—plays in mitigating or exacerbating obesity.<sup>8,9</sup> Studies show that community development that includes sidewalks, greenways, traffic-calming areas, and walkable spaces are not only more attractive but safer as well.<sup>10,11</sup> Communities that provide their residents with safe, attractive and accessible places to walk, run, bike and play are less likely to have a high prevalence of obesity.<sup>12</sup> Recognizing this, many policymakers have embraced public-use plans as a mechanism to increase opportunities for active living. **Public-use plans, public dedication ordinances and zoning codes** can be used by governments to develop parks, sidewalks and bike trails. To ensure that new development in their communities is consistent with this goal, policymakers can create plans and codes that require new projects to set aside space to support active transportation and physical activity, such as trails, fields and parks.

### ACTION STEPS

- **State officials** can consider requiring that new developments supported by state funds include plans for ensuring spaces for active living.
- **City and county officials** can explore the legality, feasibility and potential constraints of imposing a public use or public dedication plan on developers.
- **Mayors** can engage developers, builders associations and others in the private sector to assess the need, feasibility and impact of any proposed public dedication or public use plan.
- **Community members** can participate in public hearings, comment periods and other processes during which the public dedication or public use plan is being developed.

### FISCAL NOTE

The costs associated with the development and adoption of a public-use plan, public dedication ordinance or zoning code will include plan preparation, surveying, scoping, draft plans, public notices and meetings, and any personnel and contractor services costs. It is important to note that if executed incorrectly, a public-use or public dedication plan could be quite costly and result in protracted legal action.



*Public-use plans provide guidance on the use of publicly-owned spaces for the public good. These plans can set community goals for ensuring residents can engage in safe physical activity in these areas.*

*Public dedication ordinances can be used to require new public or private development to set aside land dedicated to public use, such as parks, playgrounds and trails.*

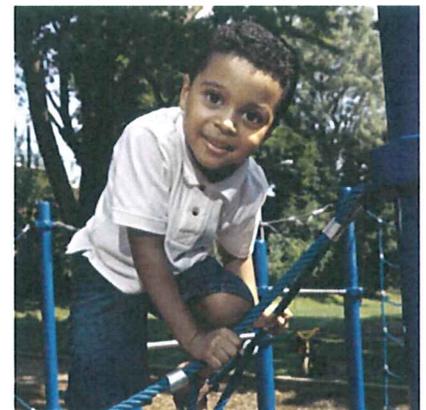
*Zoning codes can be used to protect current public spaces and to set requirements for future development, such as requiring sidewalks or access to public transit.*

## POLICY AND PROCESS CONSIDERATIONS

- ✓ **Best practices.** Many national organizations, such as the National Parks and Recreation Association, are familiar with this approach and can offer guidance and resources to help communities develop similar plans.<sup>13</sup>
- ✓ **Buy-in.** Engaging developers and the community in plan development will help build and broaden a base of support.
- ✓ **Goals and objectives.** Establishing and publicizing clear goals and objectives for a community's public use plan, including promoting physical activity and reducing overweight and obesity, also will help build support.
- ✓ **Compliance issues.** Although lessons can be gleaned from ordinances adopted in other states, policymakers should make sure that ordinances are customized to fit local needs and are compliant with their own state's laws.
- ✓ **Evaluation and impact.** Including feedback mechanisms – like public hearings and surveys—in a community's plan development process can help minimize or eliminate challenges to the plan's validity. Policymakers should assess, evaluate and report on the development and implementation of the public use plan, including its ultimate impact on physical activity.

