

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
July 16, 2002  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly was absent.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Hovland and seconded by Member Housh approving the Council Consent Agenda as presented with the exception of Agenda Item X.B. - Resolution No. 2002-62, Authorizing the Sale of Taxable General Obligation Tax Increment Bonds - Series 2002.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2002-59 IN APPRECIATION FOR FOURTH OF JULY PARADE COMMITTEE** Mayor Maetzold commended the July 4<sup>th</sup> Parade Planning Committee for their tireless efforts and sincere dedication in providing a true community celebration.

Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2002-59**

**RESOLUTION OF APPRECIATION**

**WHEREAS, more than a dozen dedicated men and women in the community began work nearly a year ago to organize the City's seventh-annual Independence Day parade; and**

**WHEREAS, the Committee raised \$18,100 to provide quality entertainment, including marching bands and music, costumed characters, clowns, stilt-walkers and other performers; and**

**WHEREAS, the Committee staged a touching tribute to U.S. veterans of World War II and the Korean and Vietnam wars; and**

**WHEREAS, Top Cop Mike Blood of the Edina Police Department served as the parade's grand marshal; and**

**WHEREAS, the Committee recognized the enormous contributions made by the Public Safety professionals of Edina and surrounding communities; and**

**WHEREAS, a crowd of an estimated 15,000 people attended the parade made up of more than 100 entertaining units.**

**NOW, THEREFORE, BE IT RESOLVED, that the Edina City Council, City staff and all Edina residents hereby express their thanks and dedication to the**

**JULY 4 PARADE PLANNING COMMITTEE**

**made up of chairwoman Laurie Jung, and committee members Mary Brindle, Susan Covnick, Scott Crosbie, Emily Hite, Warren Hite, Colleen Jones, Karen Knudsen, Patty Latham, Harold Liljenquist, Meg Martin, Lauren O'Conner, Jeff Shlosberg, Edina Communications Director Jennifer Wilkinson, staff liaison Susie Miller, and Edina Police Sgt. Phil Larsen for their tireless efforts and sincere dedication in providing a true community celebration.**

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Passed and adopted this 16th day of July 2002.

Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF JULY 2, 2002, APPROVED Motion made by Member Hovland and seconded by Member Housh approving the Minutes of the Regular Meeting of the Edina City Council for July 2, 2002.**

Motion carried on rollcall vote – four ayes.

**RESOLUTION NO. 2002-60 - FINAL DEVELOPMENT PLAN APPROVED FOR FRAUENSHUH COMPANY (NORTHEASTERN QUADRANT OF I-494 AND HWY 169)**

Affidavits of Notice were presented, approved and ordered placed on file.

Staff Presentation

Planner Larsen explained the Council had approved rezoning and final development plan of the subject property in 2000. The original plan rezoned the property to POD-2 to allow the construction of a seven-story office building with a floor area of 168,258 square feet. To support that building a seven-story parking structure was also approved. Mr. Larsen noted that construction of the approved plan was not undertaken and the site has remained vacant to date.

Mr. Larsen said Frauenshuh has proposed a revised development plan. The revised plan calls for an eight-story building supported by a five level parking structure. The proposed building would have a gross floor area of 183,560 square feet. Total parking provided would be 773 spaces. Mr. Larsen reported the developer intended to develop the site in two phases. Phase 1 would be a two-story building supported by a surface parking lot containing 185 spaces. Their plan illustrated the ability to add an additional 42 spaces east of the proposed building. The building would contain a floor area of 44,528 square feet. Mr. Larsen said the proposed building would be a medical office clinic. Edina's Zoning Ordinance requires one additional space per doctor in addition to the basic parking requirement for an office. This equated to 261 spaces for the proposed office. However, the plan provides 185 spaces plus 45 spaces suggested as proof of parking. The variance request would be either 76 or 34. Mr. Larsen said the proposed parking would encroach on a 75-foot power line easement that would require approval from Excel Energy. Mr. Larsen said the proposed building complied with all other Zoning Ordinance regulations.

