

# REPORT / RECOMMENDATION



**To:** MAYOR AND COUNCIL

**Agenda Item #:** VIII. A.

**From:** Debra Mangen  
City Clerk

**Date:** November 19, 2013

**Subject:** CORRESPONDENCE

**Action**   
**Discussion**   
**Information**

**Action Requested:**

Attached is correspondence received since the last Council Meeting.

No action is requested.



Deb Mangen

---

**From:** Walker, Michael L <Michael.Walker@edinaschools.org>  
**Sent:** Wednesday, November 13, 2013 10:48 AM  
**Cc:** Dressen, Ric; Buettner, Steve; Smasal, Randy J; Locklear, Bruce; Johnson, Nancy Jo  
**Subject:** Please Join Us for Hour of Code at Edina High School

Greetings!

Computer Science  
**Education Week** DECEMBER 9-15, 2013

My name is Michael Walker, Secondary Technology Integration Specialist for Edina Public Schools.

This year Edina High School is joining a massive campaign to prepare students for their future during Computer Science Education Week (Dec 9-15). EHS students will be participating in the Hour of Code campaign. During the week, each math class will take one hour to come to the media center and learn how to code/program, with the support of the Computer Science students. See <http://hourofcode.org> for details on the types of activities students will be participating in.

We would like to invite you to visit and observe Edina students coding that week. Classes run from 8:30 a.m. till 3:10 p.m. and students will be coding each period. Please let me know if you are available and which day you are available to attend. Please enter at the main entrance, Door 7. We will have a name tag ready, and a student ambassador will greet you and escort you to the media center to observe the activities.

We live in a world surrounded by technology. Information, commerce, communication, and entertainment all rely on computers. But only a tiny fraction of us learn computer science, the basics of how computers work, or how to create software, apps, or web sites. Computer Science provides a foundation for virtually any career and everybody can benefit from learning the basics.

Did you know:

- Software jobs outnumber students 3-to-1. The gap is 1 million jobs over 10 years- and these are some of the highest paying jobs.
- 90% of schools in the US do not teach computer science.
- In many countries, it's required (China, Vietnam, Estonia. Soon UK, Australia)
- The basics can be learned by **anybody**, starting in elementary school. But fewer than 10% of students try. Only 2% are women. 1% are students of color.

Programming literacy is going to be a key to our children's future. Join us as we celebrate Computer Science Education Week with the Hour of Code! Please let me know if you have further questions.

Sincerely,

**Michael Walker**

Secondary Technology Integration Specialist

Edina Public Schools

(952) 848-4050

[Follow me on Twitter](#)

[Blog](#)

Deb Mangen

---

**From:** JOHN VELGERSDYK <jvelgersdyk@msn.com>  
**Sent:** Monday, November 11, 2013 10:23 AM  
**To:** Edina Mail

November 11, 2013

The Honorable James Hovland  
Mayor of Edina, MN

Re: Your Request for Information

Dear Mayor Hovland:

Referencing our meeting of November 5th at the Stang residence, you inquired about information regarding any connections to or information regarding the sale of Similac referencing an earlier meeting that day.

If the inquiry was specific regarding the sales channels of Similac, it is evident the product is sold through well established distribution channels and Davisco Foods has no connection to Abbott the manufacturer or its distributors. Similac's parent website is Abbott.com and has a wealth of information.

If the inquiry was more general in nature regarding sales opportunities in nutraceutical and food sales please let me know and I will discuss further with our sales organization to determine if there are any opportunities of interest.

Very truly yours,

John Velgersdyk  
Vice President Administration  
Davisco Foods International, Inc.  
612-756-3630

Deb Mangen

---

**From:** Cindy Eidnes <ceidnes@beaconhillstaffing.com>  
**Sent:** Tuesday, November 12, 2013 10:04 AM  
**To:** Mark K. Nolan; Chad Millner  
**Cc:** Edina Mail; jonibennett12@comcast.net; Mary Brindle (Comcast); 'joshsprague@edinarealty.com'; 'swensonann1@gmail.com'  
**Subject:** Birchcrest B Sidewalk on Valley View

Good morning,

My husband, Peter Hill, and I were quite disappointed to learn that plans are still going forward regarding construction of the sidewalk on Valley View as part of the Birchcrest B project. We live at 5200 Valley View Road. We definitely do not see a sidewalk there as any kind of important safety need. We do not see a heavy load of pedestrians on Valley View at any point, and bikers will still need to ride on the road. I run on that stretch of Valley View and have always felt like I have plenty of room and am safe there. Esthetically it won't add anything of value—chopping up people's yards seems really to be all it will do. Will the city do the extra mowing/snow removal work required by the addition of the sidewalk?

Cindy Hill

(I go by my maiden name, Eidnes, at work.)

**Cindy Eidnes, JD**

Division Director | Beacon Hill Legal  
direct 612-326-7906 | fax 612-344-1144  
401 N. Third Street, #580, Minneapolis, MN 55401  
[ceidnes@beaconhillstaffing.com](mailto:ceidnes@beaconhillstaffing.com)  
A division of Beacon Hill Staffing Group, LLC | [www.beaconhillstaffing.com](http://www.beaconhillstaffing.com)

**Atlanta | Boston | Chicago | Dallas | Ft. Lauderdale | Minneapolis | New York | Philadelphia | San Francisco | Washington, D.C.**

"One of the nation's fastest-growing private companies" – **Inc. 500**

Follow Us!   

Deb Mangen

---

**From:** Susan & Dave Nelson <sumacandnelski@me.com>  
**Sent:** Tuesday, November 12, 2013 7:54 PM  
**To:** Edina Mail  
**Cc:** Susan & Dave Nelson  
**Subject:** 5612 Tracy Avenue Subdivision  
**Attachments:** ShanightCityCouncil.docx

TO: City Council Planning Committee and the City Council

Attached is a letter in reference to the Shanight Subdivision on 5612 Tracy Avenue. Thank you for listening to our concerns.

