

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
OCTOBER 15, 2002  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly entered the meeting at 7:15 P.M.

**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 V.L., Asbestos Abatement Change Order #1 - Frattalone.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF OCTOBER 1, 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 October 1, 2002.

Motion carried on rollcall vote - four ayes.

**FAIRVIEW SOUTHDALDE HOSPITAL THANK YOU** Representatives of Fairview Southdale Hospital thanked the City of Edina for its assistance and support. Fire Chief Scheerer was presented with a plaque by Hospital Public Relations Manager, Cynthia Bemis Abrams, calling paramedics/firefighters, "an extension of our team". She elaborated that the plaque is a small token of appreciation for our tremendous working relationship. Director of Buildings and Grounds, Dave Faschant and Brant Fisk, Risk Manager and Emergency Room Director, offered their thanks for the cooperation and the good working relationship they cherish with the City.

**RESOLUTION NO. 2002-91, PUBLIC HEARING CONDUCTED ON SPECIAL ASSESSMENTS: ASSESSMENTS LEVIED** Director Wallin indicated the City has in the past determined the interest rate for assessments by adding 2% over the net interest rate of the bonds which funded the project and would be of a like ten year period. Improvement Bonds have not been issued by the City for a number of years. The 7.5 current interest rate has been charged for all special assessments since the last bonds were issued. Mr. Wallin said he checked with two neighboring cities, 1) Bloomington has a two tier rate with engineered projects being charged 6.5% and other assessments (weeds, trees, delinquent utility, citations) are being charged 8%; and 2) Eden Prairie will charge 6.5% on all assessments. State Statutes provide that special assessments may bear interest at any rate the Council determines.

**Member Hovland made a motion approving the City set the rate for special assessments at 6.5% for the assessments proposed to be levied on October 15, 2002. Member Housh seconded the motion.**

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

## **Minutes/Edina City Council/October 15, 2002**

Affidavits of Notice were presented, approved and ordered placed on file. Due notice having been given, public hearings were conducted and action taken as recorded on the following proposed assessments:

### **1. RAMP IMPROVEMENT NO. P-4a-02**

**LOCATION:** 49 ½ Street Parking Ramp and 50<sup>th</sup> & France Avenue Business District

Analysis of Assessment for Ramp Improvement No. P-4a-02 showed a total assessable maintenance cost of \$600,614.69 against 339,561 assessable square feet at \$1.76 per square foot over ten years. Ten-year assessment payable from 2003 to 2013.

Correspondence was received from Giorgio Cherubini, Restaurants diGiorgio, 4924 France Avenue, questioning the rate of assessment being three times higher for his Edina restaurant than for his Minneapolis restaurants for both the ramp improvement and 50<sup>th</sup> & France maintenance. Engineer Houle explained he left a voice mail of explanation for Mr. Cherubini and had not received a return call.

Member Housh inquired why this has not been assessed before if the project has been completed for a year. Mr. Houle noted that four homes north of the ramp were just completed with sound-proofing and landscaping.

Member Hovland questioned what would happen if the assessment were not paid. Manager Hughes noted it is impossible to pay taxes without paying the assessment. If it were not paid, taxes would be considered delinquent.

Member Masica inquired how many homes were included in sound abatement with the ramp and was this done on a request basis. Mr. Houle responded there were four homes involved and it was discussed during the initial public hearings as an incentive to allow the City to add more parking spaces to the ramp.

No oral objections were heard.

**Motion made by Member Housh and seconded by Member Masica closing the hearing for assessment of Improvement No. P-4a-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**Motion made by Member Hovland and seconded by Member Housh approving the assessment of Improvement No. P-4a-02, as presented.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

### **2. MAINTENANCE IMPROVEMENT NO. M-02 - 50<sup>TH</sup> & FRANCE AVENUE BUSINESS DISTRICT**

**LOCATION:** 50<sup>TH</sup> & FRANCE AVENUE BUSINESS DISTRICT

Analysis for Assessment for Maintenance Improvement No. M-02 showed a total maintenance cost of \$109,795.67 against 339,561 assessable square feet at \$.3233 per square foot. One-year assessment payable in 2003.

Engineer Houle explained the assessment has varied from \$.23 per square foot up to \$.32. The high of \$.32 is to repair/replace granite panels on the planters at 50<sup>th</sup> & France as well as for snow and ice removal. Mr. Houle said he believes the assessments will continue to increase to keep up with the aging infrastructure. Mr. Hughes elaborated that the Tax Increment Financing District for 50<sup>th</sup> & France closed out in 2001 for new expenditures that previously had been picked-up by the district.

**Motion made by Member Hovland and seconded by Member Housh closing the hearing for assessment of Improvement No. M-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold  
Motion carried.

No oral comments were received.

**Motion made by Member Housh and seconded by Member Masica approving the assessment of Improvement No. M-02 as presented.**

Rollcall:  
Ayes: Housh, Hovland, Kelly, Masica, Maetzold  
Motion carried. (Assessment levied by Resolution later in Minutes)

**3. MAINTENANCE IMPROVEMENT NO. MG-02 - GRANDVIEW BUSINESS DISTRICT**

LOCATION: GRANDVIEW BUSINESS DISTRICT

Analysis for Assessment for Maintenance Improvement No. MG-02 showed a total maintenance cost of \$13,490.16 against 461,701 assessable square feet at \$0.0292 per square foot. One-year assessment payable in 2003.

**Motion made by Member Hovland, seconded by Member Housh closing the public hearing of Improvement No. MG-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold  
Motion carried.

No written or oral comments were received.

**Motion made by Member Hovland and seconded by Member Housh approving the assessment of Improvement No. MG-02, as presented.**

Rollcall:  
Ayes: Housh, Hovland, Kelly, Masica, Maetzold  
Motion carried. (Assessment levied by Resolution later in Minutes)

**4. TREE REMOVAL IMPROVEMENT NO. TR-02**

**Minutes/Edina City Council/October 15, 2002**

LOCATION: 4229 COUNTRY CLUB ROAD, 4501 WOODDALE AVENUE

Analysis for Assessment for Tree Removal Improvement No. TR-02 showed two parcels assessed as follows for removal of diseased elm trees:

4229 Country Club Road	\$1,597.50	3 year assessment
4501 Wooddale Avenue	\$ 878.63	3 year assessment

No written or oral comments were heard.

