

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 4, 2002
7:00 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly entered the meeting at 7:03 P.M.

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

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF OCTOBER 15, 2002, APPROVED** Motion made by Member Masica and seconded by Member Hovland approving the Minutes of the Regular Meeting of the Edina City Council for October 15, 2002.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2002-97 - NOVEMBER 5, 2002, ELECTION JUDGE APPRECIATION DAY

Mayor Maetzold proclaimed November 5, 2002, as Election Judge Appreciation Day and stated that election judges are essential to insure that the principles of freedom and liberty upon which our nation was founded will endure.

Member Housh introduced the following resolution and moved its adoption:

RESOLUTION NO. 2002-97

A PROCLAMATION.

WHEREAS, the right to vote for law-making representatives and an independent judiciary is the cornerstone of the world's largest continuous democracy; and

WHEREAS, election judges are gatekeepers to the voting process, upholding election laws with integrity, dignity and accuracy to maintain public trust and confidence in honest and impartial elections; and

WHEREAS, Minnesota is renowned for the quality of elections because of the training, dedication, and professionalism of citizens who serve their neighbors and community; and

WHEREAS, generations of election judges have consistently provided public service in a patient, honest and impartial manner without formal recognition of their primary role in a citizen-based society and government; and

WHEREAS, twenty-eight thousand election judges will work to the best of their ability and support democracy by matching words with deeds during the election; and

WHEREAS, election judges are essential to insure that the principles of freedom and liberty upon which our nation and state were founded endure.

NOW, THEREFORE, I, Dennis F. Maetzold, Mayor of the City of Edina, do hereby proclaim that Tuesday, November 5, 2002, shall be observed as:

ELECTION JUDGE APPRECIATION DAY

in the State of Minnesota. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2002-98 - MINNESOTA CHEMICAL HEALTH WEEK PROCLAIMED - NOVEMBER 18-24, 2002 Mayor Maetzold proclaimed November 18 - 24, 2002, as Minnesota Chemical Health Week and encouraged the citizens of Edina to participate in all activities associated with alcohol and drug abuse prevention efforts year round.

Member Housh introduced the following resolution and moved its adoption:

RESOLUTION NO. 2002-98

A PROCLAMATION.

WHEREAS, over half a million Americans will die this year from alcohol, tobacco and other drug-related causes; and

WHEREAS, every man, woman and child in America pays nearly \$1,000 annually to cover the costs of unnecessary health care, extra law enforcement, auto accidents, crime, and lost productivity resulting from substance abuse; and

WHEREAS, every person in the State of Minnesota is affected by alcohol, tobacco and other drug abuse; and

WHEREAS, prevention and treatment efforts have made major gains in reversing the trend toward more and more alcohol, tobacco and other drug use in our communities; and

WHEREAS, the color red has been chosen to represent individual and community commitment to efforts to reduce demand for alcohol and other drugs in our communities; and

WHEREAS, business, government, law enforcement, schools, religious institutions, service organizations, neighborhoods, youth, senior citizens, and other individuals are encouraged to demonstrate their commitment to help reduce and prevent alcohol, tobacco and other drug abuse by wearing and/or displaying the color red during Minnesota Chemical Health Week.

NOW, THEREFORE, BE IT RESOLVED that November 18 - 24, 2002, be declared

MINNESOTA CHEMICAL HEALTH WEEK

throughout the City of Edina.

BE IT FURTHER RESOLVED, that the Mayor and Council Members of the City of Edina support the activities sponsored by the Minnesota Chemical Health Week, MADD's Red Ribbon Project, and The Great American Smokeout and encourage the citizens of Edina to participate in all Minnesota Chemical Health Week activities and other alcohol and drug abuse prevention efforts year round.