Susan E. Nelson  
5701 Hawkes Terrace  
Edina, MN 55436  
[sumacandnelski@gmail.com](mailto:sumacandnelski@gmail.com)

TO: City Council Members and Members of the Planning Commission

FROM: Sue Nelson  
5701 Hawkes Terrace  
Edina, MN 55436

RE: Shanight Subdivision on 5712 Tracy Avenue

DATE: November 9, 2013

Dear Members of the City Council and Planning Committee

First, a thank you to the City Council for voting against this proposal in August 2013.

This is a very difficult letter for me to write in that : I am not a writer and am very sad that the village feels that it is ok to divide neighbors/friends of 30+ years because of this subdivision proposal. But that is what you are proposing to do. WE don't have the neighborhoods of Country Club, Morningside, Indian Hills, etc...but what we do have we want to preserve. We are small but special because of the streets we live in. We do not want more houses closer together and the demolition of trees.

I, am against this subdivision for the following reasons:

- 1) Initially, Mr Helm did not include all the lots within the 500 foot variance to arrive at the median. Apparently Mr. Helm did not think we had to count the lots across the street and yet they were within the 500 feet. These people ARE our neighbors and have been coming to our neighborhood get together for years.
- 2) According to your August meeting, The city engineer did not want a driveway on Hawkes Terrace and that is exactly what Tom Shanight told to me personally in mid-July when he discussed vaguely what they wanted to do. Tom just stated to me: They said we can't have a driveway on Hawkes Terrace. So how/when/why did the city engineer change his mind?
- 3) The City Council voted 4-1 against this subdivision in that according to Sprague some lots are not susceptible to subdivision and "this is one of them." Bennett also felt that the subdivision did not fit the neighborhood. The Council including the Mayor felt that the other subdivision on Tracy was truly a double let and met the specifications.
- 4) So now subdividing this lot would create 2 lots (about 9,800 sq. ft.) that are much smaller (a little less than 50%) than the median lots in our neighborhood. To us this is not acceptable. We want to maintain the lot sizes of this neighborhood and not subdividing to make them smaller.

5) The topography of the lot also does not lend itself well to subdivision. We would be tearing out a hill and trees to make way for a house and driveway. So what happens to the previous green space and the protection of Hawkes Lake which is already having issues with run offs?

6) We like our bigger lots in this neighborhood and DO NOT want to lose more green space. That is why many of us bought here rather than in other areas of Edina. We are already losing some of our green space due to the Tracy Avenue road construction. They have installed lights, signs, etc on the city's easement but with that they also took away some of our precious privacy from Tracy which is now becoming an extremely busy street. WE DO NOT WANT to split the property and get more traffic, bigger houses and less green.

In conclusion, I, my husband and others have been very deceived by Rod Helm. He has told inconsistent stories to us, Miriam Kiser and others. He wants the facts to support this subdivision and leaving out other critical information. I strongly encourage all of you to look at all of the data very carefully. This is our neighborhood of which I care about and value very much. I can see no other reason for this subdivision other than for more money for Rod Helm, the Shanights and the future builders.

Sincerely,  
Susan E. Nelson  
5701 Hawkes Terrace  
Edina, Mn 55436  
sumacandnelski@gmail.com  
612-298-8570

Deb Mangen

---

**From:** mark epple <markepple@msn.com>  
**Sent:** Friday, November 08, 2013 8:40 AM  
**To:** Edina Mail  
**Cc:** ppasko@sehinc.com; tmuse@sehinc.com  
**Subject:** 54th Street Reconstruction Project  
**Attachments:** engineerquestions-131106.pdf

Please forward this email to the **Engineering Department** and copy members of the **Transportation Commission**, members of the **City Council/Mayor**, and the **City Manager**.

I have attached a pdf file that points out concerns/questions I have as a resident who lives directly on this project. I have italicized questions that I would like to have answered by the Engineering Department and would think that those I have copied would like answers, as well. I apologize for the lengthiness of the letter but these are very crucial questions that should be addressed before it gets too late to turn back. Thank you, for your time.

Sincerely

Mark Epple  
5336 Kellogg Avenue  
Edina, MN 55424-1305  
952.929.7344

1. *Why, specifically, do you want to raise the bridge 3'?* There is no overwhelming stakeholder support for changing the portage to one under the bridge. *What factors are driving the need to have to raise it?*
2. We were told at the October 24th Transportation Commission meeting that new curbs must be built at least 2' from street-side face of curb to street-side face of utility pole. *What is the authority – citation included – to that requirement or recommendation?*

I have taken several photos of examples (all within a quarter of a mile from the church on 54<sup>th</sup> Street, see below) where curbs AND sidewalks are all within 6", many are touching (curb/sidewalk and utility pole).