Member Housh inquired whether the City's price for tree removal is better than the open market. Park Director Cockriel explained the City hires a contractor to remove the diseased trees as well.

Member Hovland asked how much warning the City gives a resident to remove the diseased tree. Mr. Cockriel explained the resident is given adequate time and if it is not accomplished, a formal notice is served with an exact date that the tree must be removed, which is typically 30 days.

**Motion made by Member Hovland and seconded by Member Masica closing the public hearing for assessment of Improvement No. TR-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**Motion made by Member Masica and seconded by Member Hovland approving assessment of Improvement No. TR-02, as presented.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

**5. WEED/MOWING IMPROVEMENT NO. WM-02**

LOCATION: 5640 WOODDALE AVENUE

Analysis of Assessment for Weed/Mowing Improvement No., WM-02, at 5640 Wooddale Avenue, Property ID# is 19-028-24-24-0065, at \$75.00. One year assessment payable in 2003.

**Motion made by Member Hovland and seconded by Member Housh closing the public hearing for assessment of Improvement No. WM-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

No oral or oral comment was received.

**Member Hovland made a motion, seconded by Member Masica approving the assessment of Weed/Mowing Improvement No. WM-02, as presented.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

**6. AQUATIC WEEDS IMPROVEMENT - AQ-02**

LOCATION: ARROWHEAD LAKE, INDIANHEAD LAKE, MINNEHAHA CREEK MILLPOND

The areas proposed to be assessed for improvement as follows. All lots riparian to Arrowhead Lake, Indianhead Lake and Minnehaha Creek Millpond.

Location: ARROWHEAD LAKE

Analysis of Assessment for Aquatic Weeds Improvement No. AQ-02 for Arrowhead Lake showed a total of \$8,483.28 to be assessed against 35 parcels at \$242.38 per parcel. One year assessment, payable in 2003.

No written or oral comments were heard.

**Member Masica made a motion seconded by Member Hovland closing the hearing on Improvement No. AQ-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**Motion made by Member Masica and seconded by Member Hovland approving assessment of Improvement No. AQ-02 for Arrowhead Lake.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

Location: INDIANHEAD LAKE

Analysis of Assessment for Aquatic Weeds Improvement No. AQ-02 for Indianhead Lake showed a total of \$12,043.10 to be assessed against 32 parcels at \$364.94 per parcel and one lot at 6409 Indian Hills Road assessed at \$182.47. One year assessment, payable in 2003.

No written or oral comments were heard.

**Member Masica made a motion seconded by Member Hovland closing the hearing on Improvement No. AQ-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**Motion made by Member Masica and seconded by Member Hovland approving assessment of Improvement No. AQ-02 for Indianhead Lake.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

Location: MINNEHAHA CREEK MILLPOND

**Minutes/Edina City Council/October 15, 2002**

Analysis of Assessment for Aquatic Weeds Improvement No. AQ-02 for Minnehaha Creek Millpond showed a total of \$8,862.72 to be assessed against 63 parcels at \$140.68 per parcel. One year assessment, payable in 2003.

**Member Masica made a motion, seconded by Member Hovland closing the hearing on Improvement No. AQ-02.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Housh inquired how this process works with the residents. Manager Hughes said a public hearing was held in the past and residents were asked if harvesting could be done each year. Residents gave a blanket authorization at that time for the annual harvest.

**Motion made by Member Masica and seconded by Member Hovland approving assessment of Improvement No. AQ-02 for Minnehaha Creek Millpond.**

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried. (Assessment levied by Resolution later in Minutes)

The proposed assessment rolls are now on file in the office of the City Clerk and are open to public inspection.

Following presentation of the analysis of assessments and approval, **Member Hovland introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2002-91**

**RESOLUTION LEVYING SPECIAL ASSESSMENTS**

**FOR VARIOUS PUBLIC IMPROVEMENTS AND PROJECTS**

**WHEREAS, pursuant to proper notice duly given as required by law, the Edina City Council has met and heard and passed upon all written and oral objections to the proposed assessments for improvements listed below:**

**Ramp Improvement No. P-4a-02**

**Maintenance Improvement No. M-02**

**Maintenance Improvement No. MG-02**

**Tree Removal Improvement No. TR-02**

**Weed/Mowing Improvement No. WM-02**

**Aquatic Weeds Improvement No. AQ-02**

**BE IT RESOLVED, by the City Council of the City of Edina, Minnesota, as follows:**

1. Each assessment as set forth in the assessment rolls on file in the office of the City Clerk for each aforementioned improvement is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the improvement in the amount of the assessment levied against it.

2. The assessment shall be payable in equal installments, the first of said installments, together with interest at a rate of six and one-half percent (6.5%) per annum, on the entire assessment from the date hereof to December 31, 2003, to be payable with the general taxes for the year 2003. To each subsequent installment shall be added interest at

the above rate for one year on all then unpaid installments. The number of each annual installments shall be as follows:

<u>NAME OF IMPROVEMENT</u>	<u>NUMBER OF INSTALLMENTS</u>
Ramp Improvement No. P-4a-02, Levy No. 15547	10 years
Maintenance Improvement No. M-02, Levy No. 15540	1 year
Maintenance Improvement No. MG-02, Levy No. 15541	1 year
Tree Removal Improvement No. TR-02, Levy No. 15546	3 years
Weed/Mowing Improvement No. WM-02, Levy No. 15545	1 year
Aquatic Weeds Improvement No. AQ-02, Levy No. 15542	1 year

3. The owner of any property so assessed may, at any time prior to certification of assessment to the County Auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City Treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution and they may, at any time thereafter, pay to the City Treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next succeeding year.

4. The clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County. Such assessment shall be collected and paid over in the same manner as other municipal taxes.

Adopted this 15<sup>th</sup> day of October, 2002.

Motion for adoption of the resolution seconded by Member Housh.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2002-92 FINAL DEVELOPMENT PLAN APPROVED FOR DQ GRILL AND CHILL** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen explained the subject property is located at 7700 Normandale Boulevard and is currently a Pannekoeken/Embers Restaurant and is Zoned PCD-2, Planned Commercial District. Dairy Queen, Inc., has purchased the existing restaurant building and is requesting a final development plan to permit razing the existing building and constructing a new 4200 square foot DQ Grill and Chill with seating for 114. Mr. Larsen said submitted plans included a free-standing DQ sign, which requires a height and sign area variance.