Member Masica seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***RESOLUTION NO. 2002-99 - LOT DIVISION APPROVED - 4308 FRANCE AVENUE SOUTH** Member Masica introduced the following resolution seconded by Member Hovland:

RESOLUTION NO. 2002-99

**APPROVING A LOT DIVISION FOR
4308 - 4312 FRANCE AVENUE SOUTH**

WHEREAS, the following described property is at present a single tract of land:

LOT 9 - MORNINGSIDE ADDITION

AND

THE SOUTH 35 FEET OF LOT 8, MORNINGSIDE ADDITION

WHEREAS, the owner has requested the subdivision of said tracts into separate parcels (herein called "Parcels") described as follows:

PARCEL A:

That part of Lot 9 lying north of the south 50 feet of said Lot 9 and the south 35 feet of Lot 8, MORNINGSIDE, according to the recorded plat thereof, Hennepin County, Minnesota.

PARCEL B:

The south 50 feet of Lot 9, MORNINGSIDE, according to the recorded plat thereof, Hennepin County, Minnesota.

WHEREAS, the requested subdivision is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the Subdivision and Zoning Regulations as contained in the Edina City Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL A and PARCEL B) as separate tracts of land are hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina.

Adopted this 4th day of November, 2002.

Motion carried on rollcall vote – five ayes.

***ADOPTION OF NEW BYLAWS FOR HERITAGE PRESERVATION BOARD** Motion made by Member Masica and seconded by Member Hovland approving adoption of new Bylaws and Rules of Procedure for the Heritage Preservation Board.

Motion carried on rollcall vote – five ayes.

HERITAGE PRESERVATION BOARD REPORT PRESENTED - ADDITIONS TO DESIGNATED BUILDINGS

Associate Planner Repya explained at the June 4, 2002, Council meeting, first reading was granted for the amended Heritage Preservation Code. The Code provided for design review and issuance of a Certificate of Appropriateness for new buildings on landmark designated properties by the Heritage Preservation Board (HPB). The Code did not include a provision for review of additions to existing buildings. Concerns were voiced by the Council as to why additions were not included in the Code.

Ms. Repya noted that the HPB struggled with whether to include the review of additions to designated properties. Country Club resident respondents were 60% in favor of the HPB having design review authority over additions or rebuilds. 22% of respondents were in favor of design review for new construction only and 18% were not in favor of any design review authority. Following a review, the HPB discovered that 34.8% of the 556 residences favored design review of additions or rebuilds.

Ms. Repya introduced Robert Vogel, Heritage Preservation Consultant, and Gary Nyberg, Vice Chair of the Heritage Preservation Board.

Following a revisit to the subject, the HPB concluded the code could be amended to include design review of additions as well as teardowns and rebuilds if the Council wished. It was discerned that the regulatory process could become complex, ominous, and time-consuming.

Minutes/Edina City Council/November 4, 2002

After a brief discussion, Council consensus was not to include review of additions to existing buildings to the amended Heritage Preservation Code. No formal Council action was taken.

***AWARD OF BID FOR EMERGENCY WELL REPAIR - WELL #13** Motion made by Member Masica and seconded by Member Hovland for award of bid for emergency well repair for well #13 to sole bidder, Bergerson - Caswell, Inc., at \$33,592.50.

Motion carried on rollcall vote - five ayes.

BID AWARDED FOR EDINA CITY HALL/POLICE DEPARTMENT - EARTHWORK, FOOTINGS AND FOUNDATION Assistant Manager Anderson explained that a new City Hall and Police Station will be built next door to the existing City Hall, located at 4801 West 50th Street and will double space for City Hall and Police functions. When the building is complete next fall, the existing City Hall will be razed to make way for a new, larger parking lot. Mr. Anderson said construction would begin this month on the site.

Motion made by Member Hovland for award of bid for recommended low bidders for City Hall Earthwork to Belair Builders, Inc., at \$302,950.00; for award of bid for City Hall Pre-Cast Concrete to Hanson Spancrete Midwest, Inc., at \$370,416.00; and for award of bid for City Hall Concrete/Masonry to Northland Concrete and Masonry at \$454,600.00. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***AWARD OF BID FOR ATTACHMENT FOR COMBINATION JET/VAC MACHINE APPROVED - UTILITIES DEPARTMENT** Motion made by Member Masica and seconded by Member Hovland for award of bid for the attachment for combination jet/vac machine to recommended low bidder, Flexible Pipe Tool Company (demonstration unit), at \$17,040.00.

Motion carried on rollcall vote - five ayes.