SW corner of 54<sup>th</sup> Street and Halifax Lane



Directly south of Halifax Avenue on 54<sup>th</sup> Street



Front of church, east of entrance on 54<sup>th</sup> Street



Front of church, west of entrance on 54<sup>th</sup> Street



Just west of church parking lot on 54<sup>th</sup> Street



Just east of bridge on 54<sup>th</sup> Street



Corner of 54<sup>th</sup> Street and France Avenue



Looking south on France Avenue



54<sup>th</sup> and France Avenue, west side



54<sup>th</sup> and France Avenue, west side

3. We have been shown options which include a concrete boulevard (exposed aggregate) which have varied from 2'-0" wide (earlier scheme) down to 1'-0" wide in most recent schemes. It was stated that this was "recommended" per ADA to increase safety for pedestrians. *What is the citation to that recommendation?* I have contacted ADA directly and even they are unable to point me to where it requires/recommends this. I do know that a sidewalk needs to be 36" wide with regular intervals that are 5' wide to accommodate a wheelchair turning around. I am certainly not proposing to narrow the sidewalk to 36" but I believe having a 5' wide sidewalk (including the detectable surface) for the entire length is more than adequate for ADA purposes.
4. *What is the authority – again, including citation – that requires a 5' sidewalk plus the "rumble strip"?* *Is exposed aggregate really a desirable "detectable surface"?* Exposed aggregate tends to get very slick and slippery when exposed to the elements and I think this would actually pose a risk for the pedestrian. *Why can't a 4' regular sidewalk plus a 1' concrete boulevard/rumble strip, or even a 4'-6" regular sidewalk and a 6" rumble strip?* *Where exactly are the actual safety statistics on this?* *Why do we need to put additional hardscape that ultimately produces additional runoff?*
5. According to the city's Department of Public Works, the city's sidewalk sweepers sweep a 52" path (4'-4"). This is far less than the 72" (6'-0") Mr. Houle claimed at the 10/24 Transportation Commission meeting, and actually less than a typical 5' wide sidewalk. So, it isn't a factor in determining sidewalk width. Wooddale Avenue, which is maintained by the city, is currently 5' wide and has been that way since I've lived here (summer of 2002) and I haven't been aware of any problems with snow removal. *Why are we being told 5' is not wide enough?*
6. I would also be very interested in finding out the *exact location of each utility pole* along the stretch between France and Wooddale Avenues (there are 16 in all), measuring from the centerline of the public right-of-way to the street-side face of the utility poles. I am told the northernmost pole along the route is located at the midway point between Wooddale and Kellogg. I measure 47'-6" from the face of the pole to the property stake (which is clearly visible at the southwest corner of my property at 5336 Kellogg Avenue). Knowing these measurements at the 5 locations between Wooddale and Brookview will greatly help in assessing the design for the west side portion of the project.

I also want to know exactly where the proposed project boundary line is in relation to my property line. We're told there is a survey that shows the location of the utility poles, and we have asked at least a couple of times to see it. The response of the engineering department that "we'll just make it fit as we see fit and depending on site factors/obstacles" is unacceptable. The exact location must be determined now for there to be informed consideration by the Transportation Commission, the Council, and other interested parties, including, specifically, the adjoining homeowners.

7. The most recent design for the west side of the project pointed out that the 35' wide road would be shifted north (no clear idea how much or even where) to avoid relocation of utility poles. The Engineering Department said five trees were said would be affected if these poles would be moved. *How far did Engineering assume these poles would be shifted and what trees would be affected? I have taken photos of each of the 5 utility poles along this stretch of the project and am confused as to what trees would be affected. Which ones are they?*



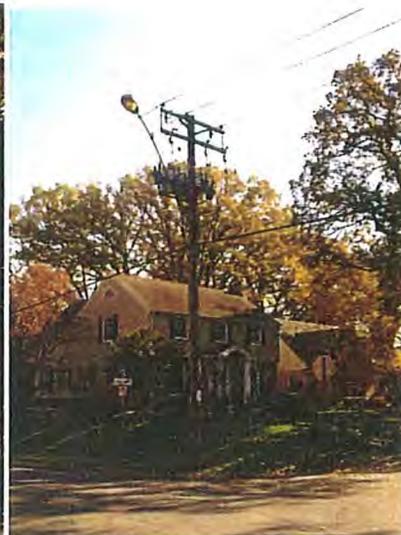
Mid-block between Wooddale/Kellogg



SW corner, 54<sup>th</sup>/Kellogg



Mid-block between Kellogg/Oaklawn



SE corner, 54<sup>th</sup>/Oaklawn



Mid-block between Oaklawn/Brookview

8. 44<sup>th</sup> Street West of Browndale was reconstructed recently. It is designated a primary bicycle route (54<sup>th</sup> Street is a secondary route) and it is 20% busier than 54<sup>th</sup> Street. Its lanes are 13'-2.5" wide! It is 33'-5" wide from back of curb to back edge of sidewalk. Many people think it serves users well. Did it become unsafe the moment MNDOT Rule 8820.9941 was adopted? If it didn't, *why can't we build a similar road on 54<sup>th</sup> Street?*
9. The **Living Streets Policy** states: "Provide bicycle accommodation on all **primary** bike routes". It doesn't even mention secondary routes. *Does the city's current Comprehensive Plan say anything about "secondary routes"?* (Again, I'm looking for the **specific citation**). Why couldn't 54<sup>th</sup> Street be designed to MNDOT Rule 8820.9936, since there does not seem to be anything in the city documents that requires it to have any "bicycle accommodation"? With no parking on the west side of the project and perhaps a 25 mph speed limit, and neighborhood appropriate signage, it would be "bicycle friendly." There **IS** a difference between primary and secondary routes.

54<sup>th</sup> Street has 20 homes along the stretch between France Avenue and Wooddale Avenue. 75% of these homes have a side-yard setback condition, meaning they are essentially 15 feet from property line on 54<sup>th</sup> Street. The more common front-yard setback condition is 30 feet from the property line. Also of note, most of these homes were built in the **1930's and 1940's**, so several were built according to different zoning requirements at the time. My home has a couple of non-conforming use conditions, meaning that portions of my home were built beyond today's setback requirements. Part of my home on the side facing the street actually is about 18" over the 15' side-yard setback requirement, meaning **I am already closer to the street**. It is because of this that residents want to keep project scope as narrow as possible. Keeping it at the current 32' +/- would be ideal. 54<sup>th</sup> Street between France Avenue and Wooddale Avenue has a very unique condition that was clearly not thought out when it was designated as a secondary route. The NE part of Edina is much more compact in its street layouts compared to the more sprawling south and west parts of Edina. This uniqueness needs to be addressed when coming up with the retrofitted final design.

Deb Mangan

---

**From:** Tom Prin <t.prin@icloud.com>  
**Sent:** Wednesday, November 06, 2013 8:30 AM  
**To:** Edina Mail  
**Subject:** Edina City Council

Hi Jim,

Tom Prin here.

