

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
SEPTEMBER 22, 1998 - 7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Faust, Hovland, Maetzold, and Mayor Smith.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Maetzold and seconded by Member Hovland approving the Consent Agenda as presented with the exception of Agenda Item VI.A. Request for Parks and Green Space.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**RESOLUTION OF APPRECIATION PRESENTED TO EDINA COMMUNITY LUTHERAN CHURCH** Mayor Smith presented a Resolution of Appreciation to Melanie McCrea of the Edina Community Lutheran Church on the occasion of their 50<sup>th</sup> Anniversary. Organized in 1948 as a mission of Immanuel Lutheran Church, the church has maintained a continuous presence on 54<sup>th</sup> Street while drawing members from a wide metro area.

**RESOLUTION OF APPRECIATION TO THE EDINA BASKETBALL ASSOCIATION** Mayor Smith thanked the Edina Basketball Association for their generous donation of \$15,035 for construction costs associated with an outdoor basketball court at Utey Park.

**\*MINUTES OF THE REGULAR MEETING OF SEPTEMBER 8, 1998, APPROVED** Motion made by Member Maetzold and seconded by Member Hovland approving the Minutes of the Regular Meeting of September 6, 1998, as presented.

Rollcall: Faust, Hovland, Maetzold, Smith

Motion carried.

**\*CORRECTION APPROVED FOR MINUTES OF AUGUST 3, 1998, REGULAR COUNCIL MEETING** Motion made by Member Maetzold and seconded by Member Hovland approving the Minutes of August 3, 1998, as corrected.

Motion carried on rollcall vote - four ayes.

**FINAL PLAT APPROVED, S-98-4, FOR CHRIST PRESBYTERIAN CHURCH (6901 NORMANDALE ROAD) SMILEY 2<sup>ND</sup> ADDITION** Affidavits of Notice were presented, approved and ordered placed on file.

**Presentation by Planner**

Planner Larsen noted at the August 3, 1998, Council meeting, Preliminary Plat was granted for Smiley 2<sup>nd</sup> Addition, which includes property directly north of Christ Presbyterian Church. The Plat does two things: 1) creates three new lots for development, fronting on 69<sup>th</sup> Street, and 2) dedicates the right-of-way for the relocated 69<sup>th</sup> Street and provides a separate parcel for the Church. At the time Preliminary Plat approval was granted, four conditions were included: 1) combination of lots 1 and 2 into one lot; 2) deed restrictions to be recorded

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on each lot preventing resale of lots for church or other tax exempt use; 3) Development Agreement with the HRA insuring sale of lots for residential use; and 4) Subdivision Dedication. Based on the Assessor's appraisal of the property, staff recommends that Subdivision Dedication be based on an unimproved land value of \$85,000 per each new lot or \$255,000 of value.

Conditions that have been satisfied are:

- 1) Developer's Agreement covering the construction of the new 69<sup>th</sup> Street as well as public utilities. It has been executed and the performance bond provided.
- 2) Development Agreement that obligates the Church to sell those properties within a two year period for residential purposes or they would revert to the HRA for sale as residential property.
- 3) Restrictive Covenants stating the lots will be sold and used for residential purposes and not used for Church or any other non-tax paying use.
- 4) Landscaping Bond has been presented and covers one full growing season on a totally sprinklered site.

Council Comments

Member Faust said she has never seen a Subdivision Dedication Report and asked how the City benefits from that. Planner Larsen noted for the last few years the amount has been at 8% of the unimproved land value (market value minus the cost of improvements creating a buildable lot). The money is held in a dedicated fund earmarked for park capital improvements.

Member Maetzold inquired whether the Final Development approval is fully in line with all previous understandings presented before the Council. Planner Larsen said that is correct.

Mayor Smith asked for resident comment. None was heard.

**Member Maetzold introduced the following resolution and moved its approval conditioned upon a Subdivision Dedication based upon an unimproved land value of \$85,000 or \$6,800 per lot, totaling \$20,400.00:**

**RESOLUTION APPROVING FINAL PLAT FOR  
SMILEY 2<sup>ND</sup> ADDITION**

**BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "SMILEY 2<sup>ND</sup> ADDITION" platted by Dean R. Kovack and Kay F. Kovack, husband and wife; and Christ Presbyterian Church of Edina, a Minnesota Religious Corporation, and presented at the regular meeting of the City Council on September 22, 1998, be and is hereby granted final plat approval. Member Hovland seconded the motion.**

Rollcall:

Ayes: Hovland, Maetzold, Smith

Nays: Faust

Motion carried.

**FINAL REZONING AND FINAL PLAT APPROVED FOR Z-98-2 AND S 98-5, FOR 7010 AND 7100 FRANCE AVENUE (ROOM & BOARD AND NEW TRADITIONS)** Planner

Larsen reminded the Council the redevelopment proposal includes two developed properties located at 7010 and 7100 France Avenue South. 7010 is occupied by Room and Board and zoned PCD-2, Planned Commercial District. 7100 is occupied by New Traditions and zoned POD-1, Planned Office District. The City Council granted Final Development Plan approval, Preliminary Rezoning and Preliminary Plat approval to the proposed redevelopment at its August 3, 1998, meeting. The proponents are now requesting Final Rezoning and Final Plat Approval and presented a revised site plan intended to address concerns raised by the Council when preliminary approval was granted.

The site plan approved by the Council contained 108 parking spaces with the ability to add another four spaces through a Proof of Parking Agreement. The proponents revised their plan which increases the parking count to 119 spaces with the ability to add eight more spaces along the westerly side of the building. The revised plan additionally increases on-site and perimeter landscaping.

Staff recommends granting final rezoning and final plat approval conditioned on, 1) an executed and recorded street easement, and 2) an executed and recorded Proof of Parking Agreement.

#### Council Comment

Member Maetzold asked for further information on the proposed change in the landscape plan, particularly the height of the plantings and information on the island. Planner Larsen deferred to Martha Gabbert for an explanation.

Member Hovland inquired if the crosswalk space is adequate in the new plan. Planner Larsen believed the intent is to focus people to the crosswalk and to draw drivers attention to the crosswalk for safety purposes. Member Hovland voiced concern that the area looked more like a parking lot rather than the City street that it is. He suggested one more crosswalk further to the west be required. Engineer Hoffman pointed out the situation is similar to Lund's Grocery Store where a public road easement goes right in front of the store into the ramp, and has one crosswalk. Planner Larsen noted that all entrances are focused to the east side of the building, and the proposed plan would limit contact of car-car or pedestrian-car. Member Hovland said at one time a plan depicted entering the business on the south side. Planner Larsen said the entrance had always been on the east side.

#### Proponent Comment

Martha Gabbert, Room and Board and New Traditions, responded that they intend to plant trees on the west of the proposed landscaping plan at a height of 15 feet or the largest plantings possible. She said they would fully-cooperate with the City regarding crosswalks. Upon reflection of the previous plan, it was discovered if parking were turned, more spaces were captured. The two issues she felt required attention following the August 3, 1998, meeting were landscaping and sound protection. They reexamined the plan and turned parking to east/west from north/south thereby achieving more parking spaces. Utilizing the leftover space with added beautification on the island with the covered walkway, as well as added protection for pedestrians was their intention. Ms. Gabbert concluded if the City requests further crosswalks, they would be willing to do so.

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Member Faust suggested the landscaping have 3 foot bushes close to the crosswalk for better visibility for pedestrians and cars.

Member Maetzold asked clarification if the crosswalk, as depicted on the map, ends on an island with landscaping. Ms. Gabbert said a crosswalk would extend from the larger island to the smaller island into the building entrance but was not pictured.