***CURRENCY EXCHANGE LICENSE RENEWAL - UNBANK APPROVED** Motion made by Member Masica and seconded by Member Hovland approving currency exchange state license renewal for Unbank without City comment.

Motion carried on rollcall vote - five ayes.

***2003 COUNCIL MEETING DATES AND HOLIDAYS APPROVED** Motion made by Member Masica and seconded by Member Hovland approving the schedule for the Council meeting dates and holidays for 2003.

Motion carried on rollcall vote - five ayes.

ORDINANCE REQUIRMENTS CONCERNING COMMERCIAL PHOTOGRAPHY APPROVED Manager Hughes explained that the Council had previously referenced correspondence from the Minnesota Film Board with respect to ordinance requirements concerning commercial photography in Edina. Staff was asked to review the request and determine if changes to the Code were in order.

In 1996, the Council adopted Section 1350 of the City Code. The ordinance was considered and adopted after the Council received complaints concerning commercial photography "shoots"

occurring in residential neighborhoods. Shoots ranged from single day, locally produced advertising spots to week long, feature film productions.

Mr. Hughes noted that Section 1350 provides a two-tiered approach to regulation of commercial photography. The City Manager may issue permits for short duration shoots provided that no outdoor filming or lighting occurs after 10:00 P.M. The City Manager may not issue a permit more than twice a year for the same general location so as not to overburden a neighborhood with repeated filming. Street closures in connection with filming undertaken pursuant to a manager's permit, although not prohibited by the ordinance, have not been allowed.

Commercial photography permit applications exceeding the authority of the City Manager are subject to the issuance of a permit by the Council. The Council may grant permits for larger scale productions but only after conducting a public hearing where residents within a 500 feet area are notified. If approved by the Council, nighttime shoots and street closures may be permitted.

Four changes to Section 1350 were suggested by the Minnesota Film Board. Mr. Hughes noted that the changes expand the authority of the City Manager to issue permits on an administrative level. The suggestions for expanded City Manager authority are as follows:

1. Allow nighttime shoots if residents within 200 feet grant permission. (The ordinance currently permits indoor photography and lighting after 10:00 P.M. The requested change would presumably allow outdoor activities.)
2. Allow filming at same general location up to four times a year rather than twice a year.
3. Allow production-related parking to occupy one side of street for entire block. (No ordinance change is required.)
4. Allow street closures, if necessary, provided production company notify affected residents. (No ordinance change is required.)

Mr. Hughes said staff would prepare a formal amendment with respect to nighttime shoots and frequency of shoots in a particular area. Parking/street closure policies could be modified administratively with no ordinance change required.

Following a brief discussion, the Council gave Mr. Hughes a vote of confidence and a charge to examine the request closer.

No formal Council action was taken.

UPDATE PRESENTED FOR INTERSECTION IMPROVEMENTS AT VALLEY VIEW ROAD AND WEST 65TH STREET: IMPROVEMENT NO. BA-323 AND TS-34

Engineer Houle indicated that Progressive Contractors, Inc. (PCI) are continuing work on the intersection improvement of Valley View Road and West 65th Street at TH 62. the excavation or possible compaction of the peat (organic) material will delay the permanent construction of the off-ramp that was anticipated for this fall. A temporary off-ramp will now be completed by November 22, 2002, and will accommodate southbound Valley View Road vehicles. The final completion date of the project should not be affected, depending upon the soil correction option that MnDOT needs to approve. Mr. Houle concluded that the remaining portion of the project is on schedule.

No formal Council action was taken.

Minutes/Edina City Council/November 4, 2002

HUMAN RELATIONS COMMISSION INFORMATION PRESENTED Manager Hughes explained that information that the Council requested regarding the Human Relations Commission's proposed budget for 2003 has been provided. The information requested included, 1) Senior Community Services, 2) Edina Resource Center, and 3) Edina Public School's Chemical/Mental Health Coordinator.

No formal Council action was taken.

***PETITION RECEIVED REQUESTING SOUND ABATEMENT AT 5115-23 WEST 49TH STREET AND 5107-13 WEST 49TH STREET** Motion made by Member Masica and seconded by Member Hovland acknowledging receipt of a petition for sound abatement at 5115-23 West 49th Street and 5107-13 West 49th Street and submission to the Engineering Department for processing as to feasibility,

Motion carried on rollcall vote - five ayes.