Mr. Larsen said Ordinance No. 460 allows for a monument sign no larger than 80 square feet in area and no taller than eight feet. The existing freestanding sign is non-conforming, standing 20 feet tall and measuring 100 square feet in area. The subject signage proposal includes a 145 square foot, 22-foot high freestanding sign. The proponent indicated a sign area of 101.3 square feet, arrived at by adding together the rectangular area of the three sign elements. The largest freestanding sign allowed by Edina’s sign code is 100 square feet and 20 feet high in the PCD-3 zoning district.

Mr. Larsen elaborated that the Edina Sign Ordinance defines sign area as the smallest rectangle which can be made to circumscribe the letters, message, symbol or logo. Upon

## **Minutes/Edina City Council/October 15, 2002**

using that definition, the total sign area of the three sign elements is 145 square feet. The proposed sign height of 22 feet is two feet taller than the most generous height of 20 feet which is allowed in the PCD-3 and 4 zoning districts. Mr. Larsen said it appears the proposed sign could be lowered to 20 feet and not exceed the tallest signs allowed in Edina.

Mr. Larsen concluded that there was no disagreement within the Planning Commission concerning the proposed use, however, they were unable to reach a consensus on the freestanding sign.

### Council comment

Member Kelly inquired whether Edina's sign Ordinance is more onerous than other cities. Mr. Larsen said Edina falls on the stricter side. Mr. Kelly asked what Bloomington would permit in the area. Mr. Larsen responded substantially more than Edina. He indicated that the PCD-2 district is the same as the Grandview and 50<sup>th</sup> & France districts. Mr. Kelly asked for information on the Texaco gas station sign. Mr. Larsen said Texaco is in the PCD-4 zoning district and are allowed significant wall signage and allowed a 20 foot tall, 100 square foot pylon sign.

Member Hovland asked clarification that the Planning Commission had no controversy over the sign being 20 feet in height. Mr. Larsen said that was correct. Mr. Hovland said the area has more characteristics of a PCD-3 area than a PCD-2 area. Mr. Larsen said the situation is unique. Mr. Hovland asked what the hardship would be with this proposal. Mr. Larsen said low-visibility of the business would be a hardship.

Member Housh inquired whether this site could be considered a challenged site. Mr. Larsen concurred.

Mayor Maetzold asked for clarification about how the City measures signs. Mr. Larsen commented that the rectangle measure works but this requires a unique approach.

Mayor Maetzold asked for public comment.

Scott Felton, Assistant Manager at Burger King, inquired when this razing/ reconstruction would begin.

John Brazil, Director of Architecture and Construction for American Dairy Queen, said the timing would be to begin the project in early November 2002, with completion in March 2003. Limits of the construction are limited to the property lines and disruption in the area should be minimal.

### **Member Hovland made a motion seconded by Member Masica closing the public hearing.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica asked how many other businesses in the immediate zoned area might ask for additional signage. Mr. Larsen said two other properties would be candidates, 1) Burger King and 2) the strip mall with Subway and Eddington's.

Member Housh commented that the property already has had the larger size sign and the proposal is a challenged property. The proposal seems like a sound improvement and he supports the variance for a larger sign.

Member Kelly asked why the 20 foot, 100 square foot sign could not be acceptable.

Chuck Mooty, Chief Executive Officer of Dairy Queen, 4615 Moorland Avenue, said the 20-foot restriction is being met and he stated his belief that with the unique shape it does meet the square foot requirement. The Grill and Chill will be a training facility for franchisee's from all over the world.

Ms. Masica asked if the proposed sign would be acceptable in most other cities. Mr. Mooty said the sign, as presented, would be appropriate in most situations. Ms. Masica said she supports the variance because of the unique area and situation.

Mr. Kelly said historically he does not approve variances, however, the design of the sign with airy open areas does not appear as ominous as one large block. He would support approval of the variance.

Mr. Hovland voiced his support of approval of the variance.

**Member Hovland introduced the following resolution approving the Final Development Plan as presented including the sign variance as requested and moved its adoption:**

**RESOLUTION NO. 2002-92**

**FINAL DEVELOPMENT PLAN APPROVED  
FOR DAIRY QUEEN GRILL AND CHILL**

**BE IT RESOLVED, that the Final Development Plan, dated October 15, 2002, submitted by Dairy Queen, Inc., for a Dairy Queen Grill and Chill at 7700 Normandale Boulevard presented at the regular meeting of the City Council on October 15, 2002, be and is hereby approved, as presented including the sign variance as requested.**

**Passed and adopted by the Edina City Council this 15<sup>th</sup> day of October, 2002.**

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**CONSERVATION RESTRICTION AMENDED PER REQUEST** Affidavits of Notice were presented, approved and ordered placed on file.

**Presentation by Planner:**

Planner Larsen explained the subject property, 6608 Indian Hills Road, is located south of Arrowhead Lake, north of Indian Hills Road and west of Dakota Trail. The Council approved the subdivision creating this lot in 1984 with a 100-foot conservation easement. As part of that approval, the City required a conservation restriction be dedicated over that part of the lot within 100 feet of Arrowhead Lake. The restricted area can be used for yard purposes but cannot be altered or improved with structures without the City's permission.

## Minutes/Edina City Council/October 15, 2002

Mr. Larsen said the request has been received from Jon and Mary Jo Barnett seeking City approval to construct a new dwelling that would encroach 25 feet into the restricted area. The proponent also seeks permission to add a deck that would encroach an additional 10 feet into the conservation restriction area. Mr. Larsen reiterated that this is not a variance but requires Council approval if a structure were placed in a conservation easement.

Staff supports the request for the following reasons:

1. The 100 foot restriction area was adopted around 1970. Since most lots were platted prior to 1970, they are only subject to the setback requirement of the Zoning Ordinance, which is 75 feet;
2. The combination of the street setback (82 feet) and the lake setback (100 feet) creates an extremely small buildable area. It would be impossible to construct a home in keeping with the size of existing homes in the area;
3. The size of the proposed dwelling does not represent an over building of the lot;
4. The proposal does not violate the spirit and intent of the conservation restriction in that an adequate buffer for the lake is maintained; and
5. The proposed setback is similar to the setback enjoyed by other homes in the vicinity.