Mayor Smith asked for resident comment. No comments were given.

**Member Faust made a motion granting second reading to the following ordinance:**

**ORDINANCE NO. 850-A15**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE (NO. 850)**

**BY REZONING PROPERTY TO**

**AUTOMOBILE PARKING DISTRICT (APD)**

**FROM PLANNED OFFICE DISTRICT (POD)**

**THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, ORDAINS:**

**Section 1. Subsection 850.06 of Section 850 of the Edina City Code is amended by adding the following thereto:**

**"The extent of the Automobile Parking District (APD) is enlarged by the addition of the following property:**

**Lot 1 block 1, STOW'S EDGEMOOR ADDITION, BLOCK 9, REPLAT, according to the recorded plat thereof, except that part thereof, lying East of a line parallel with and 50 feet Westerly of the East line of Section 31, Township 28, Range 24.**

**The extent of the Planned Office District (POD) is reduced by removing the property described above from the Planned Office District."**

**Section 2. This ordinance shall be in full force and effect upon its passage and publication.**

**Passed and adopted this 22<sup>nd</sup> day of September, 1998.**

**Attest: \_\_\_\_\_**

**City Clerk**

**\_\_\_\_\_**

**Mayor**

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Ordinance adopted.

**Member Faust introduced the following resolution and moved its approval conditioned upon, 1) Execution of Recorded Street easement, and 2) Executed and Recorded Proof of Parking Agreement.**

**RESOLUTION APPROVING FINAL PLAT  
FOR ECHO ADDITION**

**BE IT RESOLVED by the City Council of the City of Edina, Minnesota that that certain plat entitled, "ECHO ADDITION", platted by John D. Gabbert and Martha W. Gabbert, and presented at the regular meeting of the City Council on September 22, 1998, be and is hereby granted final plat approval. Member Maetzold seconded the motion.**

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Resolution approved.

**FIRST READING GRANTED FOR ORDINANCE NO. 1998-6, AN ORDINANCE AMENDING EDINA CODE SECTION 1035, DEFINING NUISANCES** Sanitarian Velde explained the Edina City Code Section 1035 defines a variety of public nuisances in the City. A question has been raised regarding the legality of prosecuting these Code violations based upon their definition only. The amendment, as recommended by City Prosecutor, Halberg, will more clearly state that any person who maintains a public nuisance is in violation of the Code. Sanitarian Velde suggested Council consider waiver of second reading.

Member Hovland asked for clarification of Section 1035.04, Maintaining a Nuisance. He asked what use of the word "intentionally" means. Is this a criminal statute or ordinance that requires intent. Sanitarian Velde said it would require intent and a notice sent to notify the offender of a violation. If the nuisance is not corrected, that would be proof of intent. Member Hovland asked what would happen in the case of a mentally ill resident. Sanitarian Velde said that had not happened yet. Mayor Smith said this may be a case for a guardian. Attorney Gilligan clarified that intentional deals with the cause where the, "maintain, or permit a nuisance" portion does not deal with intent. Council consensus directed staff to ask for further clarification from Prosecuting Attorney Halberg before granting second reading.

Member Smith asked for comments from residents. None were heard.

**Member Maetzold made a motion approving First Reading of Ordinance No. 1998-6 an Ordinance Amending Edina Code Section 1035, Defining Nuisances.** Member Hovland seconded the motion.

Ayes: Faust, Hovland, Maetzold, Smith  
First Reading granted.

**\*BID AWARD FOR TWO 12,000 GALLON CONCRETE FUEL VAULTS (PUBLIC WORKS) CONTINUED TO OCTOBER 5, 1998** Motion made by Member Maetzold and seconded by Member Hovland continuing the award of bid for two 12,000 Gallon Concrete Fuel Vaults for Public Works to October 5, 1998.

Motion carried on rollcall vote - four ayes.

**\*BID AWARD FOR SIDEWALK SUCTION SWEEPER (PUBLIC WORKS) CONTINUED TO OCTOBER 5, 1998** Motion made by Member Maetzold and seconded by Member Hovland continuing the award of bid for sidewalk suction sweeper for Public Works to October 5, 1998.

Motion carried on rollcall vote - four ayes.

**\*AWARD OF BID FOR STORM SEWER, VALLEY LANE FROM DORON LANE TO LIMERICK LANE (IMP. No. STS-256)** Motion made by Member Maetzold and seconded by Member Hovland for award of bid for Storm Sewer for Valley Lane between Doron Lane and Limerick Lane Improvement No. STS-256, Contract No. 98-11 (Eng) to recommended low bidder, Ro-So Contracting, Inc. at \$46,655.00.

Motion carried on rollcall vote - four ayes.

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**\*AWARD OF BID FOR CONCRETE PATHWAYS FOR BRAEMAR GOLF COURSE**  
Motion made by Member Maetzold and seconded by Member Hovland for award of bid for concrete paths for Braemar Golf Course to recommended low bidder, Curt Kriens Construction at \$16,008.00.

Motion carried on rollcall vote - four ayes.

**TRAFFIC SAFETY STAFF REVIEW FOR SEPTEMBER 9, 1998, SECTION A.1. CONTINUED; SECTION A.2,3; SECTION B; AND SECTION C., 1, AND 3 APPROVED; SECTION C. 2. CONTINUED TO OCTOBER 5, 1998** Coordinator Bongaarts requested Section A.1., Engineering request for traffic operational changes to traffic flow in the 50<sup>th</sup> & France area be continued to a later date.

Coordinator Bongaarts explained Section C.2. a request was received to enhance the safety of pedestrians and vehicles on West 64<sup>th</sup> Street between Rose Court on the east and Virginia Avenue on the west. West 64<sup>th</sup> Street runs to the north of and parallel with the Crosstown 62 highway. A chain link fence separates the highway from West 64<sup>th</sup> Street.

The requestor feels the Crosstown highway is potentially dangerous for those using West 64<sup>th</sup> Street with nothing more than the chain link fence to separate the highway from West 64<sup>th</sup> Street.

The Crosstown carries an average of 96,000 vehicles a day between Valley View Road and Highway 100. In the last 3 years there has been an average of 14 accidents a year for this same stretch of highway. In the past 3 ½ years (1995 to June, 1998), the chain link fence in question has been struck 5 times, with the vehicles penetrating the fence on several occasions but bringing the vehicle to a stop at the fence or near it.

Coordinator Bongaarts added there is no additional accident history for West 64<sup>th</sup> Street which is more of a service drive and carries very little traffic. There is no history of a pedestrian or vehicle on West 64<sup>th</sup> Street ever being struck by a vehicle coming through the fence. He added the area in question is part of the Mn/DOT right-of-way and subsequently, their responsibility.

Staff recommends the metro area highway engineer for Mn/DOT be contacted and asked to review the situation and consider the erection of a structural barrier/guard rail between the fence and the highway from the pedestrian crosswalk on the east to the exit to northbound 100 on the west.

Council comment

Member Maetzold asked whether state or federal guidelines govern this type of situation. Engineer Hoffman said after speaking to the metro engineer, their staff is ready to do something in the area based upon our request for a structural barrier/guardrail. He suggested the Council could pass a resolution stating this is a reasonable thing to do and they should considered installing a barrier of some type.

Member Hovland inquired whether there are any regulations that take accident numbers into account that might compel Mn/DOT to install structural barrier/guardrails whether or not it fit their schedule. Engineer Hoffman said he is not aware of any regulations.

Member Faust asked if the structural barrier/guardrail would be inside or outside the chainlink fence. Engineer Hoffman said it would probably be installed on the outside but the location would be the choice of the County.