The street I was referring to this morning is Interlachen Blvd. west of Schaefer. The new Ridge Rd. Is fine.

Stop anytime for coffee...

Tom

Sent from my iPhone

Deb Mangen

---

**From:** John Stang <John.Stang@genmills.com>  
**Sent:** Wednesday, November 06, 2013 8:47 AM  
**To:** Edina Mail  
**Cc:** tmterwilliger; 'JOHN VELGERSDYK'; Paul Rosenthal  
**Subject:** Thank You!

Mayor Hovland,

Want to take a minute to thank you very much for meeting with Tom, John, Paul and I yesterday to discuss the future of Fred Richards Golf Course and the redevelopment of Pentagon Office Park. We know you are extremely busy and we are grateful for your time.

We also thank you for listening to our concerns and for your commitment to an open, participative and extended process to ensure that all viewpoints are heard and that neighborhood involvement is maximized. We view Fred Richards Golf Course as a treasured asset for Edina and our neighborhood and appreciate that you have not pre-judged its fate and are keeping an open mind. We look forward to continuing constructive dialogue with you, the council, and staff on this important issue.

Thanks Again,  
John Stang  
4525 Sedum Lane  
Edina, MN 55435  
Work 763.764.5757  
Cell 612.804.7292

P.S. A quick reminder to forward a copy of the "Fulton" Study and the other report you referenced in our meeting.

November 7, 2013

Governor Mark Dayton  
130 State Capitol  
75 Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

Re: Response to Senator Dibble Documents

Dear Governor Dayton:

This letter is a follow up to my October 31, 2013 letter. City staff and the City Attorney have now had the opportunity to review in more detail the documents submitted by Senator Dibble at the October 22, 2013 meeting with you. We offer the following comments relating to the Environmental Response Fund (ERF), the municipal consent process and the 1998 TCW Trackage Rights Agreement with the Hennepin County Regional Railroad Authority (HCRRA).

#### Environmental Response Fund

##### ERF Created

- In 1997 the legislature as part of the omnibus tax bill authorized Hennepin County (and Ramsey County) to impose a mortgage registry and deed tax, and required that the County deposit the funds in a newly authorized Environmental Response Fund (“ERF”). Minn. Law 1997, Ch. 231, Art. 16, Sec. 15, 16 and 23; Minn. Stat. §383B.80.
- The ERF, administered by the County Board, is used for acquiring and remediating contaminated property. Minn. Stat. §383B.81, Subd. 2.
- The statute as enacted in 1997 also authorized the use of ERF funds to improve property for rail traffic and gave the County the option of administering ERF funds acting through the HCRRA. Minn. Stat. §383B.81, Subd. 1.
- Minn. Stat. §383B.81, Subd. 6 specified that the first priority for use of the funds is  
“...to clean up the site located in the city of St. Louis Park known as NL Industries/Tara Corporation/Golden Auto, EPA I.D. No. MND097891634 and to provide adequate right-of-way for a portion of the rail line to replace the 29<sup>th</sup> street line in the city of Minneapolis, including making rail improvements, changing the curve of the railroad track and eliminating a switching facility, and improving the land for economic development.”

- The tax was originally authorized until January 1, 2003. The legislature extended the tax to January 1, 2008 (Minn. Law 2002, Ch. 390, Sec. 4), then to January 1, 2013 (Minn. Law 2008, Ch. 366, Art. 9, Sec 13) and most recently to January 1, 2028 (Minn. Law 2013, Ch. 143, Art. 4, Sec. 29).

#### County and City Preliminary Agreement

- To qualify for the ERF funds, an uncodified portion of the 1997 legislation provided that Hennepin County and St. Louis Park must enter into an agreement requiring a portion of the site to be used to provide right-of-way for rail traffic rerouting, addressing responsibilities for the cost of rail improvements and setting forth their respective responsibilities for remediation of the property. Minn. Laws 1997, Ch. 231, Art. 16, Sec. 23.
- In March of 1998, the City, St. Louis Park Economic Development Authority (EDA) and Hennepin County entered into a "Preliminary Agreement as to the Golden Property" which defined roles and responsibilities with respect to the property and authorized the expenditure of \$300,000 for investigation and the feasibility of using the site (and neighboring properties) for redevelopment and rerouting of rail traffic.
- On March 13, 1998, the Hennepin County Attorney's office issued a written opinion that the approval of the Preliminary Agreement gave the County the authority to disburse the \$300,000 from the ERF and that by making such disbursement the City, the EDA and the County did not become obligated to undertake the rail connection or to redevelop the site.
- Under the Preliminary Agreement, Hennepin County was assigned lead responsibilities for establishing options for the railroad connection, with the City primarily responsible for site redevelopment.
- The Preliminary Agreement stated that "an express pre-condition" to use of a portion of the site for railroad purposes was an agreement acceptable to City, EDA, County, MnDOT and the railroads regarding safety and funding of the mitigation measures relating to rerouting of rail traffic.
- The Preliminary Agreement set a framework which contemplated one or more subsequent agreements. No multi-party agreement of any sort was ever developed relating to rail rerouting.

#### ERF Grant to City and Redevelopment of the Property

- In May of 2005, the St. Louis Park EDA made application for an ERF grant in the amount of \$4,750,000 to facilitate the acquisition, cleanup and redevelopment of the National Lead/Golden Auto site into an office industrial use. The proposal stated that a part of the site would be set aside for any future rail connection. The total estimated project costs at that time for acquisition and cleanup were \$12.7 million.

