

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
APRIL 18, 2000
7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Johnson, Kelly, and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Kelly and seconded by Member Johnson approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF APRIL 4, 2000, AND BOARD OF REVIEW OF APRIL 10, 2000, APPROVED** Motion made by Member Kelly and seconded by Member Johnson approving the Minutes of the Regular Meeting of April 4, 2000, and April 10, 2000, Board of Review Minutes.

Motion carried on rollcall vote - four ayes.

***FINAL DEVELOPMENT PLAN, FAIRVIEW SOUTHDALE HOSPITAL CONTINUED TO MAY 2, 2000** Motion made by Member Kelly and seconded by Member Johnson continuing Final Development Plan for Fairview Southdale Hospital until May 2, 2000.

Motion carried on rollcall vote - four ayes.

***CONDITIONAL USE PERMIT, FAIRVIEW SOUTHDALE HOSPITAL CONTINUED TO MAY 2, 2000** Motion made by Member Kelly and seconded by Member Johnson continuing Conditional Use Permit for Fairview Southdale Hospital until May 2, 2000.

Motion carried on rollcall vote - four ayes.

FINAL REZONING AND FINAL PLAT GRANTED, ORDINANCE NO. 850-A17 AND RESOLUTION 2000-47 ADOPTED, BRAEWOOD SECOND ADDITON, WEST 78TH STREET, FRAUENSHUH COMPANIES Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen noted the Council had granted preliminary rezoning and preliminary plat approval to the Frauenshuh Companies on February 15, 2000, for property in the northeastern quadrant of Highways 169 and 494. Mr. Larsen explained the subject property is approximately 13 acres and zoned Planned Office District, POD-1.

The current proposal would subdivide the property into two lots, rezoning the large lot (Lot 1) to POD-2 leaving Lot 2 zoned POD-1. POD-1 districts limit building height to four stories while POD-2 districts do not have height limits. Lot 1 would be developed immediately and Lot 2 held for future development. Preliminary approval was conditioned upon the

Minutes/Edina City Council/April 18, 2000

proponent acquiring necessary permits from MnDOT and Nine Mile Creek Watershed District, which have been granted.

The proponents have submitted plans requesting final rezoning and final plat approval. The building proposed for Lot 1 would be seven stories in height and has been increased in size to contain a gross floor area of 178,234 square feet. On-site parking has been increased to 743 stalls to support the increased building size.

Mr. Larsen noted that two variances are requested with the proposed plans, both front street setback distances. The proposed building is 122 feet 8 inches high measured from grade to the top of the penthouse. The ramp measures 75 feet in height. Setback variances of 87 feet 8 inches for the building and 40 feet for the ramp are required.

The proposed building will be served by an extension of the West 78th Street/frontage road that now ends at the east side of the site. The new road will extend west and then north to the Valley View/169 interchange.

Member Faust asked if the frontage road would be completed before the building was constructed. Mr. Larsen explained that construction of the road would begin before the building, but not be completed until after the building is done.

No public comment was offered.

Motion of Member Johnson, seconded by Member Faust to close the public hearing.

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

Member Kelly made a motion introducing the following resolution and moving its adoption:

**RESOLUTON NO. 2000-47
APPROVING FINAL PLAT
FOR BRAEWOOD PARK SECOND ADDITION**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "BRAEWOOD PARK SECOND ADDITION", platted by DRF Holdings LLC, A Minnesota Limited Liability Partnership and presented at the regular meeting of the City Council on April 18, 2000, be and is hereby granted final plat approval. Passed and adopted by the Edina City Council this 18th day of April 2000.

Member Johnson seconded the motion.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Resolution adopted.

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

**ORDINANCE NO. 850-A17
AN ORDINANCE AMENDING THE ZONING ORDINANCE (NO. 850)
BY REZONING PROPERTY TO**

**PLANNED OFFICE DISTRICT -2 (POD-2)
FROM PLANNED OFFICE DISTRICT -1 (POD-1)**

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 Planned Office District -2 (POD-2) is enlarged by the addition of the following property:

LOT ONE, BLOCK ONE, BRAEWOOD PARK SECOND ADDITION

The extent of the Planned Office District -1 (POD-1) is reduced by removing the property described above from the Planned Office District-1.”

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

Passed and adopted this 18th day of April, 2000.