Mayor Smith asked the public if they would approve a Council resolution being submitted to the County requesting installation of a structural barrier/guardrail. The public voiced disapproval with submission of a resolution to the County. They are asking for more than just a structural barrier/guardrail.

Public comment

Patty Lundquist, 6332 St. John's Avenue, a 20 year resident noted this is an extremely dangerous area with a high-volume of traffic. The highway was constructed to handle 50,000 cars per day, but presently, double that amount use the roadway. With the increase in traffic, the danger is increasing, plus noise pollution. She requested more than a barrier and asked for something that will solve the safety problem. She presented photographs of a recent accident, additional information containing historical facts and accident reports, etc. She presented a short video depicting traffic volume, noise, an accident, and the condition of the chain link fence along the highway and West 64<sup>th</sup> Street. She pointed out that Representative Ron Erhardt was in attendance at the neighbors' request.

Mayor Smith asked what the neighbors would like done. Ms. Lundquist said the neighbors would like something more substantial that would promote sound mitigation of the noise pollution, visual improvement, and promote safety. Neighbors have voiced concern with the different types of barriers available and are asking for help.

Karen Dovolis, 6325 Ashcroft Lane, asked for a sound wall. They have been told space is a problem for a sound wall between Ashcroft and Concord. Neighbors believe a guardrail is a bandaid to a larger problem. They would like something installed that would prevent children, animals and motorists from entering/exiting the neighborhood from the freeway. The level of noise makes it difficult to hear voices whether conversational or warning. Residents fear their properties will be devalued.

Sandy Jackson, 6330 Peacedale Avenue, said she lives close to Fairview Southdale Hospital. She voiced concern with accidents, police cars, ambulances, exhaust fumes and noise. Homes for sale in the area take a long time to sell.

Dennis Schulstad, 6303 Rose Court, said he recently moved to the neighborhood and was aware of all the problems. He suggested similar barriers to the ones at Crosstown west of 35W which appear to be cement, 3-4 feet high, and topped with chain link fence. This type of barrier would keep traffic from penetrating the neighborhood and provide a partial sound barrier. The existing fence needs to be replaced soon because of the impending sewer work

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scheduled in the area anyway, so in his opinion, this type of barrier would be a great replacement.

Francis Marshall, 6300 Concord Avenue South, said when the Crosstown was designed, it was for 50 MPH private vehicular traffic. The roadway has changed drastically and is not designed for the heavy speeds, traffic and commercial vehicles. During a recent appraisal of his home, the realtor commented the home would be devalued by \$10,000 because the home is near the Crosstown. He believes a sound wall or guard rail would be the answer.

Arne Ryan, said he lives at the corner of Ashcroft Lane, and sleeps 60 feet from cars traveling at 65 MPH. He suffers from hearing loss and his ears ring all the time. Homes built near the airport are compensated to alleviate noise with insulation, etc. and this may be one solution for residences near the Crosstown.

Donald Bonstrom, 6328 Millers Lane, concurs with the suggestion of the 4 foot barrier topped with chain link fencing. He believes noise barriers decrease home values as well as aesthetics much more than alleviate the noise.

Mayor Smith said he sees two points: 1) has a barrier device been developed that will mitigate noise; and 2) should something be done to the houses. He suggested Engineer Hoffman meet with residents and dialog with Mn/DOT for a resolution to these concerns.

Member Maetzold noted the Crosstown has changed into a major thoroughfare and something needs to be done. He inquired whether Mn/DOT could install call boxes on each side of the Crosstown for emergency phone calls so that neighbors wouldn't be bothered.

Member Hovland said the problem is complex. He serves on the I-494 Corridor Commission and lives three doors from Highway 100. He spoke with the noise abatement and barrier wall specialist at Mn/DOT and got nowhere. He has read the new noise report and Edina is 500<sup>th</sup> on the priority list for the building of sound walls. Only three projects are done per year. The cost of sound walls is a million dollars per mile and the optimum height is 20 feet which reduced sound decibels by 50%. It is a good value and would help preserve a neighborhood. The Legislature put a moratorium on building noise barriers in the metro area unless there was a highway project happening simultaneously. At that time, federal dollars could be acquired to build the sound barriers. Areas exist where there are sound barriers and no houses, because of this. Edina as a first ring suburb is absorbing all road improvements in the suburbs. All the traffic is funneling through the Crosstown, Highway 100 or I-494. At a recent I-494 Corridor Commission meeting, Dick Stier, the Chief Metro Engineer for Mn/DOT, gave no encouragement on sound barriers. The legislature should re-address the issue and give us help to re-prioritize the list so we may be able to get some assistance. Because of TEA-21 (new legislation passed by Congress) the State has an extra \$140 million to spend. They are having a difficult time prioritizing the projects because of lack of personnel to complete the projects. One priority is bridges, leaving road improvements lower on the list. He suggested maybe forming a Crosstown Committee or Highway 100 Commission, to make Mn/DOT hear us. When cities get organized, Mn/DOT listens and they begin to re-prioritize projects. Coupled with pressure from the Legislature, we might get some action. This is a metro-wide problem

that is heaped on us because we are in a convenient location. Member Hovland said he is game for any solution to protect our town and keep property values up.

Member Faust noted she was involved in an accident in the subject location and has sympathy for the residents. She voiced concern with the aesthetics of a sound wall having a prison-like feel to it.

Mayor Smith said when people are affected by change that should be worth something in getting help from Mn/DOT. Concern should be based on what is happening in their lives because of what is happening on the Crosstown. He believes the Crosstown traffic became bad when it met up with I-494 on the west.

Acting Manager Hughes said staff could meet with neighbors to talk about possible alternatives and to involve Mn/DOT in the process. Staff could also ask Legislators to place the issue on their agenda immediately. Since City staff is still playing catch-up with construction because of the storms this spring, he suggested scheduling neighborhood meetings around November 1.

Engineer Hoffman said in 1988, Edina studied noise issues and it was eventually studied by the Legislature in 1997. In Edina 14 miles of freeway are eligible for sound wall improvements if there is funding. This may be a good time to suggest Edina because funds are available now. Most residents have one of two opinions, either install a sound wall or they do not want the sun blocked out. Staff could invite residents within two blocks of the 14 miles of freeway as well as Mn/DOT to a meeting. He voiced concurrence with Acting Manager Hughes that staff is way behind on projects in the City because of the storms and would not have time to work on this until November or December. He believes a guardrail should be done quickly then go on to the next design. Three neighborhoods are actively seeking help: 1) Highway 169; 2) Highway 100; and 3) the Crosstown 62.

Mayor Smith concluded this should not be a band-aid fix and residents should be involved in the process.

Letters voicing disapproval with installation of the proposed guard rails, etc. were received from Darlene Kleve, 4500 West 64<sup>th</sup> Street, and Betty Page, 4504 West 64<sup>th</sup> Street.

**Member Maetzold made a motion approving the Traffic Safety Staff Review of September 9, 1998, Section A. 2, 3, Section B, and Section C. 1, 3; and continuing Section A.1, and Section C. 2 to October 5, 1998.** Motion seconded by Member Faust.