- In February of 2006, Hennepin County entered into a standard ERF Grant Agreement with the EDA in the amount of \$4,750,000. The grant was awarded for property acquisition costs, demolition costs, and contaminated soil clean up relating to the site.
- In June of 2006, the City acting through its EDA entered into a Contract for Redevelopment of the site which required the Redeveloper to grant the City a railroad easement.
- In November of 2006, the City entered into the Railroad Easement Agreement with the Redeveloper. The Easement Agreement included the following recitals:
  - “B. Grantor and Grantee acknowledge that a portion of the Redevelopment Property was acquired with proceeds of an Environmental Response Fund grant from Hennepin County (the “ERF Grant”), pursuant to Minnesota Statutes, Section 383B.81 (the “ERF Act”).
  - C. Pursuant to the Contract and Subdivision 6 of the ERF Act, the Grantor agreed to grant to Grantee an easement on a portion of the Redevelopment Property for railroad right of way purposes, all as further described herein.”
- The site has been remediated and redeveloped in accordance with the ERF grant.

#### ERF Conclusions

- In 2005, eight years after the ERF was established, the City had a redeveloper for the National Lead/Golden Auto site and the St. Louis Park EDA applied to Hennepin County for an ERF grant to fund a portion of the site cleanup costs.
- Hennepin County administers the ERF. In 2006, Hennepin County appropriately made the ERF grant to the EDA consistent with the 1997 ERF legislative priorities of site cleanup and railroad right-of-way.
- Hennepin County has made ERF grants for projects throughout the County which according to the Hennepin County website now total 307 sites and a total of \$45 million.
- Separate and apart from the rail rerouting component, the National Lead/Golden Auto site was an eligible site for an ERF grant.
- The City never agreed to accept a reroute of freight rail. To the contrary, the 1998 Preliminary Agreement expressly stated that a reroute would only occur if an agreement was obtained that was acceptable not only to the County and City, but also MnDOT and the railroads regarding safety, mitigation and funding.
- There is nothing in the EDA grant application or grant that in any way commits the City to accept a reroute of freight rail. The grant funded a portion of the site redevelopment costs and the cost of preserving a portion of the site for railway use. As discussed above, making a reroute a reality involved a complex multi-party agreement involving MnDOT and the railroads, together with substantial additional funding from the ERF and other sources.

- The author of the document submitted by Senator Dibble at the October 22, 2013 meeting incorrectly states that the 1997 legislation required that a portion of the site “must be used for transferring rail traffic” as a precondition to St. Louis Park’s receipt of ERF remediation funds. The legislation’s actual language is that “a portion of the site must be used to provide adequate rights-of-way for transferring railroad traffic.” Minn. Law 1997, Ch. 231, Art. 16, Sec. 23, Subd. 2(1). This is an important distinction. The City did in fact reserve the right-of-way as required by the statute.
- The Senator Dibble document references a newspaper article quoting Mark Andrews, Hennepin County Board Chairman in the late ‘90s, as follows:

“You guys clean up the waste site, and we’ll figure out a way to get freight rail out there’ is the way I understand it. But of course, we don’t have any contract with them.”

The statement is essentially accurate. The City cleaned up the entire site and reserved the required rights-of-way. Hennepin County could never “figure out a way to get freight rail out there.”

#### Municipal Consent Process

- The commentary in Senator Dibble’s documents on the municipal consent process implies that the supplemental Draft Environmental Impact Statement (DEIS) addressing the Kenilworth tunnel alternatives must be completed before municipal consent occurs. This is simply incorrect.
- The DEIS does not need to be available and provided to the cities before the municipal consent process can go forward. The municipal consent process relates to the review and approval of the “physical design component of the preliminary design plans.” Minn. Stat. 473.3994 Subd. 2 and 3. The physical design component includes the “location, length, and termini of routes; general dimension, elevation, alignment, and character of routes and crossings; whether the track is elevated, on the surface, or below ground; approximate station locations...” Minn. Stat. 473.3993 Subd. 2(1).
- The completion of the environmental review process is required before the SWLRT project can move to Final Design. A supplemental DEIS is underway and will be completed along with the FEIS as required by NEPA rules. Final Design comes after municipal consent.

#### 1998 Trackage Rights Agreement

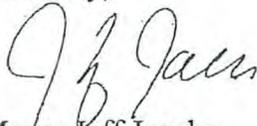
- Twin Cities & Western Railroad Company (TCW) and the Soo Line in its 1998 agreement with HCRRA agreed to relocate upon 30 days notice after a new connection “becomes operational.” To trigger this 30-day notice, the reroute would have to be in place and ready for the switchover. In order for the reroute to be in place and “operational,” HCRRA and the railroads would have to agree to the design, funding, ongoing operational costs and other issues that may arise from the specific design.

- Attorneys Edward D. Greenberg and Thomas W. Wilcox at GKG Law in Washington, D.C. were hired by the Metropolitan Council to provide advice on federal rules and policies pertaining to freight railroad operation. In their October 1, 2013 memorandum to the Met Council, referenced in Senator Dibble's documents, they state that the 1998 agreement, consistent with prior statements by HCRRA in filings with the STB cannot terminate the rights of TCW or the Soo Line in the Kenilworth Corridor "unless a feasible alternative becomes available, is operational, and is acceptable to TCW." With such an agreement in place, the reroute could then obtain STB approval presumably utilizing an exemption process.
- The implication in the documents submitted by Senator Dibble that the Met Council or HCRRA can somehow unilaterally impose an unacceptable reroute design on TCW has no legal or practical basis.

#### Conclusions

As stated previously, we firmly believe the SWLRT project is an essential component to a successful metro-wide transit system, and we will continue to work toward its success. The Southwest Project Office has clearly identified a number of viable and safe approaches for addressing the freight rail issue and accommodating LRT by using the Kenilworth Corridor at a cost ranging from \$35 million to \$160 million. Based on all of the study that has been completed it is clear that there is no viable freight rail reroute meeting railroad operational needs that is both safe and without incredible adverse impacts to the St. Louis Park community. Those are the facts on the ground today which must drive this process.