***PETITION RECEIVED REQUESTING SIDEWALK FOR LINK AVENUE (SOUTHWEST SIDE) BETWEEN VERNON AND SHERWOOD** Motion made by Member Masica and seconded by Member Hovland acknowledging receipt of a petition for sidewalk for Link Avenue (southwest side) between Vernon and Sherwood.

Motion carried on rollcall vote - five ayes.

CONCERN OF RESIDENT - COLLEEN JONES - 50TH & FRANCE Colleen Jones, Executive Director of the 50th & France Association, explained that the Association would like to serve wine and beer at the 2003 Art Fair. She proposed the location would be in a fenced-in area between 49 ½ Street and the Edina 5-0 Mall. Ms. Jones noted that food booths would be included in the fenced-in area, off-duty police would be hired and DRAM Shop insurance would be acquired with the City as additional named insured.

Following a brief Council discussion, a possible joint venture with the Edina Art Center was indicated. With proper controls this venture could be a great amenity to both the City and the 50th & France Association.

Manager Hughes reminded the Council this location is on City property, and that an amendment might be required to the ordinance. He noted that after staff has a chance to consider this request, something could be on the Council Agenda in December. Attorney Gilligan noted that within an ordinance amendment, licensing may need to be tied to a City entity.

Ms. Jones noted that she has started this process early in that she must have an answer by February, 2003.

No formal Council action was taken.

***CONFIRMATION OF CLAIMS PAID** Member Masica made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated October 17, 2002, and consisting of 36 pages: General Fund \$240,911.62; Communications Fund \$3,435.73; Working Capital Fund \$44,521.79; Construction Fund \$485,659.02; Art Center Fund \$4,397.45; Golf Dome Fund \$609.01; Aquatic Center Fund \$1,969.26; Golf Course Fund \$22,847.86; Ice Arena Fund \$18,793.22; Edinborough/Centennial Lakes Fund \$21,125.74; Liquor Fund \$138,620.22; Utility Fund \$285,253.98; Storm Sewer Fund

\$4,779.58; Payroll Fund \$460,000.00; TOTAL \$1,732,924.48; and for approval of payment of claims dated October 23, 2002, and consisting of 22 pages: General Fund \$186,317.89; CDBG Fund \$12,524.72; Communications Fund \$9,246.14; Working Capital Fund \$7,607.53; Construction Fund \$2,817.27; Art Center Fund \$11,903.98; Golf Dome Fund \$357.27; Aquatic Center Fund \$68.04; Golf Course Fund \$8,999.17; Ice Arena Fund \$10,722.37; Edinborough/Centennial Lakes Fund \$37,323.04; Liquor Fund \$82,866.14; Utility Fund \$511,981.06; Storm Sewer Fund \$240.32; TOTAL \$882,974.94; and for approval of payment of claims dated October 30, 2002, and consisting of 30 pages: General Fund \$270,998.52; Communications Fund \$3.35; Working Capital Fund \$96,338.42; Construction Fund \$48,857.75; Art Center Fund \$4,362.68; Golf Dome Fund \$792.50; Golf Course Fund \$8,410.23; Ice Arena Fund \$580.44; Edinborough/Centennial Lakes Fund \$7,996.31; Liquor Fund \$116,377.03; Utility Fund \$18,262.65; Storm Sewer Fund \$471.50; Payroll Fund \$450,000.00; TOTAL: \$1,023,451.38.

Motion carried on rollcall vote – five ayes.

REPORT ON INVESTMENTS Director Wallin honoring the request of the Council, provided a report of investments at the end of the third quarter, 2002. The report depicted all investments held by the City during the first nine months of 2002, grouped by fund and then by broker/dealer. The City is currently using three managers on the portfolio.

Member Masica questioned whether there are state or federal limitations on the City's investments. Mr. Wallin explained the City is restricted by State Statute, and the Investment Policies reflect those restrictions. The Investment Advisory Committee meets on a regular basis to review investments within the portfolio.