### Council comment:

Member Kelly inquired why no one argued for the 75-foot restriction when the property was subdivided and asked for more information. Mr. Larsen said with no specific house plan in hand, approval of a conservation restriction change would have been difficult.

Member Housh said correspondence received on this proposal indicated they felt adjoining property owners were a part of the restriction being put into place. Attorney Gilligan said the restriction runs in the City's favor not in the favor of adjoining properties. The City, under the agreement can waive conditions, release it or terminate it.

Mayor Maetzold asked if there were no conservation restriction in place, would the house be approved. Mr. Larsen answered yes. Mr. Maetzold asked clarification on why a 100 foot conservation restriction was put in place. Mr. Hughes said the 100 foot restriction has been a part of the subdivision ordinance for many years. At one time it was required that the first 50 feet be dedicated in fee and the second 50 feet be subject to an easement. The ordinance was later amended to allow conservation restrictions for a full 100 feet. A bit of an inconsistency has always existed between the City's Zoning Ordinance and the City's Subdivision Ordinance. The Subdivision Ordinance requires a 100-foot dedication of a conservation restriction while the Zoning Ordinance requires a 75-foot setback at various lakes within the City while other lakes and ponds require a 50 foot setback. Mr. Hughes said when the Ordinance was adopted, and when new properties are approved, a greater buffer was put into place.

Mr. Larsen presented a graphic depicting a wide range in setbacks of properties adjoining the lake. Mr. Hughes said this lot and the lots on Arrowhead Pointe are the only lots with a 100 foot conservation restriction. Other lots on the lake do not have the conservation restriction

as they were platted prior to the requirement being in place. The homes have a 75-foot setback requirement but were built prior to that requirement also being in place.

Mr. Housh asked about some history on the adjoining lot to the east. Mr. Larsen explained the house burned after the subdivision was approved. This conservation easement was put into place with the re-building of the home that burned.

Member Hovland inquired whether there is a precedent with the City allowing building on a conservation requirement. Mr. Larsen said where the building site is severely impacted, the requirement has been reduced. He added in two recent cases a significant play structure and a relocation of a log cabin were allowed on the conservation requirement. Mr. Hovland asked if this is a reasonable use for the property. Mr. Larsen said he believes it is. Mr. Hovland asked if the public interest would be diminished if an encroachment of 25 feet into the conservation easement were approved. Mr. Larsen said the restriction would not be compromised.

Proponent comment:

Jon Barnett, 5340 Interlachen Boulevard, gave a brief background into the process they have followed to come before the Council with the request to locate a new home within a conservation restriction.

Comments of residents:

Orrin Haugen, 6612 Indian Hills Road, told that he has lived in the area for 50 years. He explained what happened in 1990 when the property owners applied for a variance to allow re-construction of a new residence on property to the east. The application was rejected leading to negotiation of a 100-foot conservation restriction on the property at 6608 Indian Hills Road. In return for conveying the conservation easement to the City, the property owners were awarded a variance. Mr. Haugen said the easement was created to remain in a natural scenic or open condition. The only thing that has changed since 1990 is that a home was constructed at 6600 Indian Hills Road. If the request is granted, the lot will need 1) extensive grading, 2) installation of a high retaining wall, 3) removal of many trees, and 4) a storm water runoff plan. Mr. Haugen compared the recently denied Iroquois Circle proposal with this request. He stated his belief that the plan should be denied.

Jean Smith, 6600 Mohawk Trail, commented that her home is directly across the street from the proposed new home. She concurred with Mr. Haugen and voiced opposition to granting the request to locate a new home in the conservation restriction.

James MacGibbon, 6601 Iroquois Trail, concurred with Mr. Haugen's presentation and stated it is inappropriate to change the conservation restriction and would be detrimental to the character and symmetry of the neighborhood.

Brock Orwig, 6701 Indian Hills Road, explained he is a five year resident of the area, and asked that the Council not grant this request. He voiced concern with the neighborhood character changing. He noticed building on the north side of Arrowhead Lake on the aerial view graphic and asked what the restrictions were on these homes.

## **Minutes/Edina City Council/October 15, 2002**

Mike Waltz, 6600 Iroquois Trail, said Indian Hills is a beautiful wooded area. He does not believe the lot is large enough to build a home that would match the character and symmetry of the neighborhood. He voiced his opposition to granting the request.

Mark Peterson, 6604 Indian Hills Road, explained he is the owner of the subject lot and has been shown the plans for the proposed home. He believes the proposed home will fit in with the neighborhood. He noted that in reference to Mr. Haugen's claim that a negotiated settlement had been recorded, he has no knowledge of this. He recalled that the City required that the re-building of the burned out home had to follow the exact footprint. Mr. Peterson said it is ludicrous to think that they would pay taxes on a vacant lot and agree to leave it as open space.

Mr. Hovland asked Mr. Peterson about the watermark being at the buildings edge. Mr. Peterson said the lake is very high because of an inordinate amount of rainfall and the mark is approximately 15 feet away from the building where normally it would be at 30 feet. Mr. Hovland asked for more information on the conservation restriction. Mr. Peterson recalled that his main concern after the fire was to follow the rules and re-build within the same footprint. Mr. Larsen commented that the 100-foot conservation easement was imposed in 1984. In 1990 it was somewhat modified in the legal description for the home but did not change for the vacant lot.

Mr. Kelly inquired if the variances had not been granted, would the lot be sub-dividable. Mr. Larsen stated he did not recall any variances.

Mr. Maetzold asked how the high water level impacts the lot. Mr. Larsen commented technically the conservation easement and the high water level have no connection.

Mr. Hovland inquired about comments about extensive grading required on the lot. Mr. Larsen said a grading plan has not been reviewed. Mr. Hovland asked about comments about retaining walls. Mr. Larsen said building code requirements would need to be followed. Mr. Hovland asked about comments about stormwater runoff during construction. Mr. Larsen again stated the plans would be examined by the building, planning and engineering departments and a key thing that would be looked at is drainage.

Ms. Masica reminded the Council that what is being considered at this juncture is whether the conservation restriction should be amended. She asked for clarification if an exchange happened with the signing of the conservation restriction. Mr. Peterson said there were no variances requested.

Mr. Hughes clarified there was a conservation restriction imposed on the new lot in 1984 when it was first platted. It was replaced by the conservation restriction that is part of the packet information when the new home was built after the fire to modify the restriction to fit the foundation line of the new house. The restriction on the new lot as it existed in 1984 was not changed it was the legal description of the conservation restriction on the old lot.