Mr. Larsen explained that the ultimate development would be an eight-story building with a gross floor area of 183,560 square feet. For a medical office use of this size 946 parking spaces would be required. The proposed parking structure would provide 773 spaces requiring a 173 space parking variance. In addition, the required setback for a building taller than 35 feet is equal to the height of the building. Since the proposed building will be 121 feet tall, an 86-foot variance is required.

Mr. Larsen said the Planning Commission recommended approval of the final development plan with four conditions:

1. Proof of Parking Agreement – requiring the parking structure be built to provide an additional level of parking if deemed necessary;

2. Excel Energy approval of Phase 1 parking plan;
3. Watershed District permits; and
4. MnDOT permits, if required.

Steve Dodie, Architect for Frauenshuh and Dave Frauenshuh explained the concept of the office development. In addition, Mr. Frauenshuh stated that the developers would build the parking structure so another level could be added if deemed necessary.

Council expressed concerns with parking, transit and asked questions regarding the Medical Office concept, when Phase 2 could be expected to begin construction. Mr. Frauenshuh said he would work with the City on the issues and that it was his hope to begin the second phase almost simultaneously.

No public comment was received.

**Motion of Member Masica, seconded by Member Housh to close the public hearing.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**Member Housh introduced the following resolution and moved its adoption with three conditions: Proof of Parking Agreement; Watershed District Permits and MnDOT Permits:**

**RESOLUTION NO. 2002-60  
APPROVING FINAL DEVELOPMENT PLAN  
FRAUENSHUH**

**BE IT RESOLVED, that the Final Development Plan dated June 12, 2002, submitted by Frauenshuh Companies for an office tower to be constructed at T.H. 169 and I-494; and presented to the Edina City Council, July 16, 2002, is hereby approved.**

**Passed and adopted this 16<sup>th</sup> day of July 2002.** Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2002-61 - CONDITIONAL USE PERMIT APPROVED FOR ST. PETER'S LUTHERAN CHURCH AND SCHOOL DAY CARE FACILITY (3721 WEST FULLER STREET)** Affidavits of Notice were presented, approved and ordered placed on file.

Staff Presentation

Mr. Larsen stated St. Peter's Church and School owned the house located at 3721 West Fuller Street and was requesting to be allowed to use the house for child day care. He explained the site was zoned R-1, Single Dwelling Unit District, noting that day care was a permitted use in the R-1 zoning districts. Until recently, the church has used the house as a rental property. The exterior of the house would be unchanged. Mr. Larsen said that the Planning Commission recommended the City Council approve the conditional use permit allowing the day care facility.

Member Masica asked if the house was currently on the City's tax rolls. John Orrick, principle of St. Peter's School said that no one would live in the house and that it was

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currently on the tax rolls. Mr. Orrick stated that since the day care facility would be non-profit the church was requesting the house be removed from the tax rolls.

Public Comment

Wendy Brockman, 3624 West Fuller Street asked about traffic studies. Ms. Brockman said that traffic is a huge concern since trucks and buses use Fuller to turn on. She added that when parents are delivering or picking up children from school it can be very congested.

Mayor Maetzold suggested this would be an issue to be addressed by the Traffic Task Force recently formed.

**Motion of Member Housh, seconded by Member Masica to close the public hearing.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**Member Housh introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2002-61  
GRANTING A  
CONDITIONAL USE PERMIT  
TO ST. PETER'S LUTHERAN CHURCH**

**WHEREAS, the procedural requirements of Code Section 850 (the Zoning Ordinance) have been met; and**

**WHEREAS, it has been determined that the Findings as required by Code Section No. 850.04 Subd. 4 have been satisfied:**

**NOW, THEREFORE, BE IT RESOLVED that the Edina City Council hereby grants a Conditional Use Permit to St. Peter's Lutheran Church, to allow St. Peters to operate a day care facility at 3721 West Fuller Street.**

**Passed and adopted this 16<sup>th</sup> day of July 2002.** Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**RELEASE OF DEED RESTRICTIONS FOR OAK GLEN TOWNHOUSES APPROVED**

Planner Larsen explained the subject property was located near 70<sup>th</sup> Street, west of Cahill Road and North of Dewey Hill. The Section 8 contract for Oak Glen Townhouses expired in 2001. The owner, Minnesota Housing Finance Agency (MHFA) has negotiated an extension of the contract. An agreement has been reached with the owner agreeing to invest approximately one million dollars for repair, maintenance and improvements. They have requested \$500,000.00 from the East Edina Housing Foundation (EEHF) to assist with this effort.