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**FUTURE SIDEWALK FINANCING POLICY REPORT PRESENTED** Engineer Hoffman said staff would present a four-point traffic safety program as requested previously by the Council. The report includes: 1) Future Sidewalk Plan and Financing Plan; 2) Pedestrian Safety Package for distribution within elementary schools by the Police Department; 3) Traffic Studies adjacent to Edina Public Schools; and 4) School Traffic Zoning Alternatives

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and City Wide Speeds. Staff will present items 1, 2, & 4, Item No. 3 will be presented at a later date due to traffic data still being collected at various sites. Assistant Engineer Houle presented the sidewalk policy for the City. Staff used a 1980 sidewalk plan as a basis for developing the future sidewalk policy

PURPOSE:

- Determine Future (10 years +) for Sidewalks and Pathways
- Determine Costs
- Analyze Potential Financing

PROCESS:

- All "Petition Initiated"
- Except State-Aid Reconstruction

EXISTING SIDEWALKS - PATHWAYS:

- 56 Miles of Concrete Sidewalks
- 2 Miles of Bituminous Pathways
- 11 Miles of Park Pathways

PROPOSED REQUIREMENTS:

- State-Aid Sidewalks
- School Zone Sidewalks
- Destination Zone Sidewalks
  - Provides Link
  - Over 750 Vehicles Per Day
- Local/Low-Volume Street Zone

Assistant Engineer Houle presented graphic maps depicting: 1) Business Walking Zones and Park Walking Zones with .07 mile radii; 2) Public Walking Zones near Elementary Schools with a .07 mile radius and Middle and High School Walking Zone with a 1 mile radius; 3) Public Transit Facilities; 4) Proposed State-Aid Sidewalks; and 5) Proposed Sidewalks and Pathways.

	<u>SIDEWALKS</u>	<u>MILES</u>
EXISTING:	CONCRETE	56
	BITUMINOUS	2
	PARK PATHWAYS	11
PROPOSED:	STATE-AID SIDEWALKS	15
	SCHOOL-BUSINESS SIDEWALKS	5
	PARK PATHS	2

FINANCING:

STATE-AID COSTS

ENTITY

STATE-AID

PERCENT OF COST

100

SCHOOL ZONE COSTS

ENTITY

PERCENT OF COST

CITY	25
SCHOOL	25
SPECIAL ASSESSMENTS	50
DESTINATION ZONE COSTS	
<u>ENTITY</u>	<u>PERCENT OF COST</u>
CITY	25
SPECIAL ASSESSMENTS	75
LOCAL/LOW VOLUME STREET ZONE COSTS	
<u>ENTITY</u>	<u>PERCENT OF COST</u>
SPECIAL ASSESSMENTS	100

TOTAL FINANCING:

<u>ENTITY</u>	<u>COSTS</u>	<u>10 YEAR AVERAGE</u>
	<u>TOTAL</u>	
STATE-AID	\$2.3 million	\$226,000
CITY	\$0.6 million	\$ 59,999
SCHOOL	\$0.3 million	\$ 26,000
<u>SPECIAL ASSESSMENTS</u>	<u>\$1.1 million</u>	<u>\$111,000</u>
TOTAL	\$4.3 million	\$422,000

Jay Willemsen, Director of Business Services for the Edina School District, said upon receipt of the report, he gave it to each school principal and received feedback which he relayed to Assistant Engineer Houle. He recently applied for and received grant funding for sidewalks being requested by the school so he has reason to believe funding could be available for this proposed plan.

Ken Hatch, Principal at Countryside School, 5701 Benton Avenue, stated the situation is dangerous. There are no sidewalks going north and west of Countryside School. He voiced support of this process happening very soon.

Diane Martens, 7112 Bristol Boulevard, Committee Safety Chairperson at Cornelia Elementary, said substantial progress has been made on the sidewalk subject. The Cornelia area has a real need for sidewalks. Ms. Martens stated she will be part of the petition process to get them installed.

Karen Gulderis, 5701 Wycliffe Road, has children at Countryside School. She voiced concern with safety for walkers and stated they need a sidewalk now.

SPEED ZONE REPORT Engineer Hoffman emphasized that as part of the pedestrian safety/sidewalk discussion involving the classic pedestrian/motorist interface, speed is usually widely debated. Three areas of proper speed zoning are: 1) major collector or minor arterial streets; 2) residential local streets; and 3) school zone speed limits.

Area 1, major streets use the traditional speed zoning technique called the 85<sup>th</sup> percentile speed. This is a national standard which states that the vehicles moving at the 85<sup>th</sup> percentile speed along a street are travelling at a safe/comfortable speed.

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In properly-designed street systems, having a reasonable proportion of major streets, a speed limit of between 35 MPH and 45 MPH is common nationally. In Edina, most major streets have a speed limit of 30 MPH; exceptions are 66<sup>th</sup> Street West, east of the 100, West 78<sup>th</sup> Street west of East Bush Lake Road, Vernon Avenue (County Road 158) and portions of France and York Avenue (county roads) that could vary from 35 to 40 MPH.

Questions arose whether a comprehensive review of major city streets (the top 10% in terms of volume) should be conducted to develop a uniform speed zoning. Staff has done some local analysis and could do additional analysis of speeds on major streets. The purpose of doing a preliminary analysis was to determine what speed limit might be set by the Commissioner of Highways if speed zoning is requested by the Council. State Statute 169.14 gives authority to the Commissioner to set local speeds.

Another reason to look at speed zoning involves the new term "traffic calming". Since motorists select their trip based on travel time, it was suggested that a lower uniform limit of 25 MPH for strictly local residential streets be considered. If Edina streets had a two-zone system (25 MPH for local and 35 MPH for collectors), the expectation would be to increase travel time through the neighborhoods and decrease travel time on major streets. This is commonly done in other states. The local speed limit needs to be done on a statewide basis so new legislation would be required.

Engineer Hoffman said an important issue on higher speed limits should be the presence of pathways or sidewalks along the major street. There is an increased level of discomfort for pedestrians on roadways that have higher levels of speeds and do not have sidewalks.

Finally, school speed zoning is often mentioned as a major part of school site review. National statistics indicate a much higher percentage of bike/pedestrian accidents occurs away from the school site. Thus, a strong push to identify a sidewalk/pathway system to and from school sites is important. Staff position on use of school speed zones is that this speed zoning is only one part of a comprehensive safety review that must occur between the school district, school district site boards and the City.

TRANSPORTATION SAFETY PROGRAM Chief Bernhjelm explained the Police Department has prepared a 15 to 30-minute presentation for use in the Edina schools relating to school bus and pedestrian safety. He gave a brief overview of the program's content that could be presented at an assembly at the request of the schools.

Chief Bernhjelm added that a group of businesses in the 50<sup>th</sup> and France area expressed concern with pedestrian safety. The Police Department is working on that situation with Fairview Southdale Hospital, the 50<sup>th</sup> and France Association and Coca-Cola Company to prepare a pedestrian safety program for the community that will include an educational component in the schools.

Engineer Hoffman said this plan can be a part of the review process of the Comprehensive Plan and would ultimately come back to the Council. If the plan was implemented, the annual cost to the City would be \$50,000 - \$60,000 if petitions were submitted.

Mayor Smith inquired whether the School District would have adequate funds for the plan if petitions were received. Engineer Hoffman responded that the School District would initiate the process, and a public hearing held, with funding being 25% City responsibility, 25% School District and 50% homeowners.

Member Faust asked if the City was contributing twice as many dollars as the school. Engineer Hoffman said that was because of the disparity between the destination zone costs. Member Faust asked if repair of existing sidewalks had been taken into consideration. Engineer Hoffman said that was a State-Aid funded project. Member Faust inquired how Maple Road fits into this picture. Engineer Hoffman said Maple Road was a destination zone area with 25% funding.