Sincerely,



Mayor Jeff Jacobs

CC: Tina Smith  
St. Louis Park City Council  
Sue Haigh  
✓ SWLRT CMC  
Representative Simon  
Representative Winkler  
Senator Latz  
Senator Dibble  
Representative Hornstein  
Mark Fuhrmann  
Chris Weyer  
Jim Alexander

**From:** Dan Leach <jdl4th@yahoo.com>  
**Sent:** Thursday, November 14, 2013 3:22 PM  
**To:** Edina Mail  
**Cc:** lisa.kaczke@ecm-inc.com  
**Subject:** Edina's use of the Eminent Domain special privilege for 3944 49 1/2 Street

Dear esteemed members of the Edina city council,

The United States was founded on the principles of individual freedom, free markets, private property, and limited government. As the Declaration of Independence and the Constitution reflect, individuals have the natural right to live their lives any way they choose, so long as their conduct is peaceful. It is the duty of government to PROTECT, NOT DESTROY, these inherent and inalienable rights.

The Edina city council violated their duty by invoking Eminent Domain privilege to possess the Parks' property at 3944 49 1/2 Street, by stealing, or using the threat of stealing private property to achieve its aims. Theft, or the threat of theft, is a violent act and entirely uncivil and unbecoming of a government in a free society. Business was being conducted peacefully in the 50th and France business district until the city of Edina got involved in this matter. I wonder if the business owners at 50th and France could have come together to solve this peacefully? They certainly should have; it's their business, literally. Instead, violence or the threat of violence by the Edina city council is used to separate the Parks from that which they own.

It's violence because the Parks own the property, and should they fail to come to terms with the city under duress (because that kind of negotiation is more commonly referred to as blackmail and extortion), and/or relinquish control of their property, they'll be forced off their property through the courts, possibly in handcuffs if they try to stand their ground. They could suffer fines and imprisonment should they resist removal from their former private property. And this threat of violence may be enough for them to swallow their principles and settle with the city of Edina thugs (and I say that because, as a council, you're behaving as thugs behave) rather than engage in an expensive legal battle for their property rights -- something they shouldn't have to do in the first place.

I am so deeply ashamed of Edina today and this council that represents us citizens in this great community of ours. We're better than this -- forcing people at bayonet point, at gunpoint to relinquish 20 years of investment and work for "unfair value". Last I checked a "fair" market value requires a willing buyer AND a willing seller -- that makes the market fair. An unfair market transaction is when you use violence or the threat of violence in a transaction. And condemning a property and writing a check based on an unfair market valuation is outright theft through the legal system. It may be legal; but it's surely an immoral act. So take your pick, blackmail or theft. Any outcome that separates the Parks from their property at this point will forever be under the cloud of one or the other.

I beseech you to rectify this wrong and quit any claim the city is making on the Parks' property at 3944 49 1/2 Street. Let them develop and manage their property in peace and prosperity.

Sincerely,

Dan Leach  
4418 Curve Avenue  
Edina, MN 55424



**Minnesota Department of Transportation**

395 John Ireland Blvd  
St Paul, MN 55155



November 6, 2013

651-366-3453  
Mail Stop 632

State vs. Rimage Corporation, et al.  
C.S. 2772 (169=5;383) 903  
County of Hennepin  
Parcel: 204A

**NOTICE OF AWARD**

The District Court appointed three commissioners to take testimony and to file a report of their award of monetary damages in the condemnation matter referenced above. With regard to Parcel 204A, that report was filed on November 1, 2013 with the District Court Administrator. A copy of that report is attached.

The award in the court-appointed Commissioners' Report may be appealed to the District Court by any party to the proceedings, including the State.

If an appeal is taken, it must conform with Minnesota Statutes Section 117.145 and all other relevant statutes. Any party serving the State with a notice of appeal, may send it to this address: *Office of the Attorney General, Transportation Division, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134.* A party who takes an appeal from the Commissioners' Report is responsible for determining who else must be served with the notice of appeal. The appeal period expires as of December 11, 2013. An appeal cannot be taken after that date.

Please note that this is a notice of the Commissioners' Report, and it should not be considered as either an offer or as an acceptance by the State of the award.

If no appeal is taken by any party, including the State, and if payment, in addition to that already made, is due any party, the Minnesota Department of Transportation (MnDOT) will make such payment(s) within approximately six (6) weeks after the expiration of the appeal period set out above.

Any check issued by MnDOT in making such a payment must be endorsed on its back by all parties named on the face of the check.

Sincerely,

Bryan J. Dodds, Director  
Office of Land Management

An Equal Opportunity Employer



CONDEMNATION

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT  
Court File No. 27-CV-10-25689

-----

State of Minnesota, by its Commissioner of Transportation,<sup>1</sup>

Petitioner,

vs.

Rimage Corporation, City of Edina, Frank R. Cardarelle, County of Hennepin, Cynthia M. Nicholls, Wells Fargo Bank, National Association, Housing and Redevelopment Authority for City of Bloomington, Bijan Etemadi, Hamideh Abdollahi, The Business Bank, doing business as Prime Mortgage, Mortgage Electronic Registration Systems, Inc., RREEF America REIT III Corp. II, AXA Equitable Life Insurance Company, successor in interest to MONY Life Insurance Company, Northern States Power Company, doing business as Xcel Energy, City of Bloomington, Jeffrey R. Hyack, Patricia Hyack, CitiMortgage, Inc., Citibank, National Association, also all other persons unknown claiming any right, title, estate, interest or lien in the real estate described in the Petition herein,

Respondents.

-----

IN THE MATTER OF THE CONDEMNATION OF  
CERTAIN LANDS FOR TRUNK HIGHWAY PURPOSES

-----

REPORT OF COMMISSIONERS

-----

REPORT OF COMMISSIONERS

To the Court above named:

The undersigned Commissioners appointed by this Court in the above entitled matter by Order of the Court, do hereby report as follows:

I.

We met at the time and place appointed by the Court, in the office of the Court Administrator, and took the oath prescribed by law.

II.

We make the following award for the damages sustained by the several respondents by reason of the taking.