Attest

City Clerk

Mayor

Member Johnson seconded the motion.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

***PRELIMINARY REZONING AND OVERAL DEVELOPMENT PLAN, GRANDVIEW SQUARE CONTINUED TO MAY 2, 2000 Motion made by Member Kelly and seconded by Member Johnson continuing Preliminary Rezoning and Overall Development Plan for Grandview Square, Ron Clark/Opus Development until May 2, 2000.**

Motion carried on rollcall vote - four ayes.

OLINGER RIDGE PRELIMINARY PLAT APPROVED Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Mr. Larsen stated the subject property is a developed single dwelling lot measuring 105,066 square feet in area. The property is neck shaped with the bulk of the land located approximately 200 feet west of Olinger Road. The property has 75 feet of frontage on Olinger Road with a considerable slope from north to south. The proposed subdivision would remove the existing home and plat two new lots.

Mr. Larsen explained that when subdividing property the Edina code measures lot width at a point 50 feet back from the street. Therefore, each of the new lots would require a lot width variance because at the point of measurement they are respectively 38 feet and 37 feet. However, he pointed out both lots measure 121 feet in width, further back at the building pad. Lot 1 would be 375 feet deep and Lot 2 would be 337 feet deep.

Mr. Larsen added this situation results from the proponent’s desire to serve the two new lots with a shared driveway instead of a new public street. He noted there would be the ability to

Minutes/Edina City Council/April 18, 2000

provide the necessary right-of-way to construct a normal 30-foot street and cul de sac. However, such a street would be very close to the back of the houses on Grove Circle and would require removal of some of the large pine trees on the northerly portion of the subject property. The shared driveway concept appears to be a better option in this case.

Mr. Larsen reported that the Planning Commission recommends approval of the preliminary plat for Olinger Ridge with four conditions: Final plat approval; Subdivision dedication; Watershed district permit; and Increasing driveway width to 18 feet.

Member Faust asked about drainage from the new lots and why one driveway was proposed, instead of two? Mr. Larsen stated that the watershed district will review the drainage, but drainage may not increase or change direction after platting. He explained that one driveway was proposed to keep the hard surface to a minimum, however, cross easements would be provided and adequate land existed to allow individual driveways be built if necessary.

Carla Young, 5210 Malibu Drive, explained she is the proponent, and a new resident to Edina Ms. Young said she plans to move the existing home. After moving the home, Ms. Young plans to build a new home on one lot and sell the other.

No public comment was heard.

Motion of Member Johnson, seconded by Member Faust closing the public hearing.

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

Member Johnson made a motion introducing the following resolution and moving its adoption with four conditions: Final plat approval; Subdivision dedication; Watershed district permit; and Increasing driveway width to 18 feet:

RESOLUTON NO. 2000-48

**APPROVING PRELIMINARY PLAT
FOR OLINGER RIDGE ADDITION**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "OLINGER RIDGE ADDITION", platted by Carla Young, and presented at the regular meeting of the City Council on April 18, 2000, be and is hereby granted preliminary plat approval.

Passed and adopted by the Edina City Council this 18th day of April 2000.

Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Resolution adopted.

FINAL DEVELOPMENT PLAN APPROVED, K.E. PETERS BILLIARD SUPPLY, INC. 7685 PARKLAWN AVENUE Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Mr. Larsen explained the proponents were asking approval for a 4,500 square foot addition to the rear of the existing office/warehouse building located at 7685 Parklawn Avenue. The building currently contains 25,000 square feet of warehouse space, and 3,000 square feet of office space. The addition would house a shop for the assembly of pool tables with both the warehouse area and office space area continuing unchanged. Mr. Larsen said the proponent indicated his intent to remove the blue paint that exists on the front of the building. He added that Edina code requires 35 parking space and the proposed plan provides 44 spaces.

Mr. Larsen reported the Planning Commission recommended approval of the final development plan conditioned upon a watershed district permit.

No public comment was received.

Motion of Member Faust, seconded by member Johnson to close the public hearing.

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

Member Johnson made a motion introducing the following resolution and moving its adoption conditioned upon obtaining the necessary watershed district permit:

RESOLUTION NO. 2000-49

**APPROVING FINAL DEVELOPMENT PLAN
FOR PETERS BILLIARD WAREHOUSE**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that the Final Development plan dated March 23, 2000, for K.E. Peters Billiard Supply, Inc. on 7685 Parklawn Avenue presented at the regular meeting of the City Council on April 18, 2000, be and is hereby approved.