Member Hovland asked if acquiring petitions would be difficult on the school/business sidewalks. Engineer Hoffman said the school would initiate their petitions and were excited about the prospect. As far as destinations from businesses, that might be more difficult and the Council may need to be the initiator. Member Hovland commented because of the concern with safety in school zones, some circumstances may exist to abate the petition process and go ahead with the project. Engineer Hoffman said the Council can do that at any time. Member Hovland asked about paths around parks. Engineer Hoffman responded that paths are done when funds are available.

Jay Willemsen reminded the Council that the sidewalk study has not been presented to the School Board as of yet.

Acting Manager Hughes commented that 1) the ten-year time frame seems slow and it would be rare if all projects are completed within that time, and 2) the City share has not been budgeted within the 1999 budget. On a parallel track there is a Capital Improvement Plan along with the Comprehensive Plan where staff is attempting to match funding for the City's share of the sidewalk.

Mayor Smith asked if residents of Maple Road were invited tonight. Engineer Hoffman said they were not, according to Council direction at the last meeting. He added if Maple Road was constructed and assessed in 1999, under this policy 25% of their special assessment would be paid for by the City. Each lot's assessment could run \$1,500.00 under this policy.

Member Maetzold asked what the process would be if a residential street has 750-1000 cars per day and is identified as a traffic problem which could be partially solved with sidewalks. Engineer Hoffman said the City could be proactive about sidewalks, initiated by staff with proven data. Mayor Smith asked if the City is initiating projects, should it be paying more. Member Faust believed residents should not be taxed if they don't have input. Engineer Hoffman said three things can be legally improved without resident input: 1) storm sewers; 2) sanitary sewers; and 3) watermains. He added, in his opinion, there should be a fourth, a transportation utility for sidewalks funding.

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Member Hovland indicated that, if neighbors don't petition within school zones, the City may need to be more proactive following due process. Some of the proposed State Aid sidewalks depicted on the graphics show no resident participation or taxation, only intrusion into their property. He added he felt no reticence in being proactive in this case.

Member Hovland questioned the statement in the Edina Speed Zone Report referring to the 85<sup>th</sup> percentile speed: "This is a national standard stating that the vehicles traveling at the 85<sup>th</sup> percentile speed along the street are traveling at a safe and comfortable speed". Engineer Hoffman said drivers feel the speeds are at a comfortable level and drive accordingly. Speeds are probably not too unreasonable coming off a freeway at 60 MPH and then decelerating down to 30 MPH within 200 feet. Member Hovland supported local streets at 25 MPH and believes residents would concur. He further believed some streets could remain at 35 MPH. Engineer Hoffman commented that neighbors will still not be happy with changes. Member Hovland asked if it has worked well in communities that have had abrupt distinctions. Engineer Hoffman explained that when roads are designed and built to handle traffic, they seem to experience no greater accidents.

Mayor Smith inquired if Wooddale north of 50<sup>th</sup> Street was a collector street and if 35 MPH had been considered. Engineer Hoffman said Wooddale south is a collector and had a different width on it from one point to another. He said before raising the speed limit to 35 MPH, he would reserve a decision until a field analysis was completed.

Member Faust inquired about West 70<sup>th</sup> Street. Engineer Hoffman said West 70<sup>th</sup> has many driveways and is safer at 30 MPH.

Mayor Smith thanked the staff for the very comprehensive report.

Member Hoffman confirmed that the Council would like information and feedback from the School District on Item No. 3, Traffic Studies adjacent to Edina Public Schools and additional study of the destination issue.

Scott Thompson who lives next to Countryside School, said that in a perfect world, sidewalks would be installed everywhere. The program could be too big in scope and take too long to complete to alleviate the emergency situation on Stuart Avenue that exists now. Mayor Smith explained the City's petition process.

**PETITION RECEIVED FROM RESIDENTS FOR PARKS AND GREEN SPACE - WEBER PARK AREA** Member Faust said she removed the petition from the Consent Agenda for residents in the Weber Park area.

Joni Bennett, 4003 Lynn Avenue, introduced Mike Relf and Rosanne Malevich, residents of the Morningside area of Edina. She explained they previously presented a petition 589 Morningside residents opposing new construction in Weber Park by the West Metro Education Project School (WMEP). She commented that the subject may be a moot point, as WMEP may have withdrawn their consideration of the site. The neighborhood would like to continue the use of the park and share it with various sports associations, the school children

at Calvin Christian School, and Golden Years Montessori School. If the School Board revives consideration of the site, Ms. Bennett asked to be able to appear before the Council at that time to present their concerns.

Mayor Smith said that they could they return if the proposal were to be before the Council. Mayor Smith said he was contacted by the Superintendent of Schools, and Frank Bennett, the Edina Representative of WMEP; and a meeting has been scheduled to discuss the WMEP School as part of a community facility - i.e. the Kunz/Lewis site and development proposals.

Member Faust said she believed a communication problem exists and asked why the Council was not apprised of this request by the School Board. She voiced concern that the newspaper had more information about the school's request than the Council. In order to answer residents' questions, she felt the Council should be kept informed.

Mayor Smith responded that no one had asked if the City's park could be used for such a purpose and until the request was made, nothing would happen.

Member Faust said Superintendent Dragseth should be told that he would have more support from us if we were informed.

A letter dated September 16, 1998, and a memorandum dated September 15, 1998, were received from Michael M. Relf, 4229 Alden Drive, writing in opposition to the WMEP plan at Weber Park.

**PETITION RECEIVED FROM RESIDENTS OF INDIAN HILLS AREA REQUESTING NOISE WALLS** Mayor Smith noted a petition had been received from residents of the Indian Hills neighborhood requesting the construction of sound abatement walls on the eastern side of the Highway 169 corridor for the one mile stretch between Highway 62 and Valley View Road, to protect the neighborhood from noise and other negative effects of increased traffic density.

Jean Wangard, 6804 Indian Hills Road, explained the following concerns of the neighbors:

1. Noise levels are beyond the comfort level
2. Stranded motorist assistance is asked of residents frequently
3. Neighborhood attempts at erecting sound/sight barriers provide no protection
4. Average time for sale of homes has increased over last ten years
5. Highway 169 south has sound abatement walls - Indian Hills neighborhood would like the same
6. Traffic density in inner-ring suburb will only get worse with suburban expansion

Ms. Wangard said that change has occurred in their neighborhood with the reconstruction and opening of Highway 494/169. Therefore she asked that funds be made available for abatement walls in their area. The neighborhood has asked for help at the State level and is now asking for Council's formal support.

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Mayor Smith stated that no area of Edina is worse off than any other and that solutions will be sought for all the areas.

Member Maetzold noted the Bloomington Ferry Bridge has been opened and that Highway 169 has undergone a major change and become a thoroughfare. If funds become available for sound abatement construction, this should be considered also as it is a major new change.

Michael Wagner, 6804 Sally Lane, said that people need sound abatement education. Sound walls up to 40 feet in height will not work and he suggested utilizing the technology available through the University of Minnesota through the Civil Engineering or Acoustic Department. Lines of communication between Mn/DOT, residents, and the Federal Government need to improve. He suggested funding a graduate student at the U of M in the acoustics program to solve this sound concern in a short time and with much less cost.

Eric Ingwalson, 6708 Samuel Road, stated that other alternatives need to be considered. He asked Attorney Gilligan for advice on what legal route residents could pursue with the legislators. He suggested the City, residents and the State pay for alleviating the negative effects of increased traffic density on their neighborhood now.

Mayor Smith reminded the Council and residents of a previous unsuccessful attempt in assessing neighborhood for sound walls along Minnehaha Creek. He asked staff to come back at the October 5, 1998, meeting with a plan outlined.

Member Faust asked if Mn/DOT could be asked to mend the fences. Engineer Hoffman said that this was not the only spot and that he would talk with them.