Mr. Kelly commented if Mr. Peterson re-built the house from scratch, he would have had to comply with the 100-foot conservation restriction, which would have eliminated the

buildable lot. Mr. Hughes said a house existed to the east in 1984 but no conservation line was put through that home.

Ray Miller, 1516 Murphy Parkway, Eagan, the potential builder for the home at 6608 Indian Hills Road, explained most of what is being discussed is based upon a subdivision and that is not what is before the Council. He added they have carefully planned the house to fit on the site as well as with the neighborhood and with no variances required. Mr. Miller said the only retaining wall the home would require is one 3 - 4 ft. in height. Of 57 trees on the site, six (10%) significant trees would need to be removed for the home. If the City chose, the significant trees could be replaced. Mr. Miller that the high water level has been taken into consideration with the building pad as well.

Mr. Hovland asked how much excavation would be required for the garage. Mr. Miller said approximately six feet and would be consistent with the height of the neighbors. Mr. Hovland inquired if permits were required from the watershed district. Mr. Miller said yes.

Mr. Haugen recalled when the question of a variance came forward in 1990, he remembers a heated discussion with Mr. Peterson because he wouldn't agree to a variance. The document was a result of the objections. Mr. Larsen said to the best of his knowledge and research, no variances were granted.

Mr. Kelly asked if the new home built after the fire did not fit into the old home's footprint, would a variance be required. Mr. Larsen answered no. Mr. Kelly asked if alterations would be required. Mr. Hughes was on staff when this occurred and commented, in 1984, the Council heard and approved the subdivision of the property. In 1990, the house burned on the adjoining lot. The house was re-built apparently without the need for a variance. A conservation restriction was imposed on the lot that did not change the restriction with the lot in question, but did change the conservation restriction as it relates to the re-built home after the fire. Mr. Kelly stated that some concession was granted in connection with the new home. Mr. Peterson said the reconfiguration was accomplished because the footprint of the original home built in 1947 did not conform to the requirements at the time the new home was built in 1990. If any concessions were granted, it would be to make the conservation easement fit the home footprint being built.

Ms. Masica said in the Minutes of September 19, 1983, 'the original subdivision was granted predicated on the request of Muriel Peterson who lived on the property for 35 years because she wanted to build next to her son'.

Mr. Miller read from notes, 'Lot 2 of the proposed subdivision would contain a buildable area of only approximately 675 square feet with dimensions of approximately 13 feet by 50 feet due a required front street setback, required by sideyard setback and location of the required conservation restriction. This buildable area is not large enough to accommodate a new single-family dwelling unit without granting of substantial variances from setback requirements or permission to encroach in the conservation restriction area. The need for variances is created only by the petitioner's own request for approval of the proposed subdivision and therefore does not meet the criteria established by zoning ordinance for the

## Minutes/Edina City Council/October 15, 2002

granting of variances. Approval of the proposed subdivision would be implied approval of the variances.'

### Council comment:

Member Kelly said one issue that is heard over and over is the over-building of lots, over-aggressive subdivisions, and elimination of the wonderful residential character of Edina. A subdivision was granted with conditions and the adjacent landowners have the right to rely on that decision. He opposes granting the request.

Member Hovland said the Council approved a difficult buildable lot in 1984. If anyone would be cautious about what was built on the lot, Mr. Peterson would be that person. He believes the building should take place and is a reasonable use of the property.

Ms. Masica indicated the design of the home is beautiful. She believes that there was a deal of some kind struck. She stated you can't accept the concessions that were made and then change your mind. She will not support the request going forward.

Mr. Housh said these decisions are difficult. He voiced confusion over why a subdivision would be granted that had questionable developability. He voiced support for the proposed request.

Mr. Maetzold said he has given this a lot of thought and would support the request. He believes it was the intent of the former Council to grant approval of the subdivision and create a buildable lot.

Mr. Kelly asked if this would go back before the Planning Commission. Mr. Hughes said no. The question is whether to grant relief or a permitted encroachment into a conservation restriction requires approval of the Council.

Mr. Haugen stated the City operates under a MN Statute that when a subdivision is approved, the individual lots within that subdivision must be available for building without subsequent variance.

Attorney Gilligan commented he was not aware of such a statute.

Correspondence dated October 11, 2002, was received from Orrin M. and Marilyn D. Haugen, 6612 Indian Hill Road, stating their objection of reduction of the conservation easement. A letter was received via FAX, dated October 15, 2002, from Janice B. and James D. MacGibbon, 6601 Iroquois Trail, opposing the request to reduce the conservation easement at 6608 Indian Hills Road. A letter dated October 9, 2002, was received from Jean Smith, 6600 Mohawk Trail, objecting to any proposed reduction or revocation in the conservation restriction at 6608 Indian Hills Road.

**Member Hovland made a motion to approve the consent of a 25 foot encroachment of the proposed house and a 10 foot encroachment for the deck in the conservation restriction area.** Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Maetzold  
Nays: Kelly, Masica  
Motion carried.

Mayor Maetzold exited the Council Chambers at 9:45 P.M.

**AWARD OF BID FOR SIGNALS AT 76<sup>TH</sup> AND YORK AND 76<sup>TH</sup> AND EDINBOROUGH WAY, IMPROVEMENT NOS. TS27 AND TS32, S.A.P. NOS. 120-036015 AND 120-020-35**

Engineer Houle explained the project is for construction of signal improvements for the intersections of York Avenue and Edinborough Way along West 76<sup>th</sup> Street. The Engineer's estimated project cost was \$445,781.25. Both signal systems were bid higher than anticipated with majority of cost overrun due to rehabilitation of existing signals system at York Avenue and West 76<sup>th</sup> Street. The intersection is fully funded through the Municipal State Aid System. Edinborough Way and West 76<sup>th</sup> Street is funded using a combination of Municipal State Aid System Funds along with special assessments. The project was bid one year ago and rejected due to high costs. Hennepin County Public Works Department agreed to install loop detectors at the intersection, saving approximately \$35,000 - \$40,000. Mr. Houle said the project is scheduled for spring/summer 2003. Staff recommends awarding the project to Hardrives, Inc., and feels the project is necessary, cost effective and feasible.