The EEHF met on June 25, 2002, to consider the request and agreed to extend the following offer of assistance:

- \$175,812 as a grant to cover lost rents during the rehabilitation period.
- \$324,188 as a loan bearing simple interest of three percent. The loan would become a grant if the owner extended the contract beyond ten years.
- The Foundation agreed to recommend the City Council and the HRA release Deed Restrictions imposed on the property as part of the initial contract.

The owner has agreed to the proposed terms.

Mr. Larsen explained that most of the Deed Restrictions imposed on Oak Glen deal with MHFA and HUD requirements. The City granted variances for the development that were also recorded in the Deed Restrictions. Variances were for, 1) the number of garage stalls, 2) allowing construction with a single wall and not a double wall between units, and 3) exemption from individual utility connections for each unit. The owner has requested release of the Deed Restrictions.

Mr. Larsen concluded the EEHF and City staff recommend the Council release the restrictions. There was no demonstrated need to cure the variances. Parking on site has not been an issue. If the project were to go market rate in the future, it would be determined if these items were an issue that would impede the sale/rental of units. It would be the owner's obligation to correct any deficiencies.

Council comment:

Member Masica inquired about the breakdown of the sixty-four units. Mr. Larsen said there were thirty-eight market rate units and twenty-six assisted. Ms. Masica asked where the grants/loans would be used. Mr. Larsen stated they would be used throughout the entire project. Ms. Masica asked what the plan was for any displaced tenants. Mr. Larsen explained the rehabilitation period would be extended so no one would be displaced. Ms. Masica inquired whether there was a disproportionate number of police calls to Oak Glen. Chief Siitari said no, Oak Glen does not generate more calls than any other location.

Member Hovland asked if contributions have been solicited from the Metropolitan Council. Mr. Larsen said there did not seem to be an availability of funds and the timing was not right. Mr. Hovland asked if the money would be used on all the units. Mr. Larsen said the rehabilitation would take place on the entire property. Mr. Hovland voiced concern that the \$324,188 loan would become a grant if the contract were extended beyond 10 years. He would prefer a term beyond an extension would be reached during which the conversion would take place. Mr. Larsen stated the owner had requested the entire \$500,000.00 be a grant. He added the extensions would be in five-year increments. Mr. Hovland suggested with no agreement in place formally, conditionally releasing the deed restrictions, based upon the execution of an agreement satisfactory to the City of Edina. Mr. Gilligan concurred. Mr. Hovland asked if window repair was included in the scope of work. Mr. Larsen said not at the present time, but MHFA has yet to agree on repairs that are necessary and make them.

Member Housh commended Mr. Larsen for his diligent work in keeping this type of housing in Edina, as well as the EEHF.

No further comments were heard.

**Member Masica made a motion to release the deed restrictions in the deed for the HRA to the developer and to release the City variance approvals previously given conditioned upon the closing with the Minnesota Housing Finance Agency (MHFA).**

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

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Motion carried.

**\*BID AWARDED FOR A FOUR-WHEEL DRIVE PICK-UP TRUCK - PARK MAINTENANCE** Motion made by Member Hovland and seconded by Member Housh for award of bid for a four-wheel drive pick-up truck to sole bidder, Nelson Dodge-GMC, under Hennepin County Contract at \$18,993.00 plus sales tax.

Motion carried on rollcall vote - four ayes.

**AWARD OF BID FOR SHERWOOD PUMP HOUSE RENOVATION - WM-405** Engineer Houle explained the pump house was located in Sherwood Park. Sherwood Park was adjacent to Grandview Square, just west of Hwy. 100 and east of Vernon Avenue. This project was initiated during the planning stages of Grandview Square to provide a canopy for park users. A neighborhood informational meeting garnered support from the residents.