No formal action was taken.

***RESOLUTION NO. 2002-100, CALLING FOR PUBLIC HEARING DATE SET FOR DECEMBER 3, 2002, FOR VOLUNTEERS OF AMERICA BOND SALE** Member Masica introduced the following resolution seconded by Member Hovland:

RESOLUTION NO. 2002-100

**A RESOLUTION CALLING FOR A PUBLIC HEARING ON AN
ISSUE OF REVENUE BONDS ON BEHALF OF
VOLUNTEERS OF AMERICA CARE CENTERS, MINNESOTA**

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

1. VOA Care Centers, Minnesota, a Minnesota nonprofit corporation (VOA), has advised this Council of its desire to (i) finance the acquisition by BOA of assisted living facilities located in the City of Coon Rapids, Minnesota, and the construction of improvements thereto and the acquisition and installation of items of equipment therein (the Project), and (ii) refund the outstanding Health Care Facilities Revenue Bonds (Volunteers of America Care Facilities Projects), Series 1995 (the 1995 Bonds), previously issued by the City on behalf of VOA, the proceeds of which were used to refinance certain indebtedness incurred in the acquisition, construction and equipping of nursing home facilities of VOA in the City and in the City of Crystal, Minnesota and to provide funds for certain renovations, expansion and improvements thereto through the issuance by the City of revenue bonds (the Revenue Bonds) under the authority of Minnesota Statutes, Sections 469.152 through 469.165 (the Act), in a principal amount not to exceed approximately \$11,000,000.
2. Section 469.154, Subd. 4 of the Act and Section 147 (f) of the Internal Revenue Code of 1986, as amended and regulations promulgated thereunder, require that prior to the

Minutes/Edina City Council/November 4, 2002

issuance of the Revenue Bonds, this Council approve the Bonds and the refunding, after conducting a public hearing thereon. A public hearing on the proposal to issue the Revenue Bonds to finance the Project and refund the 1995 Bonds is hereby called and shall be held on December 3, 2002, at 7:09 P.M. at the City Hall.

3. The City Clerk shall cause notice of the public hearing, in substantially the form attached hereto as Exhibit A, to be published in the Edina Sun-Current, the official newspaper of the City and a newspaper of general circulation in the City, once not less than 14 days prior to the date fixed for the public hearing.

Adopted by the City Council of the City of Edina on this 4th day of November, 2002.

EXHIBIT A

CITY OF EDINA

4801 WEST 50TH STREET

EDINA, MINNESOTA 55424

NOTICE OF PUBLIC HEARING ON

THE ISSUANCE OF REVENUE BONDS

UNDER MINNESOTA STATUTES

SECTIONS 469.152 - 469-165

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Minnesota (the City), will meet on December 3, 2002, at 7:00 o'clock P.M., at the City Hall, 4801 West 50th Street, in Edina, Minnesota, for the purpose of conducting a public hearing on a proposal that it issue revenue bonds (the Revenue Bonds) on behalf of VOA Care Centers, Minnesota (the Corporation), in one or more series, under Minnesota Statutes, Sections 469.152 through 469.165, in order to (i) finance the acquisition by the Corporation of assisted living facilities located at 1770 113 Lane N.W. and 11372 Robinson Drive N.W. in the City of Coon Rapids, Minnesota and the construction of improvements thereto and the acquisition and installation of items of equipment therein (the Project) and (ii) refund, in whole or in part, the City's outstanding Health Care Facilities Revenue Bonds (Volunteers of America Care Facilities Projects), Series 1995 which were issued to refinance certain indebtedness incurred in the acquisition, construction and equipping of nursing home facilities located at 6200 Xerxes Avenue South in the City and at 3245 Vera Cruz Avenue North in the City of Crystal, Minnesota and to provide funds for certain renovations, expansion and improvements thereto. The maximum aggregate amount of the proposed Revenue Bonds to be issued to finance the Project and refund the 1995 Bonds is \$11,000,000.

All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the City Clerk prior to the date of the hearing set forth above.

Dated: November 4, 2002.

Motion carried on rollcall vote - five ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 8:05 P.M.

City Clerk