**Member Housh made a motion for award of bid for signals at 76<sup>th</sup> and York and 76<sup>th</sup> and Edinborough Way, Improvement Nos. TS27 and TS32, to recommended low bidder, Hardrives, Inc., at \$509,343.45. Member Hovland seconded the motion.**

Ayes: Housh, Hovland, Kelly, Masica  
Motion carried.

Mayor Maetzold re-entered the Council Chambers at 9:50 P.M.

**\*BID AWARDED FOR CONTRACT 02-10 (PUBLIC WORKS) WELL HOUSE ELECTRICAL AND MECHANICAL REPLACEMENT, WELL #5, #15, #18, IMPROVEMENT NO. WM-406** Motion made by Member Hovland and seconded by Member Housh for award of bid for Contract 02-10 (Public Works) Well House Electrical and Mechanical Replacement for Well #5 (3850 West 69<sup>th</sup> Street), Well #15 (5005 Mirror Lakes Drive), and Well #18 (7350 York Avenue South), Improvement No. WM-406.

Motion carried on rollcall vote - four ayes.

**\*TRAFFIC SAFETY STAFF REVIEW FOR OCTOBER 4, 2002, APPROVED** Motion made by Member Hovland and seconded by Member Housh approving the Traffic Safety Staff Review for October 4, 2002, Section A:

1. Installation of a STOP sign for eastbound Biscayne Boulevard at Continental Drive; and

Section B and C.

Motion carried on rollcall vote - four ayes.

**\*SPECIAL MEETING DATE SET TO CANVASS ELECTION RESULTS - NOVEMBER 6, 2002 - 5:00 P.M.** Motion made by Member Hovland and seconded by Member Housh

Minutes/Edina City Council/October 15, 2002

setting November 6, 2002, at 5:00 P.M. as a Special Council Meeting to canvass election results.

Motion carried on rollcall vote – four ayes.

**RESOLUTION NO. 2002-93 - TAX FORFEIT PROPERTY** Manager Hughes explained that Hennepin County Taxpayer Services division advised the City that a parcel of land has been forfeited due to non-payment of taxes. The property is Outlot B, Dearborn Addition. The City's options are:

1. Approve the parcel for sale at public auction;
2. Approve the auction of the parcel to adjacent property owners only; or
3. Request conveyance of the property to the City for public use.

After reviewing the parcel of land, staff believes the property should be conveyed to the City for public use for storm water management because it is adjacent to a City owned parcel used as a pond.

Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2002-93**

**RESOLUTION**

**WHEREAS, the City Council of the City of Edina has received from the County of Hennepin a list of lands in said municipality which became the property of the State of Minnesota for non-payment of property taxes, was dated August 26, 2002; and**

**WHEREAS, the parcel in said list identified as PID No. 30-117-21-21-0162 has heretofore been classified by the Board of County Commissioners of Hennepin County, Minnesota, as non-conservation land List 1214 C/NC the sale thereof and has heretofore been authorized by said Board of County Commissioners; and**

**WHEREAS, it has been determined by the Edina City Council that there are no existing or pending special assessments on said parcel; and**

**WHEREAS, it is the intent of the City of Edina to acquire the tax forfeited property for use as storm water management.**

**BE IT RESOLVED, by the City Council of the City of Edina, that the City Clerk be authorized and directed to file, "Application of Governmental Subdivision for Conveyance of Tax Forfeited Lands," for the following described property contained in Hennepin County Conservation/Non-Conservation Classification List 1214 C/NC, said property to be used by the City as hereafter set forth:**

**Outlot B, Dearborn Addition (PID NO. 30-117-21-21-0162)**

**Storm Water Management.**

Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**REPORT ON STREET MAINTENANCE PRESENTED FOR 66<sup>TH</sup> STREET AND WEST SHORE DRIVE AREA**

Manager Hughes said a letter, dated September 25, 2002, was received from Kenneth M. Chavis, 6509 Ryan Avenue, requesting regularly scheduled street cleaning of streets east of Highway 100 between Crosstown 62 and 70<sup>th</sup> Street, bordered by West Shore Drive. The letter also noted the lack of mowing along the West 66<sup>th</sup> Street causeway, the roadway separating the two halves of Lake Cornelia.

Engineer Houle responded in a report to the Council dated October 8, 2002, stating the City does not believe the "level of service" provided to this neighborhood is inferior to maintenance received in other parts of the City.

The street maintenance program has 28 employees that handle:

- General Maintenance (potholes, etc.)
- Street Sweeping
- Street Renovation
- Snow and Ice Removal
- Street Lighting
- Bridges and Guard Rails
- Retaining Walls
- Traffic Control - street name signs, signal maintenance, pavement marking
- Sidewalks
- Parking Ramp and Parking Lot Maintenance

The street sweeping program consists of:

- 800 lane miles of roadway
- 45 parking lots
- Three sweeping routes performed twice a year (spring and fall) and when available, additional sweepings

He added that it is the City's policy to allow shorelines to go un-mowed when possible to provide a buffer for wildlife habitat and water quality.

Manager Hughes requested staff to contact residents who had signed the letter/petition with an explanation of the City's policy regarding street maintenance (sweeping) as well as mowing.

No formal Council action was taken.

**\*RESOLUTION NO. 2002-86, AUTHORIZING CITY HALL STORM SEWER MAINTENANCE DECLARATION FOR MINNEHAHA CREEK WATERSHED DISTRICT PERMIT** Motion made by Member Hovland and seconded by Member Housh introducing the following resolution and moving its adoption:

**RESOLUTION NO. 2002-86**

**A RESOLUTION AUTHORIZING EXECUTION  
OF A CITY HALL STORM SEWER MAINTENANCE DECLARATION FOR  
ACQUISITION OF AN EROSION CONTROL PERMIT WITH MINNEHAHA CREEK  
WATERSHED DISTRICT**

**WHEREAS, the City of Edina is in need of an Erosion Control Permit with the Minnehaha Creek Watershed District for the construction of City Hall and Police Station;  
and**

**WHEREAS, the Declaration shall state a maintenance plan for the required grit chamber.**

Minutes/Edina City Council/October 15, 2002

NOW, THEREFORE, the Edina City Council approved the Declaration and authorized the Mayor and City Manager to sign the Declaration and return a certified copy to the Minnehaha Creek Watershed District.

Adopted this 15<sup>th</sup> day of October, 2002.

Motion carried on rollcall vote - four ayes.