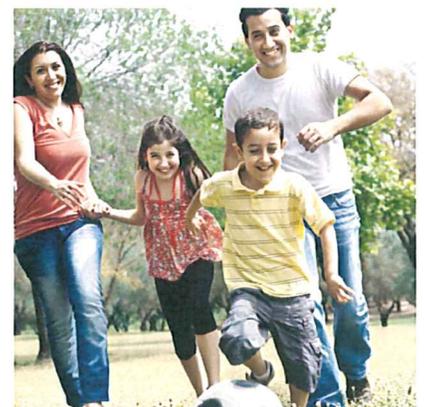
## CASE STUDY

In 2009, Minneapolis, Minn., passed a public dedication ordinance in order to maintain “a healthy and desirable environment for residents and persons employed within the city.”<sup>14</sup> The ordinance recognizes that open spaces and parks significantly enhance the value and attractiveness of the community. By requiring all new developments that increase the number of residential units or employees in the city set aside land to develop parks, playgrounds, recreational facilities, wetlands, trails, or open spaces, the city is ensuring that residents have places for safe, active play.



## Establishing Joint-Use Agreements for Recreational Areas

A joint-use agreement is a formal agreement between two separate public or private entities—often a school and a city or county—outlining the terms and conditions for sharing the use of facilities.<sup>15</sup> For example, city governments can contract with local schools districts in order to allow members of a community to use of playgrounds and fields after school hours. These agreements can allow residents to enjoy recreational space in communities where parks, schoolyards and budgets are all limited. Maximizing a community's use of existing structures can substitute for new site development when resources are scarce, particularly where there is a growing need to increase physical activity in communities fighting higher rates of childhood obesity. Formal joint-use agreements for using indoor and outdoor school facilities are more common in more populated locales, while less populated areas commonly use informal agreements.<sup>16</sup> The long-term benefits of joint-use agreements include healthier and closer-knit communities that take greater collective pride in



maintaining safe and clean school grounds.<sup>17</sup> Joint-use agreements are most effective when partners recognize the benefits of pooling resources.<sup>18</sup>

### ACTION STEPS

- **State officials** can establish laws that open public school facilities for community use after hours, such as California's Civic Center Act<sup>19</sup> and the California Community College Civic Center Act.<sup>20</sup>
- **City and county officials** can examine federal opportunities for funding to support local joint-use efforts, particularly in eligible lower-income communities. The 21st Century Community Learning Centers program, part of the 2002 Elementary and Secondary Education Act, provides funding for schools to host after-school academic and enrichment programs.<sup>21</sup>
- **Mayors** can consult with their colleagues in neighboring cities or surrounding counties to assess whether facility needs can be met by creating local partnerships.
- **School administrators** can maintain accurate and up-to-date records of annual facility costs to support cost-benefit analyses of the shared space.

### FISCAL NOTE

The most significant direct costs of joint-use agreements are those incurred as a result of increased use of a facility, including personnel such as security guards and facilities maintenance crews. Officials should consider the full cost of maintenance for a given facility on a per square foot and per hour basis (i.e., an agreement governing the use of a pool may cost more than one for indoor basketball courts), as well as the role that school districts should play in subsidizing potential users.

### POLICY AND PROCESS CONSIDERATIONS

- ✓ **Goals and objectives.** Agreements are more likely to succeed if goals, including identifying the benefits accrued to each partner, are clearly articulated.<sup>22</sup>
- ✓ **Planning.** Identifying funding and oversight responsibilities among and between partners is essential to reducing problems in implementation. An effective joint-use agreement should include a projection of how increased usage would affect facility costs.<sup>23</sup>
- ✓ **Sustainability.** Long-term commitments from all parties involved provide the time to reassess and improve the agreement if unanticipated difficulties arise. Anticipating conflicts and creating processes to resolve them will help sustain the agreement over time.
- ✓ **Communication.** Ongoing communication among partners and with the community is recommended, including periodic meetings and check-ins, even when the agreement is working as planned. By engaging the community, partners can ensure that they enter into an agreement that allows them to be responsive to community needs.

- ✓ **Liability.** One of the most often-mentioned challenges to joint use agreements is how to handle liability and insurance issues. Anticipating and clarifying the respective responsibilities of the parties should an injury occur is advisable.<sup>24</sup> Organizations such as the National Policy & Legal Analysis Network to Prevent Childhood Obesity can provide resources and guidance to address liability concerns.

