

MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
JULY 15, 2003  
7:00 P.M.

ROLLCALL Answering rollcall were Members Housh, Masica and Mayor Maetzold. Member Kelly entered the meeting at 7:05 p.m.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Masica and seconded by Member Housh approving the Council Consent Agenda as presented, with the exception of Agenda Item: V.D., Two, ½ Ton Pickups (One Extended Cab and One Regular Cab) for the Street Department and Agenda Item V.I. C., Change Order No. 1 and 2, Communications Conduit Willson Road: Imp. No. FO-011, Contract No. 03-3 Engineering.

Rollcall:

Ayes: Housh, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2003-47, COMMENDING HILARY LUNKE WITH THE 2003 U.S. WOMEN'S OPEN GOLF TOURNAMENT WIN Mayor Maetzold commended the extraordinary effort of Hilary Lunke and her 2003 U.S. Women's Open Golf Tournament win. A Resolution of Congratulations from the City of Edina will be presented to Ms. Lunke at a reception to be held at the Edina Country Club.

Member Masica introduced the following Resolution and moved its adoption:

RESOLUTION OF CONGRATULATIONS  
HILARY LUNKE  
WINNER

2003 U.S. WOMEN'S OPEN GOLF TOURNAMENT

WHEREAS, Hilary Lunke, an Edina native was winner of the 2003 U.S. Women's Open Golf Tournament on July 7, 2003; and

WHEREAS, the achievements of Hilary Lunke are a source of great community pride and interest as she participated in the 2003 U.S. Women's Open in North Plains, Oregon; and

WHEREAS, success has come to Hilary Lunke because of her hours of dedication, practice, undaunted determination, and extraordinary ability. Hilary has reached a level of athletic achievement upon which dreams are built. She has inspired young athletes, both in our community and throughout our nation, to reach for their dreams and make them come true.

NOW, THEREFORE, BE IT RESOLVED by the Edina City Council that congratulations be extended to Hilary Lunke.

BE IT FURTHER RESOLVED that the Edina City Council does hereby ordain and declare the 15<sup>th</sup> day of July, 2003, as official:

Hilary Lunke Day

BE IT FURTHER RESOLVED that this proclamation be recorded in the Minutes of the Edina City Council and that a copy be given to Hilary Lunke.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Edina to be affixed this 15<sup>th</sup> day of July, 2003. Member Housh seconded the motion.

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

\*MINUTES OF THE REGULAR MEETING OF JULY 1, 2003, AND SPECIAL MEETING OF JULY 1, 2003, APPROVED Motion made by Member Masica and seconded by Member Housh,

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approving the Minutes of the Regular Meeting of the Edina City Council for July 1, 2003, and Special Meeting of July 1, 2003.

Motion carried on rollcall vote - three ayes.

\*FINAL DEVELOPMENT PLAN REQUEST - FOUR CROWN, INC., (VULCAN PROPERTIES/WENDY'S) CONTINUED TO REGULAR MEETING OF AUGUST 5, 2003 Motion made by Member Masica and seconded by Member Housh approving continuance of the Final Development Plan Request for Four Crown, Inc., (Vulcan Properties/Wendy's) to Regular Council Meeting of August 5, 2003.

Motion carried on rollcall vote - three ayes.

RESOLUTION NO. 2003-48 - APPROVING VACATION DRAINAGE AND UTILITY EASEMENTS FOR LOTS 2 AND 3, BLOCK 1 (MARK DALQUIST ADDITION) Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Engineer

Engineer Houle explained John Sabre; the property owner of Lots 2 and 3, Mark Dalquist Addition (6408 and 6409 Harold Woods Lane) filed an application requesting the vacation of the existing public drainage and utility easements located between the two lots. Mr. Houle stated Mr. Sabre intends to build one single family residential home on the combined property. Mr. Houle reported Time Warner Cable, Quest, CenterPoint/Reliant Energy and Xcel Energy have all approved the request. He noted a City owned sanitary sewer exists within the existing easement and will need relocation at the property owner's expense. Mr. Houle recommended approval of the vacation with the following conditions:

- Property owner enter into a development agreement with the City to relocate the existing sanitary sewer. Staff has analyzed and approved the new location; and
- Property owner rededicates drainage and utility easements over the relocated sanitary sewer system.

Member Housh asked if moving the existing sanitary sewer line must happen before construction. Mr. Houle confirmed that the line must be moved in order to proceed with construction.

Mayor Maetzold called for public comment. No one appeared.

**Member Housh made a motion closing the public hearing, seconded by Member Masica.**

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

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

**RESOLUTION NO. 2003-48  
VACATING PUBLIC UTILITY  
AND DRAINAGE EASEMENTS**

**LOTS 2 AND 3, MARK DALQUIST ADDITION**

**WHEREAS, a motion of the City Council, on the 17<sup>th</sup> day of June, fixed a date for a public hearing on a proposed vacation of utility and drainage easements between Lots 2 and 3, Mark Dalquist Addition; and**

**WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on July 15, 2003, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and**

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said vacation be made; and

WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the 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;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following described public utility and easements are hereby vacated effective as of July 15, 2003:

That part of the drainage and utility easement lying on each side of the dividing line between Lots 2 and 3, Block 1, MARK DALQUIST ADDITION, which lies easterly of the East line of the West 7.50 feet of said Lots 2 and 3, and which lies westerly of a line drawn parallel with and 10.00 feet westerly of the westerly right of way line of Harold Woods Lane, as said Lane is dedicated to the public in said plat.