Member Hovland asked if a resolution needed to be sent to Mn/DOT to have a temporary guardrail installed at the Crosstown at 64<sup>th</sup> Street. Engineer Hoffman noted Mn/DOT should be encouraged to get the safety barrier work done.

Mayor Smith directed staff to draft a resolution for the Council on October 5, 1998, encouraging Mn/DOT to install barriers. Engineer Hoffman suggested that residents might want to represent their area by serving on a committee.

**SEPARATION PACKAGE PRESENTED TO RETIRING CITY MANAGER** Mayor Smith reported a separation package had been prepared for retiring City Manager Rosland upon his retirement October 30, 1998. **Member Hovland made a motion approving presentation of a separation package to retiring City Manager Kenneth Rosland.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

## **LIQUOR REFERENDUM FLYER PRESENTED; RESIDENTS TO RECEIVE MAILING**

Acting City Manager Hughes presented a draft Liquor Referendum flyer showing changes Council Members had suggested. He noted that the flyer took a neutral position. Following a

brief discussion, Council consensus directed staff to make the noted changes and send the flyer to each Edina residence.

**CLAIMS PAID** Member Hovland made a motion to approve payment of the following claims as shown in detail on the Check Register dated September 28, 1998, and consisting of 28 pages: General Fund \$300,969.27; C.D.B.G. \$1,430.00; Communications \$17,175.02; Working Capital \$70,448.72; Art Center \$6,910.85; Golf Dome Fund \$727.71; Swimming Pool Fund \$4,683.43; Golf Course Fund \$72,713.97; Ice Arena Fund \$19,295.54; Edinborough/Centennial Lakes \$9,644.17; Utility Fund \$227,806.63; Storm Sewer Utility Fund \$19,286.83; Recycling Program \$34,101.17; Liquor Dispensary fund \$172,873.49; Construction Fund \$378,369.70; Park Bond Fund \$4,404.29; I-494 Commission \$3,621.82; TOTAL \$1,344,462.61; and for confirmation of payment of the following claims as shown in detail on Check Register dated September 16, 1998, and consisting of 2 pages: General Fund \$338,154.77; Liquor Dispensary Fund \$59,922.74; I-494 Commission \$11,049.89; TOTAL \$409,127.40.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**\*RESOLUTION SETTING HEARING DATE OF OCTOBER 19, 1998, FOR WALKER METHODIST SENIOR SERVICES OBLIGATED GROUP BONDS REFUNDING** Member Maetzold introduced the following resolution seconded by Member Hovland:

**RESOLUTION  
SETTING A PUBLIC HEARING ON PROPOSAL  
TO ADOPT A HOUSING PROGRAM AND ENTER INTO  
JOINT POWERS AGREEMENT WITH CITY OF MINNEAPOLIS  
FOR ITS ISSUANCE OF REVENUE BONDS FOR THE BENEFIT  
OF WALKER METHODIST SENIOR SERVICES  
OBLIGATED GROUP**

NOTICE IS HEREBY GIVEN that a public hearing shall be conducted by the City of Edina, Minnesota (the "City") on a proposal by Walker Methodist Health Care Center, Inc., Walker Care Corporation I, Walker Assisted Living Corporation I, Walker Senior Housing Corporation III, Walker Senior Housing Corporation V, Walker Senior Housing Corporation IX, Walker Senior Services, Inc., Walker Residence, Inc. and Walker Community Services, Inc. (collectively the "Walker Methodist Senior Services Obligated Group"), that the City enter into a Joint Powers Agreement with the City of Minneapolis (the "Issuer") to permit the Issuer to issue City of Minneapolis revenue bonds on behalf of the City (the "Bonds") under Minnesota Statutes Chapter 462C to pay costs of (i) refunding one or more bonds issued as a part of City of Edina, Minnesota Multifamily Housing Revenue Bonds (Walker Assisted Living Corporation I) Series 1991, issued in the original principal amount of \$6,700,000 or \$450,000 original issue amount of City of Edina Subordinated Multifamily Housing Revenue Note (Walker Assisted Living Corporation) Series 1991, proceeds of which bonds were used to finance or refinance costs associated with a 72 unit assisted living facility (the "Edina Facility"), located at 7400 York Avenue South in the City of Edina, Minnesota, owned by Walker Assisted Living Corporation I, (ii) repairing, renovating, rehabilitating or otherwise improving or equipping the Edina Facility, (iii) funding any debt service or other reserves and (iv) paying transaction costs

related to the foregoing. The Bonds would not exceed \$11,000,000 in aggregate principal amount.

The Bonds may be issued by the Issuer as part of a larger bond issue (not expected to exceed \$80,000,000 in aggregate principal amount) to finance or refinance prior debt and repair, renovation, rehabilitation or improvement with respect to (i) the following facilities located in the City of Minneapolis: (A) a 107 unit rental apartment building at 3535 Bryant Avenue South owned by Walker Senior Housing Corporation V, (B) a 144 bed skilled care nursing home at 6130 Lyndale Avenue South owned by Walker Health Services, Inc. (subject to transfer to one or more affiliates of the Walker Methodist Senior Services Obligated Group), (C) a 170-bed skilled care nursing home at 618 East 17<sup>th</sup> Street owned by Walker Health Services, Inc., (D) a 490-bed skilled and intermediate care nursing facility at 3737 Bryant Avenue South owned by Walker Methodist Health Center, Inc., (E) a 139-unit senior apartment facility known as Walker Place at 3701 Bryant Avenue South owned by Walker Residence, Inc. (with bonds allocable thereto not expected to exceed \$55,000,000 in aggregate principal amount), (ii) a 98-unit elderly rental housing development, located at 131 Monroe Street in the City of Anoka, Minnesota, owned by Walker Senior Housing Corporation III (with bonds allocable thereto not expected to exceed \$6,000,000 in aggregate principal amount), and (iii) a 128-unit elderly rental housing development, located at One West Thompson in the City of West St. Paul, Minnesota, owned by Walker Senior Housing Corporation IX (with bonds allocable thereto not expected to exceed \$8,500,000 in aggregate principal amount).

It is further proposed that to implement the issuance of the Bonds for the foregoing purposes the City adopt a housing program therefor (the "Program") pursuant to Minnesota Statutes Chapter 462C.

The City Council will consider approving the foregoing proposals at a hearing to be held at City Hall, 4801 West 50<sup>th</sup> Street, in the City of Edina, on October 19, 1998, at approximately 7:00 P.M. At such time and place the City shall give all parties who appear or submit written comments an opportunity to express their views with respect to the proposals. A copy of the Program will be available for review at the City's offices at and prior to the hearing.

Dated September 22, 1998.