Project Description:

1. Construct canopy along south side of pump house
2. Canopy would provide:
  - A. Meeting place for park users
  - B. Better security for pump house
  - C. Drinking fountain and water for park users
  - D. Electrical source for park users

Mr. Houle presented graphics depicting the proposed renovation for the Sherwood pump house. The construction costs of the project would be \$71,500.00 and the project cost at \$80,000.00. Funding for the project will be equally divided between the Park Department and Utilities Department.

Following a brief Council discussion, **Member Hovland made a motion for award of bid for the Sherwood Pump House Renovation (WM-405) to recommended low bidder, Minnesota Construction at \$71,750.00.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**AWARD OF BID FOR TRAFFIC SIGNAL AT VERNON AVENUE AND GLEASON ROAD - TS-31** Mr. Houle said this project was for the construction of a traffic signal system at Vernon Avenue and Gleason Road (CSAH 158). He explained the location of the site was just north of T.H. 62 and east of Hwy. 169 along Vernon Avenue and Gleason Road. Construction of the signal was initiated by a traffic study for the Parkwood Knolls neighborhood in the winter of 2000. The reason for the request was; 1) traffic on Vernon Avenue has increased, and 2) safety and capacity of east bound vehicles entering Vernon Avenue at Vernon Avenue and Gleason Road. Mr. Houle noted that the proposed improvements were a part of the transportation comprehensive plan.

Completed and Proposed Projects:

1. Educate traveling public of alternate routes to the north
2. Reconfigure intersection of Londonderry Road and Lincoln Drive
3. Improve Pedestrian Safety at Vernon Avenue and Arctic Way/Tamarac Avenue
4. Install signal at Vernon Avenue and Gleason Road

5. Continue study of Lincoln Drive/Vernon Avenue

Mr. Houle presented graphic depictions of the intersection orientations. The total cost of the traffic signal construction would be \$143,695.00 and was completely funded through Municipal State Aid.

Following a brief Council discussion, **Member Hovland made a motion for award of bid for the traffic signal at Vernon Avenue and Gleason Road (TS-31) to recommended low bidder, Collins Electrical Systems, Inc., at \$143,695.00.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**\*BID AWARDED FOR STORM SEWER IMPROVEMENTS AT FORSLIN DRIVE AND HANSEN ROAD - STS-269 Motion made by Member Hovland and seconded by Member Housh for storm sewer Improvement No. STS-269 at Forslin Drive and Hansen Road to recommended low bidder, Kusske Construction Co., Inc., at \$126,357.50.**

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR WATERMAIN AND STORM SEWER IMPROVEMENTS - STS-277 AND WM-407 Motion made by Member Hovland and seconded by Member Housh for watermain and storm sewer Improvement Nos. STS-277 and WM-407 at Woodland Road to recommended low bidder, Kusske Construction Company, Inc., at \$119,642.50.**

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR JETTER/VACUUM SEWER CLEANING MACHINE Motion made by Member Hovland and seconded by Member Housh for award of bid for one combination Jetter/Vacuum Sewer Cleaning Machine to MacQueen Equipment, Inc., under State Contract #428492 at \$224,886.00.**

Motion carried on rollcall vote - four ayes.

**\*TRAFFIC SAFETY STAFF REVIEW APPROVED FOR JULY 1, 2002 Motion made by Member Hovland and seconded by Member Housh approving the Traffic Safety Staff Review for July 1, 2002, Section A:**

1. Removal of the three "NO PARKING SUNDAYS" 7:00 A.M. - 1:00 P.M." signs, located between 5816 Olinger Boulevard and 5900 Olinger Boulevard;
2. Installation of "STOP" sign for northbound Monterey at West 40<sup>th</sup> Street to accompany a "STOP" sign installed by City of St. Louis Park for southbound Monterey;

**Section B and C.**

Motion carried on rollcall vote - four ayes.

**MINNEAPOLIS MEDIATION SERVICES PRESENTATION** Manager Hughes introduced Michele Gullickson-Moore from Minneapolis Mediation Services. Ms. Gullickson-Moore gave background into the Minneapolis Mediation Program and offered assistance with community mediation services, public hearing facilitation services, strategic planning services, education, conflict management, etc. Most referrals come via the Police Department, and the Planning and Health Departments. Ms. Gullickson-Moore shared that they do not

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handle divorces, custody concerns or guardianship disputes. Clients seem to come to them because they are not served well from existing processes.