### CASE STUDY

In 2010, Seattle School District No. 1 and the City of Seattle Parks and Recreation department formalized an agreement for the joint use of facilities. The agreement allows the two entities to pool their resources to “meet continuous youth and community demands for more recreational opportunities.”<sup>25</sup> The agreement includes a vision statement to outline the intent of the policy, the shared purpose, general agreement provisions and guidelines for joint use, processes for scheduling and managing the facilities, a process for cost and revenue sharing and a liability clause, among other features. In particular, each entity agrees to indemnify and hold harmless the other party in any liability claims. The agreement also specifies that the shared use be based on “fiscally sound considerations,” and that neither entity will be expected to subsidize the use of the facilities by the other party.<sup>26</sup>

### Implementing Supervised Recess in Schools

Despite growing rates of childhood obesity, schools across the country are reducing or eliminating physical activity programs from the school day in response to budget constraints and mounting pressure to improve standardized test scores.<sup>27</sup> However, research shows that even 15 to 30 minutes of daily physical activity can improve academic focus and classroom behavior in all grades, while improving health.<sup>28,29</sup> Under the supervision of trained staff, recess allows children to engage in physical activity and develop healthy bodies, as well as practice important life-skills, such as sharing, communication, negotiation and problem-solving.<sup>30</sup>

### ACTION STEPS

- **State officials** can implement policies and programs to support recess and/or physical activity breaks as necessary components of the school day.
- **City and county officials** can ensure that proper funding is available for the purchase and maintenance of recess equipment, such as swings or monkey bars.
- **Mayors** can engage the community and rally support to facilitate the implementation of daily recess in schools.
- **School administrators** can implement schedules that integrate supervised recess and physical activity breaks as a regular part of the school day.



## FISCAL NOTE

Playground kits can be purchased to help schools implement more active recess.<sup>31</sup> Kits include playground blueprints, equipment, activity guides and training videos for staff and teachers. Utilizing a kit and employing volunteers to supervise children during recess provides local officials with a low-cost, high-activity opportunity to increase physical activity. Policymakers should expect to incur costs related to volunteer recruitment, training and background checks. Additional resources may be necessary to maintain the play area and equipment, including performing safety inspections.

## POLICY AND PROCESS CONSIDERATIONS

- ✓ **Regulations or standards.** Minimum standards could be adopted for daily physical activity or supervised recess for children at the local and state level.
- ✓ **Community support.** To garner support for physical activity/supervised recess at the local and state level, policymakers should consider engaging the community.
- ✓ **Planning and implementation.** School districts can establish committees composed of various stakeholders including community members, health officials and school administrators to help ensure appropriate planning and implementation.
- ✓ **Staffing.** Training staff and volunteers can help ensure that recess breaks feature moderate-to-vigorous physical activities.
- ✓ **Evaluating results.** Assessing and evaluating recess implementation at the school district level can help build the case for sustaining and expanding a successful program.

## CASE STUDY

In 2006, the Hawaii State Board of Education Policy 1110-6 required the Department of Education (DOE) to establish guidelines for physical activity in response to resounding concerns over childhood obesity.<sup>32</sup> The resulting *Wellness Guidelines* requires public schools to provide students in all grades with at least 20 minutes of supervised recess per day, provide qualified professionals to supervise physical activity and establish health committees at each school. To facilitate implementation of Policy 1110-6, the DOE created the *Wellness Guidelines Toolkit* to monitor progress. The policy took effect in 2007 and schools were required to complete implementation by the end of the 2010-2011 school year. In other parts of the country, schools that have implemented recess have reported some success associated with their programs, including a reduction of discipline referrals during unstructured time.<sup>33</sup>