**\*RESOLUTION NO. 2002-87, AUTHORIZING TRAFFIC CONTROL SIGNAL AGREEMENT WITH MNDOT AT TH62 AND XERXES AVENUE** Motion made by Member Hovland and seconded by Member Housh introducing the following resolution and moving its adoption:

**RESOLUTION NO. 2002-87  
AUTHORIZING TRAFFIC CONTROL SIGNAL AGREEMENT  
WITH MN/DOT  
AT TH62 AND XERXES AVENUE**

BE IT RESOLVED, that the City of Edina enter into an agreement with the State of Minnesota, Department of Transportation for the following purposes, to wit:

To remove the existing traffic control signals and install new traffic control signals with street lights, emergency vehicle pre-emption and signing on Trunk Highway No. 62 South and North Ramps at County State Aid Highway No. 31 (Xerxes Avenue); and install interconnect on County State Aid Highway No. 31 (Xerxes Avenue) from Trunk Highway No. 62 South Ramps to Trunk Highway No. 62 North Ramps in accordance with the terms and conditions set forth and contained in Agreement No. 83860R, a copy of which was before the Council.

BE IT FURTHER RESOLVED that the proper City officers be and hereby are authorized to execute such agreement and any amendments, and thereby assume for an on behalf of the City all of the contractual obligations contained therein.

Motion carried on rollcall vote - four ayes.

**\*RESOLUTION NO. 2002-88, AUTHORIZING TRAFFIC CONTROL SIGNAL AGREEMENT WITH MNDOT AT TH100 AND WEST 50<sup>TH</sup> STREET** Motion made by Member Hovland and seconded by Member Housh introducing the following resolution and moving its adoption:

**RESOLUTION NO. 2002-88  
A RESOLUTION AUTHORIZING  
TRAFFIC CONTROL SIGNAL AGREEMENT WITH  
MN/DOT AT TH100 AND WEST 50<sup>TH</sup> STREET**

BE IT RESOLVED that the City of Edina enter into an agreement with the State of Minnesota, Department of Transportation for the following purposes, to wit:

To remove the existing traffic control signals and install new traffic control signals with street lights, emergency vehicle pre-emption and signing on Trunk Highway No. 100 East Ramps (Grange Road) at West 50<sup>th</sup> Street, and on Trunk Highway No. 100 West Ramps at County State Aid Highway No. 158 (West 50<sup>th</sup> Street) - County State Aid Highway No. 158 (Vernon Avenue; and install interconnect on County State Aid Highway No. 158 (West 50<sup>th</sup> Street)/West 50<sup>th</sup> Street from Trunk Highway No. 100 East Ramps (Grange Road) to Trunk Highway No. 100 West Ramps in accordance with the terms

and conditions set forth and contained in Agreement No. 83861R, a copy of which was before the Council.

BE IT FURTHER RESOLVED that the proper City officers be and hereby are authorized to execute such agreement and any amendments, and thereby assume for an on behalf of the City, all of the contractual obligations contained therein.

Motion carried on rollcall vote – four ayes.

\*PUBLIC HEARING DATE SET OF NOVEMBER 19, 2002, FOR VACATION OF EASEMENT, LOT 3, BLOCK 1, ARROWHEAD POINTE Motion made by Member Hovland and seconded by Member Housh introducing the resolution as follows:

**RESOLUTION NO. 2002-94  
CALLING FOR PUBLIC HEARING  
OF VACATION OF DRAINAGE UTILITY EASEMENT  
LOT 3, BLOCK 1 - ARROWHEAD POINTE**

BE IT RESOLVED by the City Council of the City of Edina as follows:

1. It is hereby found and determined that the following described property should be considered for vacation in accordance with the provisions of Minnesota Statutes, Section 160.29 and 462.348, Subd. 7:
2. This Council shall meet at 7:00 P.M. on the 19<sup>th</sup> day of November, for the purpose of holding a public hearing on whether such vacation shall be made in the interest of the public.
3. The City Clerk is authorized and directed to cause notice of said hearing to be published once a week for two weeks in the Edina Sun-Current, the official newspaper of the City, to post such notice, in at least three public and conspicuous places, as provided in Minnesota Statutes. Such notice shall be in substantially the following form:

(Official Publication)  
 CITY OF EDINA  
 4801 WEST 50<sup>TH</sup> STREET  
 EDINA, MINNESOTA 55424  
 NOTICE OF PUBLIC HEARING ON  
 VACATION OF DRAINAGE AND UTILITY EASEMENTS  
 IN THE CITY OF EDINA  
 HENNEPIN COUNTY MINNESOTA

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Minnesota will meet on November 19, 2002, at 7:00 P.M. in the Council Chambers at 4801 West 50th Street for a public hearing for the proposed vacation of the following described drainage and utility easements:

**Vacate Part of Drainage and Utility Easement  
Lot 3, Block 1, Arrowhead Pointe**

That part of the drainage and utility easement within Lot 3, Block 1, Arrowhead Pointe, according to the recorded plat, Hennepin County, Minnesota, described as follows:

Commencing at the northwest corner of said Lot 3; thence on an assumed bearing of South 14 degrees 44 minutes 00 seconds East along the southwesterly line of said Lot 3, a distance of 125.00 feet; thence North 55 degrees 04 minutes 45 seconds East a distance of 44.92 feet to the point of beginning of easement area to be vacated; thence continue North 55 degrees 04 minutes 45 seconds East, a distance of 37.12 feet; thence South 14 degrees 44 minutes 00 seconds East 12.81 feet; thence South 75 degrees 16 minutes 00 seconds West 34.84 feet to the point of beginning.

Minutes/Edina City Council/October 15, 2002

All persons who desire to be heard with respect to the question of whether or not the above proposed utility and drainage vacation is in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed street vacation affects existing easements within the area of the proposed vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto, for the purpose of specifying, in any such vacation resolution, the extent to which any or all of such easement, and such authority to maintain, and to enter upon the area of the proposed vacation, shall continue.

Motion carried on rollcall vote - four ayes.