Passed and adopted by the Edina City Council this 18th day of April, 2000.

Member Kelly seconded the motion.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Resolution adopted.

***BID AWARDED FOR IMPROVEMENT NO. LS-22, CONTRACT 00-5 (ENG) 6630 DAKOTA TRAIL SANITARY SEWER LIFT STATION** Motion made by Member Kelly and seconded by Member Johnson for award of bid for Improvement No. LS-22, Contract 00-5 (ENG) 6630 Dakota Trail Sanitary Sewer Lift Station to F. F. Jedlicki, Inc., at \$74,000.00.

Motion carried on rollcall vote - four ayes.

***BID AWARDED FOR IMPROVEMENT NO. A-096, CONTRACT 00-4 (ENG) WEST 56TH STREET, CURB AND GUTTER** Motion made by Member Kelly and seconded by Member Johnson for award of bid for Improvement No. A-096, Contract 00-4 (ENG) West 56th Street, Curb and Gutter to Hardrives at \$87,642.60.

Motion carried on rollcall vote - four ayes.

*BID AWARDED FOR RETROFITTED ENGINE & PUMP ONTO WATER DEPARTMENT TANKER TRUCK Motion made by Member Kelly and seconded by Member Johnson for award of bid for retrofitted engine and pump onto Water Tanker Truck to recommended low bidder, Ruffridge Johnson at \$16,131.00.

Motion carried on rollcall vote - four ayes.

*TRAFFIC SAFETY STAFF REVIEW OF APRIL 3, 2000 APPROVED Motion made by Member Kelly and seconded by Member Johnson approving the Traffic Safety Staff Review of April 3, 2000, Section A, 1, as follows:

1. - Move the Bus STOP from Ohms Lane to the South West quadrant of 75th Street and Ohms Lane;
 - Put the 10 minute parking back on the east side of Ohms Lane north of the post office entrance driveway. The original 10 minute slots previously in place between West 74th Street and the entrance to the post office will not be replaced for safety reasons.
 - Leave in place the 10-minute parking on West 74th Street east of the post office exit driveway.
 - Re-stripe and re-position the centerline on Ohms Lane approaching West 74th Street allowing easier truck and bus turning from West 74th Street to northbound Ohms Lane.
2. Ohms Lane from West 72nd Street to West 74th Street be re-stripped along with lane "merge" signs to properly reflect intended use of that road.
3. Written approval required for the installation of 8 A.M. to 6 P.M. parking by permit only - Monday through Friday, for the west side of France Avenue from West 47th Street to West 49th Street during the construction of the north ramp at West 49 ½ Street subject to County permit and legal review by City Attorney; and

Sections B and C.

Motion carried on rollcall vote - four ayes.

APPEAL OF ADMINISTRATIVE PENALTY FOR DANIEL'S ITALIAN RESTAURANT AND TWO GUYS FROM ITALY CONTINUED TO MAY 2, 2000 Motion made by Member Kelly and seconded by Member Faust continuing action of the administrative penalty appeal for Daniel's Italian Restaurant and Two Guys From Italy until May 2, 2000.

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

*APPEAL OF ADMINISTRATIVE PENALTY EDEN FOR AVENUE GRILL CONTINUED TO MAY 2, 2000 Motion made by Member Kelly and seconded by Member Johnson continuing appeal of administrative penalty Eden Avenue Grill until May 2, 2000.

Motion carried on rollcall vote - four ayes.

*RESOLUTION APPROVING TRANSFER OF CONTROL OF KBL CABLESYSTEMS OF THE SOUTHWEST, INC. Motion made by Member Kelly and seconded by Member Johnson introducing the following resolution and moving its adoption:

RESOLUTION NO. 2000-46

**APPROVING THE TRANSFER OF CONTROL OF KBL
CABLESYSTEMMS OF THE SOUTHWEST, INC., THE CABLE
TELEVISION FRANCHISEE, RESULTING FROM THE MERGERS OF
SUBSIDIARIES FO TIME WARNER, INC. AND AMERICA ONLINE,
INC. INTO AOL TIME WARNER, INC.**