## Setting Up and Promoting Farmers' Markets

Farmers' markets can provide fruits and vegetables in communities where options are expensive or scarce.<sup>34</sup> Farmers' markets have proliferated over the past two decades in the United States, growing from more than 1,500 in 1994 to approximately 6,200 in 2010.<sup>35</sup> It is estimated that more than 60,000 farmers sell produce at these venues and 3 million consumers patronize them annually to the tune of \$1.3 billion.<sup>36</sup> Markets can be set up in locations that are either under-utilized or generally used for other purposes such as parking lots, empty or abandoned plots of land or town centers. By facilitating policies that support privately operated or establish publicly operated farmers' markets, policymakers can create a new revenue stream for farmers, business owners and craftsmen while promoting healthy eating in their community.

Additionally, policymakers can help ensure that vendors at these markets are equipped to accept payment from those enrolled in the **Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)** and **Supplemental Nutrition Assistance Program (SNAP)** programs by requiring use of the electronic benefit transfer (EBT) system.<sup>37,38</sup> With the EBT system, program beneficiaries use an electronic card, similar to a bank debit card, which transfers funds from the benefits account to the retailer. State agencies are responsible for authorizing retailers who wish to participate in WIC and SNAP and are charged with ensuring that a sufficient number of retailers receive such authorization. Many states use this system to encourage WIC and SNAP participants to use their benefits to purchase fresh fruits and vegetables.



*Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is a program of the U.S. Department of Agriculture that, through grants to states, provides nutritious foods, nutrition education, and referrals to health and other social services to low-income pregnant, postpartum and breastfeeding women, and infants and children up to age 5 who are at nutrition risk.*

*Supplemental Nutrition Assistance Program (SNAP) is the new name for federal food stamps.*

### ACTION STEPS

- **Mayors and city council members** can:
  - Establish a publicly operated farmers' market and prescribe easily navigable rules and regulations for its operation;
  - Develop a local farmers' market commission or advisory board;
  - Directly administer the functions of the farmers' market, including providing staffing and implementing a WIC and SNAP redemption program; and/or
  - Encourage boards of directors for local farmers' markets to develop a new WIC and SNAP redemption plan or publicize an existing plan.
- **City managers** can provide information on by-laws and zoning considerations and anticipate and address issues like parking, traffic and other neighborhood impacts of the proposed market.
- **State and local health and human services officials** can provide advice and technical assistance on key questions regarding the goods that are sold and requirements for inspections and safe handling of food products. They also can

provide guidance to farmers' markets about how to accept WIC and SNAP benefits as payment.

- **Private partners** can promote the farmers' market to potential vendors and community residents, and provide technical assistance with management and operation.
- **Nonprofit organizations and foundations** can provide information resources and funding. In particular, they can help defray costs associated with obtaining the equipment and technology necessary to redeem WIC and SNAP benefits, and publicize the redemption program to community residents.
- **Community residents** can patronize the market to ensure its success, serve on the market's board of directors and volunteer to participate in the maintenance and upkeep of the market location.

#### FISCAL NOTE

The costs of setting up a farmers market will vary, and depend on the size of the market, its location, whether or not farmers and other vendors are charged a fee for operating a stall, the costs related to promotion, the frequency with which the market operates and its requirements for staff (volunteer or paid).

The cost to government associated with promoting a WIC and SNAP redemption program will include promotional and training materials and personnel time to develop and implement the promotional campaign. Policymakers should explore whether some of these costs can be offset with funding from nonprofit partners or the federal government. If the market is publicly operated, the costs may include private point-of-sale terminals (average cost of \$700 per terminal) with monthly fees associated with terminal use and transaction costs. There is no fee associated with becoming authorized to accept WIC or SNAP benefits as payment and wired terminals to process EBT payments are generally free, except for telephone line usage charges and transaction fees. Many successful WIC and SNAP redemption programs at farmers' markets train dedicated staff to manage the program. A volunteer could fill this role if needed.