No formal Council action was taken.

**INFORMATION PRESENTED ON TERRORISM INSURANCE** Mr. Hughes reminded the Council the issue of terrorism insurance was heard at a previous Council meeting. A letter from Aon Risk Services, dated July 16, 2002, from Jack Carroll, Director, was presented. Mr. Hughes explained it was found no urban counties were carrying terrorism endorsements on their insurance. The League of Minnesota Cities, LMC, presently has some coverage but that may end at year's end. He said most Minnesota cities insured with the LMC would have coverage. Terrorism insurance cannot be purchased from the LMC. In order to acquire this coverage, all of the City's insurance would have to be through the LMC. Mr. Carroll informed the Council that terrorism insurance could be purchased as an individual policy through an application process and likely would include a \$25,000 deductible. The estimated annual premium would be approximately \$80,000.00. Mr. Hughes said Mr. Carroll did not recommend acquiring that coverage.

Member Housh asked why the League would not be given the opportunity to write all of the City's insurance coverage if they have the terrorism coverage. Assistant to the City Manager Smith noted that St. Paul Companies and Travelers have favorable rates.

Member Hovland voiced concern with 1) premium costs and 2) what exclusions would be written in the policy. He suggested checking with LMC about the exclusions they have in their policy.

Mayor Maetzold voiced concern with something happening to the City's water system. Mr. Housh said picking and choosing coverages within a policy was generally not allowed. Ms. Smith noted that LMC could be solicited for terrorism coverage. If the City were to become disenchanted with the service/coverage, the City may not be as desirable an insured on the open market.

Mr. Hughes indicated in order to bring the terrorism insurance question to a close, he suggested inviting Jack Carroll from AON Risk Services and a representative from the League of Minnesota Cities to the next Council meeting.

No Council action was taken.

**\*CHANGE ORDER NO. 1, WELL #5, MAINTENANCE IMPROVEMENT APPROVED NO. WM-398 - CONTRACT NO. 02-5PW Motion made by Member Hovland and seconded by Member Housh approving Change Order No. 1, Well #5, Maintenance Improvement No. WM-398, Contract No. 02-5PW, at \$8,481.00.**

Motion carried on rollcall vote - four ayes.

**KUHLMAN FIELD RE-OPENING NOTED** Linda Presthus, 7104 Lanham Lane, representing the Edina High School Football Team and the Edina Athletic Booster Board explained they have been approached by Outback Steak House of Eden Prairie to host a tailgate fundraiser prior to a 2002 high school football game on August 29, 2002. The

fundraiser coincidentally happens on the night of the grand re-opening of Kuhlman Field and would also follow the "Connecting With Kids" community involvement. She requested endorsement by the Council for the event. Mayor Maetzold voiced approval of the proposal and offered Council support.

No Council action was taken.

**RESOLUTION NO. 2002-63 COOPERATIVE CONSTRUCTION AGREEMENT WITH MNDOT (BA-323) VALLEY VIEW ROAD AND WEST 65<sup>TH</sup> STREET**

Mr. Houle explained that during the review process of the intersection improvement at TH62 and Valley View Road, it was determined work performed on the eastbound off-ramp will affect the installation of an overhead sign MnDOT was planning for this summer. A cooperative agreement with MnDOT was required for their approval of this intersection improvement. The City of Edina could not award this project until the agreement was fully executed according to State Statute. Mr. Houle elaborated that bids were opened on July 10, 2002, but would be held pending the signing of the agreement. The anticipated start of the project would be in September with completion early in the summer of 2003.

Mr. Houle presented graphic depictions of the proposed subject intersection improvements.