WHEREAS, on or about January 1, 1987, the City of Edina, Minnesota ("City") passed and adopted Ordinance No. 1996-4, granting a Cable Television Franchise ("Franchise") currently held by KBL Cable systems of the Southwest, Inc. ("Franchisee"), a subsidiary of Time Warner, Inc., doing business as Time Warner Cable (collectively, "TWI"); and

WHEREAS, on January 10, 2000, a certain Agreement and Plan of Merger ("Merger Agreement") was made and entered into by and among TWI and America Online, Inc. ("AOL"); and

WHEREAS, the Merger Agreement contemplates the merging of a to-be-formed TWI subsidiary and a to-be-formed AOL subsidiary with a parent holding company known as AOL Time Warner, Inc. ("AOL Time Warner"); and

WHEREAS, under the Franchise and applicable state and federal law, the proposed mergers and resulting transfer of control of the Franchisee require consent from the City ; and

WHEREAS, the City has reviewed the proposed mergers, transfer of control, and the legal, technical, and financial qualifications of AOL Time Warner; and

WHEREAS, based on information obtained and on the reports and information received by the City from TWI and AOL, the City has found no reason to disapprove of the proposed transfer of control of the Franchisee to AOL Time Warner.

NOW, THEREFORE, the City Council for the City resolves as follows:

- 1. The Franchise is in full force and effect, and the Franchisee is the lawful holder of the franchise.**
- 2. The franchisee will remain the lawful holder of the Franchise after consummation of the mergers contemplated under the Merger Agreement.**
- 3. The City hereby consents to and approves of the proposed transfer of control of the Franchisee subject to:**
 - a) Closing of the transaction contemplated within the Merger Agreement pursuant to the terms and conditions described in information provided to the City by TWI and AOL.**
 - b) AOL Time Warner of the Franchisee notifying the City in writing of the completion of the mergers and the transfer of control within thirty (30) days of the date of closing.**
 - c) The Franchisee, within thirty (30) days of the date of closing, providing the City with a signed acceptance of this Resolution in the form attached hereto and incorporated herein by reference.**
 - d) AOL Time Warner, TWO, or the Franchisee, within thirty (30) days of the date of adoption of this Resolution, reimbursing the City for substantially all reasonable costs, expenses and professional fees related to the City's review and action on the proposed mergers and the transfer of control.**
- 4. The City hereby waives an right of first refusal which the City may have to purchase the Franchise, or the cable television system serving the City, but only as**

such right of first refusal applies to the request for approval of the mergers and the transfer of control now before the City.

5. In the event the merger of the TWI and AOL subsidiaries into AOL Time Warner contemplated by the foregoing resolutions is not completed, for any reason, the City's consent shall not be effective.
6. The City's approval of the transfer of control does not waive or diminish any lawful authority of the City to require the provision of non-discriminatory access to the cable system for the providers of Internet access service, subject to applicable law. The City and the Franchisee have not waived any rights, obligations, claims, defenses or remedies regarding the authority of the City to impose such conditions. Prior to the enactment of any such requirement, the Franchisee shall be provided with reasonable notice and an opportunity to be heard, including the right to present evidence on any finding to be made by the City with respect to the need for such a requirement.
7. To the maximum extent permitted by all applicable local, state, and federal laws, this Resolution shall be not constructed to in any way relieve the Franchisee nor limit the Franchisee from any liability under the Franchise.

Passed and adopted by the Edina City Council this 18th day of April, 2000.

Motion carried on rollcall vote - four ayes.

***RESOLUTION 2000-50 ADOPTED APPROVING QUIT CLAIM DEED BETWEEN MnDOT AND CITY OF EDINA** Motion made by Member Kelly and seconded by Member Johnson introducing the following resolution and moving its adoption:

**RESOLUTION NO. 2000-50
APPROVING QUIT CLAIM DEED BETWEEN
MnDOT AND CITY OF EDINA AND AUTHORIZING
MAYOR AND CITY MANAGER TO EXECUTE SAID DEED**

WHEREAS, as part of negotiations with MnDOT providing 1-494/TH 169 interchange improvements involving City of Edina and MnDOT property, the City and MnDOT would exchange land allowing aforementioned improvement and allowing construction of a City of Edina frontage road; and

WHEREAS, a Quit Claim Deed must be modified by a new right-of-way plat to move the right of access control to the west side of the new frontage road; and

WHEREAS, the Council must take this conditional step to enable MnDOT to release a "lis pendens" action on the City property, removing a potential condemnation action so the City may sell to the developer.