#### POLICY AND PROCESS CONSIDERATIONS

- ✓ **Feasibility.** A feasibility assessment may help gauge the interest and need for a farmers' market in your community. Policymakers should leverage the expertise of nonprofit partners that work on nutrition and food security issues in these assessments.
- ✓ **Form.** A range of legal entities, including associations, 501(c)(3) structures or others can be employed to manage the market and house its operations.
- ✓ **Community engagement.** Policymakers should communicate with residents early and often in the planning for the farmers' market and its operation.

- ✓ **Governance and management.** To encourage sustainability, officials should establish a governing body to develop a mission statement for the market, manage its operations and resolve conflict or difficulties as they arise.
- ✓ **Information resources.** Researching and accessing federal, state, local and nonprofit resources for farmers' markets, such as the Farmers Market Coalition and the U.S. Department of Agriculture's tools and guides on the subject will help in the development and management of farmers' markets.<sup>39,40</sup>
- ✓ **Funding.** Enlisting private partners as sponsors can help defray costs associated with farmers' markets.
- ✓ **Public relations.** Engaging nonprofits, civic organizations and other advocates to encourage community patronage and to publicize the benefits to the local economy and residents, may help the market succeed. These partners can help develop messaging and campaigns to keep the community engaged and organize special events and incentives to encourage patronage.
- ✓ **Compliance, standards and liability.** Investigate insurance and other liability considerations associated with selling food items and operating at the chosen location. Establish clear standards of conduct and memoranda of understanding for vendors, including standards related to pricing.

## CASE STUDY

The Maple Grove Farmers' Market in Maple Grove, Minn., a large suburban community, is an example of a successful, publicly operated farmers' market.<sup>41</sup> Established by Maple Grove's city council in 2003, the market's first year was dedicated to planning and developing processes including dates, times, location, guidelines and a fee structure. The Maple Grove market is managed like any other city program, with assigned staff and oversight by the city administrator. Staff members work with the Hennepin County Environmental Health Department to ensure compliance with food safety requirements and two city employees serve as market coordinators recruiting vendors and promoting the market. A market manager works onsite whenever the market is open. All vendors must complete an application process and their fees go directly to support the market, defraying the costs of advertising, special events, supplies and market staff salaries. To maintain community interest and engagement, the market manager organizes special events throughout the year, such as picnics and concerts.

## Encouraging Government and Public Facilities to Procure Healthier Foods and Beverages

In 2008, nearly 17 million Americans were employed by state and local governments, and many more consume a significant portion of their diet at places operated, supported or regulated by the government, including vending machines in public facilities, child-care centers, senior centers, homeless shelters, public

hospitals, schools, correctional facilities and even highway rest stops.<sup>42</sup> By supporting incentives that increase the availability of healthy, locally grown foods in public facilities through government procurement practices and **vending policies**, policymakers can increase the nutritional quality of foods offered to people whose diets are wholly or partially dependent on government-controlled sources. This can include requiring that food vendors and vending machines in public facilities follow prescribed nutritional guidelines and/or provide labeling for the food they serve.<sup>43</sup> Additionally, by placing a preference for locally grown fruits and vegetables in procurement and vending policies, governments can increase opportunities for local businesses and stimulate economic development.



*Vending policies set requirements for vendors who sell goods within government facilities.*

*Local food procurement is the purchasing (by institutions) of fruits and vegetables grown by local farmers, often for nutritional and economic benefits.*

### ACTION STEPS

- **State and local government leaders** can develop policies that require or recommend that vendors to state- or locally-controlled facilities and government-sponsored events offer foods that meet specific nutritional guidelines and/or use products from in-state and local farmers.
- **Public health officials** can provide specific data that shows the negative effect and high cost of poor nutrition and obesity in the state or locality.
- **Private partners and food vendors** can provide healthier options that are cost-effective.