/s/ \_\_\_\_\_  
City Clerk

**RESOLUTION CALLING FOR  
PUBLIC HEARING WITH RESPECT TO ADOPTION OF A  
HOUSING PROGRAM AND EXECUTION OF A JOINT POWERS AGREEMENT  
IN CONNECTION WITH THE ISSUANCE AND SALE  
OF CERTAIN REVENUE BONDS**

WHEREAS, the City of Edina (the "City") has received a proposal by Walker Methodist Health Center, Inc., Walker Care Corporation I, Walker Assisted Living Corporation I, Walker Senior Housing Corporation III, Walker Senior Housing Corporation V, Walker Senior Housing Corporation IX, Walker Senior Services, Inc., Walker Residence, Inc. and Walker Community Services, Inc. (collectively the "Walker Methodist Senior Services Obligated Group") that the City enter into a Joint Powers Agreement with the City of Minneapolis (the "Issuer") to permit the Issuer to issue City of Minneapolis revenue bonds on behalf of the City (the "Bonds") under Minnesota Statutes Chapter 462C to pay costs of: (i) refunding one or more bonds issued as a part of City of Edina, Minnesota Multifamily Housing Revenue Bonds (Walker Assisted Living

Corporation 1) Series 1991, issued in the original principal amount of \$6,700,000 or \$450,000 original issue amount of City of Edina subordinated Multifamily Housing Revenue Note (Walker Assisted Living Corporation) Series 1991, proceeds of which bonds were used to finance or refinance costs associated with a 72 unit assisted living facility (the "Edina Facility"), located at 7400 York Avenue South in the City of Edina, Minnesota, owned by Walker Assisted Living Corporation 1, (ii) repairing, renovating, rehabilitating or otherwise improving or equipping the Edina Facility, (iii) funding any debt service or other reserves and (iv) paying transaction costs related to the foregoing. The Bonds would not exceed \$11,000,000 in aggregate principal amount; and

WHEREAS, the Bonds may be issued by the Issuer as part of a larger bond issue (not expected to exceed \$80,000,000 in aggregate principal amount) to finance or refinance prior debt and repair, renovation, rehabilitation or improvements with respect to (i) the following facilities located in the City of Minneapolis: (A) a 107-unit rental apartment building at 3535 Bryant Avenue South owned by Walker Senior Housing Corporation V, (B) a 144 -bed skilled care nursing home at 6130 Lyndale Avenue South owned by Walker Health Services, Inc. (subject to transfer to one or more affiliates of the Walker Methodist Senior Services Obligated Group), (C) a 170-bed skilled care nursing home at 618 East 17<sup>th</sup> Street owned by Walker Health Services, Inc. (D) a 490-bed skilled and intermediate care nursing facility at 3737 Bryant Avenue South owned by Walker Methodist Health Center, Inc. (E) a 139-unit senior apartment facility known as Walker Place at 3701 Bryant Avenue South owned by Walker Residence, Inc. (with bonds allocable thereto not expected to exceed \$55,000,000 in aggregate principal amount), (ii) a 98-unit elderly rental housing development, located at 131 Monroe Street in the City of Anoka, Minnesota, owned by Walker Senior Housing Corporation III (with bonds allocable thereto not expected to exceed \$6,000,000 in aggregate principal amount), and (iii) a 128-unit elderly rental housing development, located at One West Thompson in the City of West St. Paul, Minnesota, owned by Walker Senior Housing Corporation IX (with bonds allocable thereto not expected to exceed \$8,500,000 in aggregate principal amount); and

WHEREAS, it is further proposed that to implement the issuance of the Bonds for the foregoing purposes, the City adopt a housing program therefor (the "Program") pursuant to Minnesota Statutes Chapter 462C; and

WHEREAS, in order that the interest on the Bonds be excludable from gross income for federal tax purposes, the City must hold a public hearing with respect to the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City as follows:

A public hearing shall be held with respect to the issuance of the Bonds, the adoption of the Program and execution of Joint Powers Agreement in conjunction with the regular meeting of the City Council on October 19, 1998, at approximately 7:00 P.M. The City Manager shall cause notice of the public hearing to be published at least 15 days prior to the date of the hearing in a newspaper of general circulation available to residents of the City.

ADOPTED: September 22, 1998.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Manager

**JOINT POWERS AGREEMENT WITH CITY OF EDINA**

This Joint Powers Agreement (the "Agreement") dated as of October 19, 1998, is by and between the City of Minneapolis, Minnesota (the "Issuer") and the City of Edina, a political subdivision of the State of Minnesota (the "Prior Issuer").

**RECITALS**

WHEREAS, under the authority of Minnesota Statutes, Chapter 462C (the "Housing Act"), Section 462C.14, Subd. 3, the Prior Issuer issued its City of Edina, Minnesota Multifamily Housing Revenue Bonds (Walker Assisted Living Corporation I) Series 1991 in the original principal amount of \$6,700,000 and its \$450,000 original issue amount of City of Edina Subordinated Multifamily Housing Revenue Note (Walker Assisted Living Corporation) Series 1991 (the "Prior Bonds") to fund a loan that financed costs related to a 72 unit assisted living facility commonly known as Walker Elder Suites, located in the City of Edina, Minnesota (the "Project");

WHEREAS, the Housing Act permits joint action between cities pursuant to Minnesota Statutes, Section 471.59 (the "Joint Powers Act");

WHEREAS, the Joint Powers Act provides that two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties, and may provide for the exercise of such power by one of the participating governmental units on behalf of the other participating units;

WHEREAS, the Issuer is a "city" under the Housing Act with the same powers under the Housing Act as the Prior Issuer;

WHEREAS, the purpose of this Agreement is to permit the Issuer to issue revenue bonds under the Housing Act on behalf of the Prior Issuer to (i) refund in whole or in part the Prior Bonds and thereby refinance the Project, (ii) pay costs of repairing, renovating, rehabilitating and improving the facilities comprising the Project, (iii) fund any debt service or other reserves, and (iv) pay transaction costs related to the foregoing;

WHEREAS, the Bonds shall not constitute an indebtedness or pledge of the full faith and credit of the Issuer, the Prior Issuer, the State of Minnesota, or any other agency or political subdivision thereof, but shall be payable solely from the revenues pledged and assigned thereto pursuant to the Indenture; and

WHEREAS, the governing bodies of the Issuer and Prior Issuer have authorized the execution and delivery of this Agreement;

NOW, THEREFORE, the Issuer and Prior Issuer hereby agree as follows:

1. Under the Housing Act, at such time or times and upon such terms as the Issuer shall determine, the Issuer may issue revenue bonds on behalf of the Prior Issuer, not to exceed \$11,000,000 in aggregate principal amount (the "Bonds"), and loan all sale proceeds of the Bonds to one or more of Walker Methodist Health Center, Inc., Walker Care Corporation I, Walker Assisted Living Corporation I, Walker Senior Housing Corporation III, Walker Senior Housing Corporation V, Walker Senior Housing Corporation IX, Walker Senior Services, Inc., Walker Residence, Inc, and Walker Community Services, Inc. or persons affiliated with the foregoing (collectively "Walker Methodist Senior Services Obligated Group"), for application to refund the Prior bonds, pay costs of repairing, renovating, rehabilitating and improving the facilities comprising the Project, fund a debt service reserve fund or other funds related to the Bonds or the Project and pay transaction costs related to the foregoing. The Bonds may be issued as part of an issue of bonds issued by the Issuer under any law and for any other lawful purpose.

2. The Bonds shall be issued pursuant to an indenture entered into between the Issuer and a trustee approved by the Issuer, and the proceeds of the Bonds shall be loaned to Walker Methodist Senior Services Obligated Group by the Issuer pursuant to a loan agreement between the Issuer and Walker Methodist Senior Services Obligated Group. Such loan and the Bonds shall be secured as determined by the Issuer; provided that the Prior Issuer shall have no obligation or liability of any nature with respect to the Bonds or any document entered into in connection therewith.

3. The Prior Issuer shall not be a part to the Bonds or any document related thereto other than this Joint Powers Agreement, except for a housing program adopted in connection with the Bonds pursuant to the Housing Act.

4. All costs incurred by the Issuer and the Prior Issuer in the authorization, execution, delivery and performance of this Agreement shall be paid by Walker Methodist Senior Services Obligated Group and the trustee for the Bonds shall strictly account for all funds related to the sale or investment proceeds of the Bonds and the repayment of the Bonds and interest thereon.