**Member Hovland introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2002-63**

**BE IT RESOLVED that the City of Edina, enter into Mn/DOT Agreement No. 83541 with the State of Minnesota, Department of Transportation for the following purposes, to wit:**

**To provide for payment by the State to the City of The State's share of the costs of the overhead sign construction and associated construction engineering to be performed along Trunk Highway No. 62 at Engineer station 58+50 within the corporate City limits under State Project No. 2774-13, State Aid Project No. 120-010-04 and State Aid Project No. 120-150-06**

**IT IS FURTHER RESOLVED that the Mayor and City Manager are authorized to execute the Agreement and any amendments to the Agreement.**

**Passed and adopted this 16th day of July, 2002. Member Housh seconded the motion.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**CONCERN OF RESIDENT** John Balch, 4532 Brookside Avenue, voiced a complaint that he had a sewer back-up in his basement on May 21, 2002, and asked for help. The Council encouraged Mr. Balch to acquire sewer back-up insurance and if he chose, to pursue his claim further.

**\*CONFIRMATION OF CLAIMS PAID** Member Hovland made a motion and Member Housh seconded the motion approving payment of the following claims as shown in detail on the Check Register dated July 3, 2002, and consisting of 32 pages: General Fund \$219,031.46; Communications Fund \$5,794.29; Working Capital Fund \$1,413.84; Art Center Fund \$2,252.25; Aquatic Center Fund \$186,945.71; Golf Course Fund \$21,128.80; Ice Arena Fund \$20,738.58; Edinborough/Centennial Lakes Fund \$3,129.61; Liquor Fund \$171,439.87;

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Utility Fund \$43,885.99; Storm Sewer Fund \$261.90; TOTAL \$676,022.30; and for approval of payment of claims dated July 11, 2002, and consisting of 28 pages: General Fund \$127,278.03; CDBG \$36.00; Communications Fund \$10,944.08; Working Capital Fund \$83,564.66; Construction Fund \$1,211.70; Art Center Fund \$10,919.97; Golf Dome Fund \$1,338.30; Aquatic Center Fund \$5,126.14; Golf Course Fund \$11,065.65; Ice Arena Fund \$32,427.77; Edinborough/Centennial Lakes Fund \$3,446.23; Liquor Fund \$108,377.97; Utility Fund \$10,261.01; Storm Sewer Fund \$13,531.28; Payroll Fund \$313,000.00; TOTAL \$732,528.79.

Motion carried on rollcall vote - four ayes.

**RESOLUTION NO. 2002-62 APPROVED - AUTHORIZING SALE OF TAXABLE GENERAL OBLIGATION TAX INCREMENT BONDS - SERIES 2002**

Mr. Hughes removed authorizing the sale of taxable general obligation tax increment bonds, series 2002 for additional information. Attorney Gilligan explained the subject area was for funding for the hazardous Subdistrict at Grandview Square and to finance the costs on a more permanent basis would be to have an inter-fund loan from the 50<sup>th</sup> & France District.

Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2002-62  
RESOLUTION AUTHORIZING ISSUANCE,  
AWARDING SALE, PRESCRIBING THE FORM AND DETAILS AND  
PROVIDING FOR THE PAYMENT OF  
GENERAL OBLIGATION TAX INCREMENT BONDS, SERIES 2002**

**BE IT RESOLVED** by the City Council of the City of Edina, Minnesota (the "Issuer"), as follows:

**Section 1. Authorization and Sale.**

**1.01. Authorization.** This Council hereby determines that it is necessary and in the best interests of the Issuer to issue and sell its General Obligation Tax Increment Bonds, Series 2002 in the principal amount of up to \$1,400,000 (the "Bonds") pursuant to Minnesota Statutes, Section 469.178, to reimburse the costs of certain removal and remediation actions with respect to hazardous substances and pollutants or contaminants or petroleum releases paid by the Issuer or the Housing and Redevelopment Authority of Edina, Minnesota (the "HRA") in connection with the redevelopment project being undertaken by the HRA pursuant to the Grandview Area Redevelopment Plan of the HRA, and to refund outstanding bonds of the City issued to finance such costs.

**1.02. Sale.** The Bonds will be purchased by the HRA from advances made from time to time from surplus funds on hand in the project fund for the 50th and France Tax Increment Financing District of the HRA (the "Fund") which are not presently needed for the purposes of the Fund prior to the maturity of the Bonds. After issuance the Bonds will be held as an asset of the Fund.