### FISCAL NOTE

The costs associated with implementing new vending standards include expenses related to the transition process, staff and public education about the program and initial compliance monitoring. Ongoing costs should not exceed the costs of any prior vending program, although vendors may argue that offering healthier foods increases their program costs. In those cases, vendors can explore cost-neutral changes, such as replacing whole milk with fat-free or low-fat milk. To further address these concerns, localities can combine their purchasing power or work with larger vendors in order to negotiate lower prices for healthier options.<sup>44</sup>

**Local food procurement** has largely been examined in terms of its environmental and social benefits. While very little data exists to quantify the extent of the financial savings, there is anecdotal evidence to suggest that concerns about cost increases may be unwarranted. In Toronto, Ontario, where a local food procurement policy recently passed, the staff reported that there were “no immediate financial impacts” related to the adoption of the policy.<sup>45</sup>

### POLICY AND PROCESS CONSIDERATIONS

- ✓ **Scope and responsibility.** Ensuring that existing food vendors and public agencies understand who is affected by the new policy and who is responsible for its execution will help ease implementation challenges.

- ✓ **Policy and political climate.** Each policy (local food procurement policies and nutritional guidelines for vending) is distinct, so policymakers should assess whether one or both approaches are likely to succeed based on their political and legislative climate.
- ✓ **Nutritional guidelines.** Nutritional guidelines should be defined with precision to avoid confusion among vendors who seek to comply and maintain their contracts with the state/locality.
- ✓ **Public education.** The general public and other government agencies will need information about the economic, environmental and health benefits of locally grown food because their support is vital for the success of the initiative. Common myths about the quality of and safety standards for local food may have to be dispelled.
- ✓ **Partnerships.** By partnering with neighboring states and localities, policymakers can increase the likelihood of success of their procurement program.
- ✓ **Timelines and benchmarks.** Transition to any new system will include bumps along the way. Establishing reasonable timelines and benchmarks can help minimize difficulties.
- ✓ **Local food supply.** When considering whether to establish requirements that increase demand for locally grown foods, policymakers should ascertain whether the supply is able to meet that demand.
- ✓ **Legal checks.** Charges of anti-competitiveness, unfair competition or non-compliance with relevant rules, regulations and ordinances can doom a local procurement policy before it yields expected benefits.
- ✓ **Data collection.** If local procurement policies are instituted, officials can collect data regarding the relative cost of local fruits and vegetables as compared with those shipped from further distances.

## CASE STUDY

California has been the leader in implementing policies that require specific nutritional standards for food and beverages sold in vending machines in public facilities.<sup>46</sup> Some of the examples include:

- Los Angeles County requires that 100 percent of foods sold in vending machines on government property meet State of California's Nutrition Guidelines. These standards also cover public schools.<sup>47</sup>
- In 2004, Contra Costa County enacted a policy requiring that 50 percent of food and beverages sold in vending machines in county-owned or operated facilities meet specific nutrition standards.<sup>48</sup>
- In 2006, Chula Vista County enacted a policy requiring that all vending machines at any city facility contain only healthy snack and beverage choices.<sup>49</sup>
- In 2010, by executive order, San Francisco set nutrition standards for food and beverages sold in vending machines on city and county property. The standards

prohibit sugar-sweetened drinks and require that 50 percent of foods meet standards for fat, saturated and trans fat, and sugars.<sup>50</sup>

Additionally, New York has enacted multiple laws and regulations designed to promote the procurement of food produced in-state.<sup>51</sup> State finance law section 165 provides that “state agencies may mandate that all or some food products” must be grown, produced or harvested in New York. Non-state agencies are encouraged to adopt the same standard. Executive order #39 provides that agencies take feasible actions to increase the proportion of their food purchases that are locally grown. Several other bills have been considered that would apply similar standards to school districts and facilities controlled by the Department of Health. An additional measure would help finance the transportation and distribution of food products from in-state sources.