As to the lands described as Parcel 204A, C.S. 2772 (169=005) 903:

|                     |         |                     |
|---------------------|---------|---------------------|
| Rimage Corporation  | _____ ) |                     |
|                     | _____ ) | <u>\$264,000.00</u> |
| County of Hennepin  | _____ ) |                     |
| City of Edina       | _____ ) | NONE                |
|                     | _____ ) |                     |
| Frank R. Cardarelle | _____ ) | NONE                |

The above award is made on the basis and condition that the date of passage of title and right of possession and the date of valuation is March 14, 2011, pursuant to Minn. Stat. § 117.042.

The above award of commissioners is based on the condition that the real estate taxes due and payable in 2011 or in prior years on the lands acquired by the State and all unpaid special assessments and future installments thereof, as well as pending assessments, are the responsibility of the owners or lessees herein.

A further basis and condition of this award is the receipt by owners of \$264,000.00 on or about March 14, 2011. Said funds were paid to owners pursuant to Minn. Stat. § 117.042. No further payment is necessary.

In addition, as a separate award, we, the undersigned commissioners, pursuant to Minn. Stat. § 117.085, allow to the owner reasonable appraisal fees in the amount of \$ZERO.

The foregoing award assumes that the above-referenced property is valued "as remediated" as opposed to "as contaminated" or "as clean." This commission has not assessed any damages for the presence of pollutants, contaminants, or hazardous materials on the subject property, except depreciation for "stigma," if any. This award is made with the express understanding that the petitioner, State of Minnesota, has reserved all rights to recover costs of clean up and testing and all other damages arising from the presence of such pollutants, contaminants, or hazardous materials on the property from the respondents in a separate legal action. The commission has not considered the impact of pollutants, contaminants, or hazardous materials on the fair market value of the subject property either before or after the taking in its assessment of damages, except the commissioners may have considered depreciation for "stigma," if any.

III.

We further report that in the performance of our duties as Commissioners we were occupied for 1 day(s).

Dated: 10/30/13

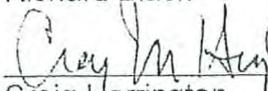
SIGNED:



Robert Bauer



Richard Black



Craig Harrington

COMMISSIONERS

Deb Mangen

---

To: Jeff Long  
Subject: FW: Thank you to Edina police!

Jeff  
We'll forward this to the Council and put it in the next packet.



**Debra Mangen, MMC, City Clerk**  
952-826-0408 | Fax 952-826-0390  
[DMangen@EdinaMN.gov](mailto:DMangen@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)  
...For Living, Learning, Raising Families & Doing Business

---

**From:** Jeff Long  
**Sent:** Tuesday, November 05, 2013 8:13 AM  
**To:** Karen M. Kurt; Susan Howl  
**Subject:** FW: Thank you to Edina police!

Not sure how we get this in correspondence for the council...but this is about letter 100.  
I thought it was a nice one.  
Thanks.



**Jeff Long, Chief**  
952-826-0491 | Fax 952-826-1607  
[Jlong@EdinaMN.gov](mailto:Jlong@EdinaMN.gov) | [www.EdinaMN.gov/Police](http://www.EdinaMN.gov/Police)

---

Read my [blog](#) or follow me on [Twitter](#).

Disclaimer: Information in this message or an attachment may be government data and thereby subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, may be subject to attorney-client or work product privilege, may be confidential, privileged, proprietary, or otherwise protected, and the unauthorized review, copying, retransmission, or other use or disclosure of the information is strictly prohibited. If you are not the intended recipient of this message, please immediately notify the sender of the transmission error and then promptly delete this message from your computer system.

---

**From:** [Merlin1954@aol.com](mailto:Merlin1954@aol.com) [<mailto:Merlin1954@aol.com>]  
**Sent:** Monday, November 04, 2013 9:39 PM  
**To:** Edina Mail  
**Subject:** Thank you to Edina police!

I couldn't believe that anyone would call the police department and complain about a Code Red re: a missing child.

We received the Code Red call, and the later update (child found), for the first time last week. I can't tell you how much we appreciated the alert. History has taught us that it is crucial to alert the public at the beginning of the disappearance of a child. It also shows that Edina cares a great deal about its young people; the Code Red call represents the best of this community.

I have disagreed with certain city policies, but I would never question the Edina Police Department's commitment to our children's safety.

Thank you very much!

*Donna G. Callender*

From:

NOV. 10, 2013

Susan M. QuiRT  
5925 FAIRFAX Ave.  
Edina, MN. 55424  
( SUSANTQ@COMCAST.NET )

To: Joni Bennett  
Edina City Council  
4801 W. 50<sup>TH</sup> ST.  
Edina, MN. 55424

Dear Ms Bennett,

I'm very concerned about  
The discharge of water  
(groundwater?) from Edina's  
Numerous "Tear-Down"  
properties. Builders are digging  
basements very deep in order to  
accomodate buyers demands for  
high basement ceilings, sports  
courts at basement level + so on.  
This spring Refined homebuilders  
did a tear-down at 5905 FAIRFAX.  
(The owner of Refined is living  
There). His sump pipe exited

Near The curb line. Water came out of That pipe steadily, 24 ~~hr~~ HRS. a d-y. 7 days a week IT flowed onto our street for months until our Complaints finally spurred "Refined" to connect his Sump pipe to something underground. Our new gutters on Fairfax were flowing constantly with water. During hot dry weather, that water became putrid festering with green algae, street debris, dog + bird feces. Fairfax residents had, essentially, an open sewer in our street - We had recently paid a lot for curb + gutter + street work. It took several calls and a decision to call the E.P.A., + Mn. Pollution Control, (which I shared with various city employees), to get "Refined" to

act. I was told by more than one City employee that "gutters are for water" and that this was perfectly legal.

Even though this "got fixed", I am wondering about the wisdom of allowing builders to dig so deep that we have sumps discharging water NON-STOP.

Many of us have sumps. They go on + off. They do not run non-stop. They run after a period of rain, then stop.