\*RESOLUTION NO. 2002-89, AUTHORIZING SPECIAL ASSESSMENT LEVY FOR SIDEWALK IMP. NO. S-82: 5616 WOODCREST DRIVE; AND RESOLUTION NO. 2002-96 FOR CURB AND GUTTER IMP. NO. B100: 4511 LAKEVIEW DRIVE Member Hovland introduced the following resolutions, seconded by Member Housh:

RESOLUTION NO. 2002-89

A RESOLUTION

AUTHORIZING SPECIAL ASSESSMENT

FOR SIDEWALK - IMP. NO. S-082

AT 5615 WOODCREST DRIVE

WHEREAS, Charles and Margarett Hann, 5615 Woodcrest Drive, have requested installment payments for sidewalk improvements for Lot 4, Block 2, Colonial Grove 6<sup>th</sup> Addition; and

WHEREAS, the sidewalk charges are in the amount of \$2,400.00; and

WHEREAS, the assessment to be certified for collection would be \$342.86 plus 6.5% interest for the seven year period from 2003 through 2010; and

WHEREAS, Edina Code Section 1105.02, Subd. 3B allows a property owner to request the Council to make sidewalk charges payable by installment; and

WHEREAS, the Council may, by resolution, provide the sidewalk charges be spread over a term of up to seven years; and

WHEREAS, the unpaid balance shall bear interest at the rate charged by the City on special assessments and the amount certified to the County Auditor for collection with interest in the same manner as other special assessments and shall become a lien upon the property until paid.

NOW, THEREFORE, the Council authorizes the sidewalk charges be specially assessed as requested by the property owner at 5615 Woodcrest Drive.

Adopted this 15<sup>th</sup> day of October, 2002.

Motion carried on rollcall vote - four ayes.

RESOLUTION NO. 2002-96

A RESOLUTION AUTHORIZING INSTALLATION

OF CURB AND GUTTER, IMP. NO. B-100

4511 LAKEVIEW DRIVE

WHEREAS, Timothy J. & Kim M. Dulas, 4511 Lakeview Drive, have requested installment payments for curb and gutter for Lot 1, Block 6, Golf Terrace Heights, in Edina; and

WHEREAS, the curb and gutter charges are in the amount of \$6,000.00; and

WHEREAS, the assessment to be certified for collection would be \$600.00 per year, plus 6.5 % interest, for the ten year period 2003 - 2013; and

WHEREAS, Edina Code Section 1105.02, Subd. 3B allows a property owner to request the Council to make curb and gutter charges payable by installment; and

WHEREAS, the Council may, by resolution, provide the curb and gutter charges be spread over a term of up to ten years; and

WHEREAS, the unpaid balance shall bear interest at the rate charged by the City on special assessments and the amount certified to the County Auditor for collection with interest in the same manner as other special assessments and shall become a lien upon the property until paid.

NOW, THEREFORE, the Council authorizes the curb and gutter charges be specially assessed as requested by the property owner at 4511 Lakeview Drive.

Adopted this 15<sup>th</sup> day of October, 2002.

Motion carried on rollcall vote - four ayes.

**\*APPENDIX "A" TO HENNEPIN COUNTY RADIO SUBSCRIBER AGREEMENT** Motion made by Member Hovland and seconded by Member Housh acknowledging receipt of Appendix "A" to the Hennepin County Radio Subscriber Agreement.

Motion carried on rollcall vote - four ayes.

**\*RESOLUTION NO. 2002-90, AUTHORIZING TEA GRANT** Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

**RESOLUTION NO. 2002-90**

**A RESOLUTION**

**AUTHORIZING APPLICATION FOR  
TEA GRANT**

WHEREAS, the Metropolitan Council of Minnesota, is accepting grant applications for transportation enhancement; and

WHEREAS, the City of Edina seeks to implement the transit circulator service in the in the greater Southdale/Centennial Lakes area; and

WHEREAS, the grant would fund a two-year demonstration program; and

WHEREAS, applications are due on November 1, 2002, with funding announced in March 2003.

NOW, THEREFORE, approval authorizing Council submission of the grant application to the Metropolitan Council is granted.

Motion carried on rollcall vote - four ayes.

**CHANGE ORDER No. 1, FOR ASBESTOS ABATEMENT (FRATTALONE)** Member Housh asked that Change Order No. 1, Asbestos Abatement (Frattalone) be removed from the consent agenda for further information. Engineer Houle explained with the original plan, the library building was going to be used as a police department. When plans were revised and the building demolished to make way for a combination City Hall/Police Facility, asbestos was discovered.

**Minutes/Edina City Council/October 15, 2002**

**Motion made by Member Hovland approving Change Order No. 1, (Frattalone) for asbestos cleanup during the demolition of the old Hennepin County Library building at 4701 West 50<sup>th</sup> Street, in the amount of \$12,185.00. Mayor Maetzold seconded the motion.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**CONCERN OF RESIDENT** Addie and Bob Fitzsimmons, 5025 Yvonne Terrace, said she believes care should be taken to protect existing residents within the City. She again voiced concern with drainage caused by earth displacement due to a neighbors' addition. She acknowledged receiving a letter from Manager Hughes stating no code violations occurred with the building addition.

Mayor Maetzold stated the issue is a civil matter between the Fitzsimmons and their neighbor.

No Council action was taken.

**\*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 October 2, 2002, and consisting of 54 pages: General Fund \$227,467.30; CDBG Fund \$6,900.00; Communications Fund \$2,761.39; Working Capital Fund \$100,261.14; Construction Fund \$391.49; Art Center Fund \$5,823.56; Aquatic Center Fund \$765.52; Golf Course Fund \$7,128.85; Ice Arena Fund \$1,744.84; Edinborough/Centennial Lakes Fund \$4,990.47; Liquor Fund \$109,026.77; Utility Fund \$42,835.92; Storm Sewer Fund \$6,160.62; Payroll Fund \$430,000.00; TOTAL \$946,257.87; and for approval of payment of claims dated October 9, 2002, and consisting of 39 pages: General Fund \$452,138.49; Communications Fund \$4,392.66; Working Capital Fund \$25,678.31; Construction Fund \$46,382.80; Art Center Fund \$11,769.42; Golf Dome Fund \$103.58; Aquatic Center Fund \$638.80; Golf Course Fund \$27,987.16; Ice Arena Fund \$7,623.11; Edinborough/Centennial Lakes Fund \$3,889.04; Liquor Fund \$177,459.33; Utility Fund \$20,096.28; Storm Sewer Fund \$13,864.51; Recycling Fund \$30,418.60; TOTAL \$822,442.09.

Motion carried on rollcall vote – four ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:35 P.M.

---

Executive Director