## Restricting the Marketing of Unhealthy Foods in Schools

Children consume a significant portion of their daily calories during the school day, and many fast-food chains and processed food manufacturers specifically target children while they are at school.<sup>52</sup> This is especially disconcerting because studies show that food marketing within the school environment can influence what children eat outside of school hours.<sup>53</sup> Thus, it is important for school environments to reinforce healthy eating messages. Policymakers seeking to promote an overall wellness or obesity prevention strategy may consider restricting the marketing of unhealthy foods in the school environment by prohibiting all advertisements and promotions on campus, banning all food and beverage advertisements and promotions on campus, or forbidding the marketing of products that are not permitted to be sold on campus. This policy option may find additional support since the enactment of the Healthy, Hunger-Free Kids Act (P.L. 111-296), which requires that state and local governments adhere to stronger nutrition standards in schools.<sup>54</sup>



### ACTIONS STEPS

- **State legislators and school boards** can limit food marketing in schools with careful attention to constitutional parameters.
- **School administrators** can ensure that policies are implemented in a manner consistent with the law. They also can seek supplemental funding to offset the loss of non-tax based revenues from vendor contracts.
- **Health officials and nonprofit organizations** can provide technical assistance to school administrators and educators on how to implement the standards.
- **Private partners** can sponsor public relations and media advocacy campaigns to educate parents and the community about the new policies and the benefits of healthy eating and active living.

## FISCAL NOTE

This approach does not have significant direct costs as it is mainly regulatory in nature. Policymakers should expect some costs related to educating people about the new standards and ensuring compliance. Some schools may be reluctant to reduce or regulate competitive sales, particularly given current economic challenges. However, schools that have replaced less-healthy competitive products with healthier items have reported no loss in revenues.<sup>55</sup> The loss of that tool could place those districts in the position of having to make difficult decisions about programs previously funded by these contracts. To counteract this, schools can explore healthy fundraising activities, such as walk-a-thons, book fairs, non-food product sales and healthy food sales.<sup>56</sup>

## POLICY AND PROCESS CONSIDERATIONS

- ✓ **Constitutional questions.** The plan to restrict advertising of unhealthy foods in or around schools should be carefully crafted to avoid constitutional challenges. The National Policy & Legal Analysis Network to Prevent Childhood Obesity can provide resources and guidance to address these concerns.
- ✓ **Offset of loss of funding.** In some school districts, vendor contracts provide additional funding. Seeking out new fundraising sources to replace or even exceed those former sources can reduce opposition to the plan and maintain the availability of important activities. The Center for Science in the Public Interest found that beverage sales contracts are actually less profitable than other forms of fund raising, including non-food-related fund-raisers such as sales of gift wrap and candles. Further, among schools and districts that improved the nutritional quality of fund-raising products offered, most increased their revenues.<sup>57</sup>
- ✓ **Compliance.** It is important to ensure that leaders throughout the school district are aware of the new guidelines and have the tools and resources to comply. The Healthy Schools Program from the Alliance for a Healthier Generation offers technical assistance to school, parents and community members on this and other related topics.

## CASE STUDY

In 2005, the Maine legislature prohibited brand-specific advertising of any foods or beverages in school buildings or on school grounds that did not meet standards for sale or distribution on school grounds. The law further provides that the foods and beverages sold on school grounds be consistent with specific nutritional guidelines, thus effectively banning advertising of fast foods (which would include “brand-specific” foods) and other unhealthy foods that would not meet the prescribed guidelines.<sup>58</sup>



## Conclusion

Using these low- and no-cost policy approaches, elected and appointed officials can help to increase opportunities for children to eat nutritious foods and engage in safe physical activity. Policymakers who would like more information or assistance regarding the advancement of these policies can learn more at [www.leadershipforhealthycommunities.org](http://www.leadershipforhealthycommunities.org).

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## ABOUT THE PROGRAM

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## Smarter Choices for Concessions

Offering healthier options at concession stands is part of a broader commitment by the City to encourage long-term, sustainable changes that make the healthy choice the easy choice where people live, work and play. Improving the selection of foods/beverages provided at concession venues will give patrons more opportunity to select foods/beverages that are lower in calories, fat, sugar and sodium.