**Section 2. Bond Terms; Registration; Execution and Delivery.**

**2.01. Issuance of Bonds.** All acts, conditions and things which are required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of the Bonds having been done,

now existing, having happened and having been performed, it is now necessary for the City Council to establish the form and terms of the Bonds, to provide security therefore and to issue the Bonds forthwith.

2.02. Maturity Date; Interest Rate; Denominations and Payment. The Bonds shall be originally dated as of the date of original issue thereof, shall be in the denomination of \$5,000 each, or any integral multiple thereof, of single maturities, shall mature on February 1, 2012, and shall bear interest from date of issue until paid or duly called for redemption at the annual rate of 3.00% on the amounts from time to time advanced thereunder. The Bonds shall be issuable only in fully registered form and only to the HRA. The Bonds may not be transferred by the HRA to any other owner. The principal of and the interest on the Bonds shall be payable by transfer of funds from the Bond Fund created in Section 3.02 hereof to the HRA.

2.03. Interest Payment Dates. Interest on the Bonds shall be payable on each August 1 and February 1, commencing February 1, 2003, and on the maturity date of the Bonds, to the HRA as the registered owner of the Bonds.

2.04. Redemption. The Bonds shall be subject to redemption and prepayment at the option of the Issuer, in whole or in part, and if in part in multiples of \$5,000, on any date at a price equal to the principal amount thereof and accrued interest to the date of redemption. No formal notice of redemption need be given. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the HRA representing the remaining principal amount outstanding.

2.05. Appointment of Paying Agent. The Issuer hereby appoints the Finance Director of the City of Edina as the paying agent for the Bonds (the Paying Agent).

2.06. Execution, Authentication and Delivery. The Bonds shall be prepared under the direction of the Finance Director and shall be executed on behalf of the Issuer by the manual signatures of the Mayor and the City Manager. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. When the Bonds have been prepared and executed, the Finance Director shall deliver the Bonds to the HRA upon payment of the purchase thereof.

2.07. Form of Bonds. The Bonds shall be prepared as a single typewritten bond in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
CITY OF EDINA

GENERAL OBLIGATION TAX INCREMENT BOND, SERIES 2002

| <u>Interest<br/>Rate</u> | <u>Maturity<br/>Date</u> | <u>Date of<br/>Original Issue</u> | <u>CUSIP</u> |
|--------------------------|--------------------------|-----------------------------------|--------------|
|--------------------------|--------------------------|-----------------------------------|--------------|

**REGISTERED OWNER: HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA**  
**PRINCIPAL AMOUNT:**

THE CITY OF EDINA, COUNTY OF HENNEPIN, MINNESOTA (the "Issuer"), acknowledges itself to be indebted and hereby promises to pay to the registered owner named above the principal sum specified above or such amount thereof as has been advanced hereunder on the maturity date specified above, with interest thereon on the unpaid principal amount at the annual rate specified above, payable on August 1 and February 1 of each year, commencing February 1, 2003, and on the maturity date specified above to said registered owner, subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.

This Bond is one of an issue in the aggregate principal amount of up to \$1,400,000 issued pursuant to a resolution adopted by the City Council on July 16, 2002 (the "Resolution") to provide funds to reimburse the costs of certain removal and remediation actions with respect to hazardous substances and pollutants or containments or petroleum releases paid by the Issuer or the Housing and Redevelopment Authority of Edina, Minnesota (the "HRA"), in connection with the redevelopment project being undertaken by the HRA pursuant to the Grandview Area Redevelopment Plan of the HRA, and to refund outstanding bonds of the City issued to finance such costs and is issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Chapters 469 and 475.