5. This Agreement may not be terminated by any party so long as any principal, premium or interest with respect to the Bonds is unpaid, but shall terminate upon payment of the same.

6. All property and surplus moneys, if any, acquired by either the Issuer or the Prior Issuer as a result of this Agreement, or the exercise of the powers provided herein, shall be apportioned and distributed between the Issuer and the Prior Issuer in proportion to their respective contributions after the purpose of this Agreement has been accomplished.

7. This Agreement may be amended by the Issuer and Prior Issuer at any time; provided that no amendment shall adversely affect the rights of the holders of any Bonds.

8. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement.

IN WITNESS WHEREOF, duly authorized officers of the Issuer and the Prior Issuer have executed this Agreement as of the date set forth above but actually on the 19<sup>th</sup> day of October, 1998.

CITY OF EDINA

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

CITY OF MINNEAPOLIS, MINNESOTA

By: \_\_\_\_\_  
Mayor

Countersigned: \_\_\_\_\_  
Finance Officer

ATTEST:

\_\_\_\_\_  
City Clerk

**PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT UNDER  
MINNESOTA STATUTES CHAPTER 462C**

**Section 1. Statutory Authority.** Pursuant to Minnesota Statutes, Chapter 462C (the "Act"), the City of Edina, a municipal corporation and political subdivision of the State of Minnesota, organized and existing under the Constitution and laws of the State, and its home rule charter (the "City"), has been authorized to develop and administer programs for multifamily housing developments under the circumstances and within the limitations set forth in the Act. Minnesota Statutes, Section 462C.07 provides that such programs may be financed by revenue bonds issued by the City. Pursuant to Minnesota Statutes, Section 471.59 (the "Joint Powers Act") provides that two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties, and may provide for the exercise of such power by one of the participating governmental units on behalf of the other participating units. The City of Minneapolis, Minnesota (the "Issuer"), has the same foregoing powers as the City.

**Section 2. The Program.** The Issuer and the City have received a proposal from Walker Methodist Health Center, Inc., Walker Care Corporation I, Walker Assisted Living Corporation I, Walker Senior Housing Corporation III, Walker Senior Housing Corporation V, Walker Senior Housing Corporation IX, Walker Senior Services, Inc., Walker Residence, Inc. and Walker Community Services, Inc. (collectively "Walker Methodist Senior Services Obligated Group") that, pursuant to Minnesota Statutes, Section 462C.05, subdivision 4, the City approve a program for the issuance of bonds by the Issuer (the "Bonds") which is provided for the purpose of (i) refunding one or more bonds issued as a part of City of Edina, Minnesota Multifamily Housing Revenue Bonds (Walker Assisted Living Corporation I) Series 1991, issued in the original principal amount of \$6,700,000 or \$450,000 original issue amount of City of Edina Subordinated Multifamily Housing Revenue Note (Walker Assisted Living Corporation) Series 1991, proceeds of which bonds were used to finance or refinance costs associated with a 72 unit assisted living facility (the "Edina Facility"), Located at 7400 York Avenue South in the City of Edina, Minnesota, owned by Walker Assisted Living Corporation I, (ii) repairing, renovating, rehabilitating or otherwise improving or equipping the Edina Facility, (iii) funding any debt service or other reserves and (iv) paying transaction costs related to the foregoing. The Bonds would not exceed \$11,000,000 in aggregate principal amount.

The Walker Methodist Senior Services Obligated Group proposes that the Issuer issue the Bonds on behalf of the City pursuant to in accordance with the Joint Powers Act and a Joint Powers Agreement entered into between the City and the Issuer. The Issuer may also enter into joint powers agreements with one or more other jurisdictions to issue revenue bonds under the Act or other laws in aggregate amount not to exceed \$80,000,000, of which \$11,000,000, may be applied as provided above pursuant to the authority of Minnesota Statutes, Section 462C.05, Subd. 4, which permits revenue bonds to be issued to finance multifamily housing developments if certain requirements are met. It is believed that the requirements of said Subd. 4 are met because the Edina Facilities are designed and intended to be used for rental occupancy primarily by elderly persons. It is contemplated that such facilities are and will be in compliance with all applicable zoning ordinances and other applicable land use regulations, including any urban renewal plan or development

district plan, and including the state building code as set forth under Minnesota Statutes, Section 16.83 et. seq.

Section 3. Need for the Program: How the Program Meets the Needs of Low and Moderate Income Families. In establishing this multifamily housing program (the "Program"), the City has considered the goals and information contained in the City's Housing Plan (the "Housing Plan"). The Walker Methodist Senior Services Obligated Group has concluded that the units are and will be affordable by a significant number of elderly residents of the City on the basis of their current income, and such number will be greater if funds received from the sale of current residences are available. Pursuant to Section 462C.05, Subd. 4, no statutory income limits are applicable to the Edina Facilities because such facilities are designed for rental primarily to elderly persons.

Section 4 Method of Financing. The Bonds will be issued upon such terms and conditions as set forth herein and as may be agreed upon in writing between the Issuer, the original purchaser(s) of the bonds and the Walker Methodist Senior Services Obligated Group.

The Bonds are expected to be issued within 12 months after the adoption of this Program. A negotiated sale and public or private offering of the Bonds is contemplated.

Insofar as the Issuer will or may be contracting with underwriters, legal counsel, bond counsel, a trustee and others, all of whom will be reimbursed from Bond proceeds (to the extent permitted by federal law) and revenues generated by the Program, no administrative costs will be paid from the Issuer's budget with respect to this Program. The Bonds will not be general obligation bonds of the Issuer or the City, but are expected to be paid from the properties or credit pledged to the payment thereof.

It is not contemplated that any additional financing or contributions on the part of the Issuer or the City will be needed for the completion of the Project or for the operation of the Program.

It is expected that the Program can be implemented without subjecting some or all of the obligations thereafter to be issued by the Minnesota Housing Finance Agency to federal income tax.

Section 5, Bond Allocation. Because each member of the Walker Methodist Senior Services Obligated Group is a non-profit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), it is anticipated that the Bonds will be issued as "qualified 501(c)(3) bonds" pursuant to Section 145 of the Code. As such, no allocation of bonding authority is required under Section 146 of the Code.

Section 6. Evidence of Compliance; Method of Monitoring Implementation. The City may require from the Walker Methodist Senior Services Obligated Group, or such other persons deemed necessary at or before the issuance of the Bonds, evidence satisfactory to the City of the ability and intention of the Walker Methodist Senior Services Obligated Group to complete the refunding, repair, renovation, rehabilitation and improvements contemplated herein and evidence satisfactory to the City of compliance with the standards and requirements for making of the financing established by the City, and in connection therewith, the City or its representatives may inspect the relevant books and records of the Walker Methodist Senior Services Obligated Group in order to confirm such ability, intention and compliance. In addition, the City may periodically require certification from the Walker Methodist Senior Services Obligated Group, or such other

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person deemed necessary, concerning compliance with various aspects of the Program and the Code.

**Section 7. Severability.** The provisions of this Program are severable and if any of its provisions, sentences, clauses or paragraphs shall be held unconstitutional, contrary to statute, exceeding the authority of the City or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**Section 8. Amendment.** This Program shall be a component of and amendment to the Housing Plan of the City as recognized by the Act. The City shall not amend this Program while Bonds are outstanding to the detriment of the holders of such Bonds.

**ADOPTED this 22<sup>nd</sup> day of September, 1998.**

Motion carried on rollcall vote - four ayes.

There being no further business on the Council Agenda, Mayor Smith declared the meeting adjourned at 11:15 P.M.

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City Clerk