The cities of Bloomington, Edina and Richfield are using a set of minimum nutrition benchmarks to define healthier foods. These benchmarks, while not ideal, are a first step in the process of changing the community norm of selling primarily unhealthy foods and beverages at concession stands to selling an increased number of healthier options. The benchmarks are meant to incrementally improve the selection of foods and beverages available while at the same time allowing suppliers time to catch up with the increasing demand for healthier choices. These benchmarks are intended as the minimum – each City can adopt stronger nutrition benchmarks. City concession stands are also encouraged to adopt recommended nutrition practices that promote healthier choices and/or incrementally improve the nutrition quality through portion control or a decrease in at least one benchmark nutrient to limit.

Each city will determine the goal for the percentage of foods and beverages that meet these nutrition benchmarks, select the recommended nutrition practices to be implemented and set the timeline for implementation at each site.

### Minimum Nutrition Benchmarks for Concessions

#### Foods (portion as served/sold)

1. Limit calories to 250 or less
2. Limit calories from total fat to 35% or less (excluding legumes, nuts, nut butters, seeds, eggs, non-fried vegetables, and cheese packaged for individual sale).
3. Limit calories from saturated fat to 10% or less (excluding cheese)
4. Limit trans fat to .5 grams or less
5. Limit sugar to 35% or less by weight
6. Limit sodium to 480 mg or less (meals 900 mg or less)

#### Beverages

1. Plain water (Non-caffeinated, non-fortified)
2. Coffee and tea, plain
3. Non-fat or 1% low-fat milk, including soy, cow's milk, chocolate, or other flavored milk, containing no more than 22 grams of added sugar per 8 oz. serving
4. 100% fruit or vegetable juice (Can be combined with carbonated water, not to exceed 12 oz.)
5. Non-caloric beverages
7. Sports drinks ( $\leq$  40 calories or less)
6. No energy drinks

### Recommended Nutrition Practices

1. Food items and beverages meeting the recommended nutrition standards should be sold at a price that is equivalent to or lower than the price of the remaining items within the concession stand that do not meet the nutrition standards.
2. Placement of healthier options will be more visible and appealing; marketing of less healthier options will be limited.
3. A special or feature of the day is a healthier option
4. A menu labeling scheme is in place to differentiate healthier vs. unhealthy items.
5. Meal deals will include at least one healthier product (e.g. fruit or vegetable instead of chips).
6. Smaller portion sizes for less healthy food options will be sold (e.g., regular chips in 1.25-ounce packages or less, no jumbo size hot dogs, no king size packaged candies).

7. No beverage shall have volumes of more than 20 ounces (except water). Regular soda no more than 12 ounces. Reduced price or free refills are not offered.
8. Whole grain products will be available.
9. Meal deals will offer a selection of fruit or non-fried vegetable as a side dish.
10. Offer half- or reduced-size choices for some meals and concessions items (e.g. ½ sandwich, cup of soup)
11. Products are the healthiest available option:
  - a. Protein foods are lean meat, poultry, fish or low-fat vegetarian (not breaded or fried)
  - b. Dairy products are 1% or skim
  - c. Yogurt products are low fat and low sugar
  - d. Canned/frozen fruit contains no added sugar
  - e. Canned/frozen vegetables contain are lower sodium (< 480 mg sodium)
  - f. Trans fat free oil is used

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\*Guidelines/practices were adapted from the following: US Health and Human Services/General Services Administration Healthy and Sustainable Food Guidelines; the Alliance for Healthier Generations guidelines; Healthier US School Challenge guidelines; and input from Bloomington, Edina and Richfield City staff.

[http://www.gsa.gov/graphics/pbs/Guidelines for Federal Concessions and Vending Operations.pdf](http://www.gsa.gov/graphics/pbs/Guidelines%20for%20Federal%20Concessions%20and%20Vending%20Operations.pdf)

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