This Bond is subject to redemption and prepayment at the option of the Issuer, in whole or in part, and if in part in multiples of \$5,000, on any date, at a price equal to the principal amount thereof plus interest accrued to the date of redemption. No formal notice of redemption shall be required. Upon partial redemption of this Bond, a new Bond will be executed and registered in the name of the registered owner named above, representing the remaining principal amount outstanding.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the Issuer in accordance with its terms, have been done, do exist, have happened and have been performed as so required; that the Issuer has established its General Obligation Tax Increment Bonds, Series 2002 Bond Fund and has appropriated thereto ad valorem tax increments to be derived from the Grandview Area Tax Increment Financing District (Hennepin County No. 1202) of the HRA to be applied to the payment of the principal of and interest on the Bond; the Issuer has pledged its full faith and credit and taxing powers for the payment of the principal of and interest on the Bond when due, and if the Bond and the interest thereon are not paid in full when due, the Issuer is required to levy upon all taxable property within its corporate limits, without limitation as to rate or amount, an ad valorem tax in an amount sufficient to pay such principal and interest; and that the issuance of this Bond, together with all other indebtedness of the Issuer outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the

indebtedness of the Issuer to exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Edina, Hennepin County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the signatures of the Mayor and City Manager and has caused this Bond to be dated as of the Date of Original Issue set forth above.

CITY OF EDINA, MINNESOTA

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City Manager

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Mayor

**Section 3. Security Provisions.**

**3.01. Use of Proceeds.** Proceeds from the Bonds shall be applied to redeem a portion of the Issuer's Taxable General Obligation Tax Increment Bonds, Series 2000B, and any amount not applied for such purpose shall be used to reimburse the Issuer or HRA for costs paid by them for the purpose described in Section 1.01 which have not been previously reimbursed from any bonds of the Issuer or HRA.

**3.02. General Obligation Tax Increment Bonds, Series 2002 Bond Fund.** So long as any of the Bonds are outstanding and any principal of or interest thereon unpaid, the Finance Director shall maintain a separate debt service fund on the official books and records of the Issuer to be known as the General Obligation Tax Increment Bonds, Series 2002 Bond Fund (the Bond Fund), and the principal of and interest on the Bonds shall be payable from the Bond Fund. The Issuer irrevocably appropriates to the Bond Fund:

(a) ad valorem tax increments described in the last paragraph of this Section 3.02 to be received from the HRA; and

(b) the ad valorem taxes described in 3.03 hereof.

The moneys on hand in the Bond Fund from time to time shall be used solely to pay the principal of and interest on the Bonds.

Pursuant to Minnesota Statutes, Section 469.178, subdivision 2, the Issuer has entered into a pledge agreement with the HRA whereby the HRA will pay to the Issuer from tax increments generated by the Grandview Area Tax Increment Financing District (Hennepin County No. 1202) of the HRA tax increments sufficient, with any other funds appropriated by the Issuer to the Bond Fund, to pay when due the principal of and interest on the Bonds. Payments received by the Issuer pursuant to the agreement will be deposited into the Bond Fund.

**3.03. Pledge of Taxing Powers.** For the prompt and full payment of the principal of and interest on the Bonds as such payments respectively become due, the full faith, credit and unlimited taxing powers of the Issuer shall be and are hereby irrevocably pledged. It is hereby determined that the funds appropriated to the Bond Fund as set forth in Section 3.02 hereof will produce amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds, and therefore no ad valorem taxes are required to be levied at this time. Nevertheless, if the balance in the Bond Fund is at any time insufficient to pay all interest and principal then

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due on all Bonds payable therefrom, the payment shall be made from any fund of the Issuer which is available for that purpose, subject to reimbursement from the Bond Fund when the balance therein is sufficient, and the City Council covenants and agrees that it will each year levy a sufficient amount of ad valorem taxes to take care of any accumulated or anticipated deficiency, which levy is not subject to any constitutional or statutory limitation.

**Section 4. Certification of Proceedings.**

**4.01. Registration of Bonds.** The City Clerk is hereby authorized and directed to file a certified copy of this resolution with the County Auditor of Hennepin County and obtain a certificate that the Bonds have been duly entered upon the Auditor's bond register.

**4.02. Authentication of Transcript.** The officers of the Issuer and the County Auditor are hereby authorized and directed to prepare and furnish to the HRA and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Bonds and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits and certificates, including any heretofore furnished, shall be deemed representations of the Issuer as to the correctness of all statements contained therein.

**Adopted this 16<sup>th</sup> day of July, 2002**

Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:00 P.M.

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City Clerk