NOW, THEREFORE, BE IT RESOLVED, by the Edina City Council hereby approves said "Quit Claim Deed" providing ponding, drainage, and temporary easements on Braewood Park property, subject to the new plat moving the access control line to the west side of the new frontage road.

BE IT FURTHER RESOLVED, that the Mayor and City Manager are hereby authorized to execute said deed on behalf of the City of Edina.

Adopted this 18th day of April, 2000.

Motion carried on rollcall vote - four ayes.

***2000-2001 LABOR AGREEMENT APPROVED FOR TEAMSTERS LOCAL 320 - POLICE OFFICERS** Motion made by Member Kelly and seconded by Member Johnson approving Teamsters Local #320 (Police Officers) Labor Agreement effective January 1, 2000, through December 31, 2000.

Motion carried on rollcall vote - four ayes.

***2000-2001 LABOR AGREEMENT APPROVED FOR LOCAL 320 - ANIMAL CONTROL** Motion made by Member Kelly and seconded by Member Johnson approving Teamsters Local #320 (Animal Control) Labor Agreement effective January 1, 2000, through December 31, 2000.

Motion carried on rollcall vote - four ayes.

***FEASIBILITY REPORT RECEIVED FOR IMPROVEMENT NO. A-189 - SCHOOL ROAD STREET RESURFACING IMPROVEMENT AND HEARING DATE SET OF MAY 2, 2000** Motion made by Member Kelly and seconded by Member Johnson introducing the following resolution and moving its adoption:

RESOLUTION NO 2000-51

**RECEIVING FEASIBILITY REPORTS FOR IMPROVEMENT PROJECT A-189,
SCHOOL ROAD STREET RESURFACING**

WHEREAS, reports have been prepared by the City Engineer with reference to the resurfacing of the following streets School Road from West 60th Street to Concord Avenue, Ruth Drive, and West 59th Street Improvement Project No. A-189; and

WHEREAS, said reports were received by the City Council on April 18, 2000.

NOW THEREFORE, BE IT RESOLVED, by the City Council of Edina, Minnesota, the Council will consider the improvement of such aforementioned streets in accordance with the report and the assessment of abutting property for all or a portion of the cost of the improvements pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvements of \$120,000.00.

Adopted this 18th day of April, 2000.

Motion carried on rollcall vote - four ayes.

CONCERNS OF RESIDENT EXPRESSED Kathy Sommerville, 5217 Danens Drive voiced concern over the proposed joint School District City of Edina park project proposed for the Edina Community Center. She referred to a petition requesting the City and School District look for another site for the new gymnasiums submitted to the City Clerk by Margo Henke April 18, 2000. Mayor Maetzold acknowledged receipt of the petition and explained that the Council will most likely hold a public hearing after receiving the Decision Resources' community survey results. Manager Hughes briefly reviewed a preliminary calendar of dates for the referendum project.

John Menke, 5301 Pinewood Trail, explained that he wanted to publicly thank the City staff especially Planner Craig Larsen and Planning Secretary, Jackie Hoogenakker for their efforts in informing neighborhood residents that the Grandview Square item would be continued until May 2, 2000.

Minutes/Edina City Council/April 18, 2000

CLAIMS PAID Motion made by Member Kelly approving payment of the following claims as shown in detail on the Check Register dated April 12, 2000, and consisting of 29 pages: General Fund \$285,752.16; C.D.B.G. \$1,000.00; Communications \$7,209.03; Working Capital \$13,359.91; Art Center \$6,251.38; Golf Dome Fund \$4,195.05; Swimming Pool Fund \$447.50; Golf Course Fund \$106,610.59; Ice Arena Fund \$26,561.97; Edinborough/Centennial Lakes \$23,016.29; Utility Fund \$108,722.66; Storm Sewer Utility Fund \$668.81; Recycling Program \$37,935.20; Liquor Dispensary Fund \$204,197.25; Construction Fund \$6,561.00; Park Bond Fund \$2,867.58; TOTAL \$835,356.38. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Johnson, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold adjourned the Council Meeting at 7:50 P.M.

City Clerk