Are we overtaxing our storm sewer system or other underground pipes so that builders can put basketball courts in basements? Are we depleting ground water or re-directing

Underground streams &  
Thereby depriving ponds or  
Wetlands of their surface  
water?

I don't know the answers.  
But I am concerned.

I've heard that "Refined"  
is purchasing the house next  
door to me at 5921 Fairfax.

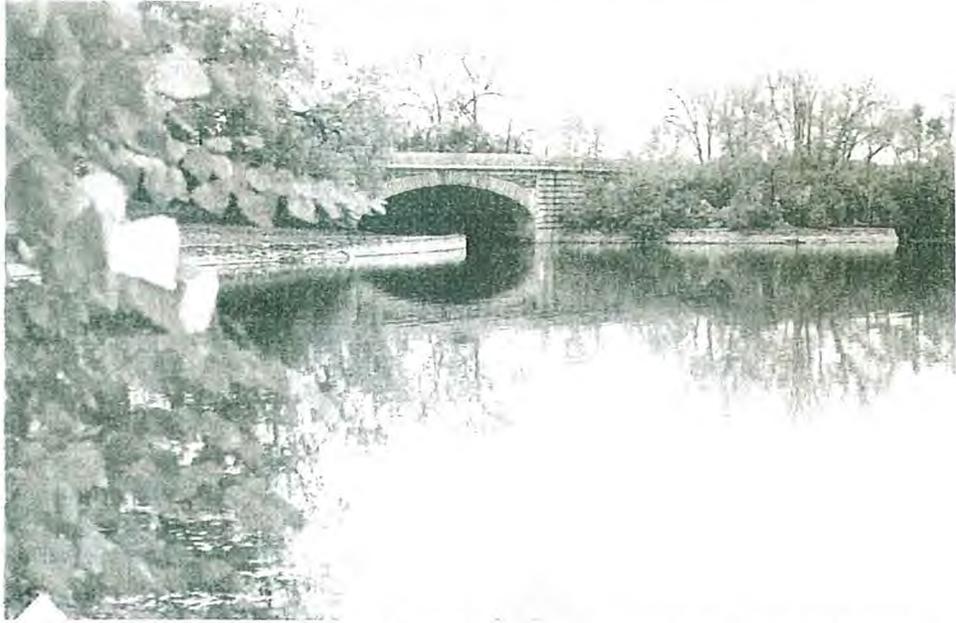
I am having declining health  
and don't have the energy to  
oversee them or protect my  
property. Hopefully, I'll improve.

Just wanted to raise these  
concerns, both the immediate,  
close-by impact & the larger  
community/environment impact.

Thank you, Joni.

P.S. enclosed  
article from the S.W. Journal.

Susan M.  
Quint



City officials are in a dispute with an Uptown developer about groundwater discharge flowing from its building into the Chain of Lakes. Photos by Dylan Thomas

# Council may sue apartment owners over groundwater discharge

City attorney is authorized to take owners  
of 1800 Lake on Calhoun to court

**EAST ISLES** -- The Minneapolis City Council may take the owner of an Uptown luxury apartment building to court over what the city says is the illegal discharge of groundwater into the Chain of Lakes.

Pumps must move an estimated 170 gallons of groundwater per minute away from the foundation of 1800 Lake on Calhoun in order to keep the building's two stories of underground parking dry. The constant flow through the storm sewer means city crews can't access nearby sewer pipes for maintenance.

The 55-degree groundwater pours continuously from a storm sewer outlet into the lagoon between Lake Calhoun and Lake of the Isles. In the winter, thin ice and open water in the lagoon create a hazard for cross country skiers and others out on the lakes.

Lake and Knox LLC, a company whose partners include Uptown-based developers Nick Walton and Daniel Oberpriller, owns the five-story, 57-unit building with views of Lake Calhoun and a ground-floor restaurant. They proposed a solution in late September, but an Oct. 15 reply from the City Attorney's Office instructed them to "go back to the drawing board."

According to the city's response, the Minnesota Department of Health would not accept a plan to dig wells and inject the groundwater back into the aquifer. There were also doubts that a "grout curtain" around the foundation could stanch the groundwater seeping into the basement.

Property manager Lynne Wyffels said they would continue to work with the city to find an acceptable solution.

The city granted a temporary dewatering permit in 2011 during construction of 1800 Lake on Calhoun, but the owners did not afterward seek another permit to continue the discharge. They would also require Department of Natural Resources permission to continue removing groundwater at the current rate, but the state agency rejected a permit application this spring and won't issue a permit until an agreement is reached with the city.

Hired by the city to look into the issue, Barr Engineering in April reported the floor of the parking garage's lowest level was between 18 inches and 14 feet below



The City of Minneapolis is considering suing the owner of 1800 Lake on Calhoun to resolve the discharge of groundwater into the Chain of Lakes.

the local groundwater level, depending on seasonal fluctuations. It recommended a range of potential solutions, including abandoning a portion of the basement, relocating environmental and electrical systems and sealing it off.

The Minneapolis Park and Recreation Board planned to discuss legal strategies in the case in an Oct. 23 special session. Park Board officials have expressed concerns about the potential environmental impact of the groundwater entering the lagoon.

The city reports it will temporarily address the thin ice on the lagoon this winter by rerouting the storm sewer outflow to a "lesser-used area of Lake Calhoun." It took a similar approach last winter, installing long, flexible tube that carried the storm water away from the lagoon to an area just off Lake Calhoun's north shore.

That addressed the immediate safety concerns of City of Lakes Loppet organizers. Participants in the annual cross-country ski event across the lagoon on the way to the finish line in Uptown.

The city was also seeking a way to clean a storm sewer grit chamber made inaccessible by the constant flow of water. A build-up of debris in the grit chamber, which requires regular cleaning and maintenance, could contribute to flooding in a heavy rain event, according to the Barr Engineering report.