BE IT FURTHER RESOLVED that the vacation of the easements are conditioned upon the property owner entering into a development agreement with the City to relocate the existing sanitary sewer; and rededicating the utility drainage easements over the proposed sanitary sewer over the following described property:

That part of Lots 2 and 3, Block 1, MARK DALQUIST ADDITION, which lies easterly of the East line of the West 7.50 feet of said Lots 2 and 3, westerly of a line drawn parallel with and 10.00 feet westerly of the westerly right of way line of Harold Woods Lane, as said Lane is dedicated to the public in said MARK DALQUIST ADDITION, and which lies within 10.00 feet on each side of the following described line: Commencing at the most southerly corner of said Lot 3; thence on an assumed bearing of North 0 degrees 28 minutes 37 seconds West along the West line of said Lot 3 a distance of 49.65 feet to the point of beginning of the line being described; thence North 89 degrees 31 minutes 08 seconds East to its intersection with said westerly right of way line, and said line there ending.

BE IT FURTHER RESOLVED, that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Passed and adopted this 15<sup>th</sup> day of July, 2003.

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2003-49 - APPROVING VACATION OF STREET - PORTION OF XERXES AVENUE SOUTH** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Engineer

Mr. Houle explained that as part of the redevelopment of Southdale Square, the property owner requested the vacation of a portion of South Xerxes Avenue from 66<sup>th</sup> Street West to York Avenue. He stated they also were requesting the vacation of a utility easement over a watermain that will be moved and its easement re-dedicated. Mr. Houle reported Time Warner Cable, Quest, CenterPoint/Reliant Energy and Xcel Energy have all approved the request. He noted relocation of a City owned watermain within the existing easement will be at the property owner's expense. Mr. Houle recommended approval of the vacation with the following conditions:

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- Property owner enter into a development agreement with the City to relocate the existing watermain after staff has analyzed and approved the new location; and
- Property owner rededicates drainage and utility easements over the relocated watermain.

Mayor Maetzold called for public comment. No one appeared.

**Member Kelly made a motion closing the public hearing, seconded by Member Housh.**

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

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

**RESOLUTION NO. 2003-49  
VACATING PUBLIC RIGHT-OF-WAY  
AND UTILITY EASEMENTS ON  
A PORTION OF SOUTH XERXES**

**FROM 66<sup>TH</sup> STREET WEST TO YORK AVENUE**

**WHEREAS, a motion of the City Council, on the 1<sup>st</sup> day of April, 2003, fixed a date for a public hearing on a proposed vacation of street right of way and utility easement on a portion of South Xerxes Avenue from 66<sup>th</sup> Street West to York Avenue; and**

**WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on July 15, 2003, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and**

**WHEREAS, the Council deems it to be in the best interest of the City and of the public that said vacation be made; and**

**WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the 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;**

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following described public right of way and utility easements are hereby vacated effective as of July 15, 2003:**

**That part of Lot 5, "Cassin's Outlots", according to the recorded plat thereof and situated in Hennepin County, Minnesota described as follows:**

**Commencing at the point of termination of Line 1 hereinafter described; thence northerly along said Line 1 a distance of 232.20 feet; thence deflecting 47 degrees 30 minutes to the right and running northeasterly along a line hereinafter referred to as Line 2, a distance of 164.00 feet to the point of beginning of the parcel to be described; thence along a tangential curve, concave to the south, having a radius of 7.05 feet (delta angle = 121 degrees 58 minutes 14 seconds) for a distance of 15.01 feet; thence southerly along a reverse curve, concave to the northeast, having a radius of 627.00 feet (delta angle = 8 degrees 51 minutes 45 seconds) for a distance of 96.98; thence southerly along a reverse curve, concave to the west, having a radius of 380.58 feet for a distance of 129.20 feet, more or less, to a point on a line drawn parallel with and 40.00 feet westerly of the east line of said Lot 5; thence southerly parallel with said east line of Lot 5 a distance of 30.26 feet; thence along a tangential curve, concave to the northwest, having a radius of 25.00 feet for a distance of 39.49 feet, more or less, to a point on a line drawn parallel with and 65.00 feet northerly of the south line of said Lot 5; thence easterly parallel with said south line of Lot 5 to an intersection with the east line of said Lot 5; thence northerly along said east line of Lot 5 to an intersection with the northeasterly**

extension of said Line 2; thence southwesterly along said northeasterly extension of Line 2 to the actual point of beginning.

**Line 1:**

Beginning at a point on the north line of said Lot 5, distant 221.10 feet west of the northeast corner of said Lot 5; thence southerly to a point on the south line of said Lot 5, distant 219.10 feet west of the southeast corner of Lot 5 and there terminating.

Containing 20,196 square feet more or less.

BE IT FURTHER RESOLVED that the vacation of the easements are conditioned upon the property owner entering into a development agreement with the City to relocate the existing watermain; and rededicating the utility easement over the proposed watermain

BE IT FURTHER RESOLVED, that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Passed and adopted this 15<sup>th</sup> day of July, 2003.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Kelly, Masica Maetzold

Motion carried.

**ORDINANCE NO. 850-A24 - APPROVING FINAL REZONING REQUEST FROM POD-1 TO PCD-2 FOR MADISON-MARQUETTE** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen stated the Council at their April 15, 2003, meeting had granted preliminary rezoning approval, subject to final rezoning, street vacation, Richfield approval, Watershed District permit and Hennepin County curb cut permits, to Madison Marquette Realty Services for the redevelopment of 3011 West 66<sup>th</sup> Street, Southdale Square. Mr. Larsen said the proponent has met all the conditions they are able to meet without final approval from Edina.

Mr. Larsen said the final proposal was consistent with the preliminary approval. He said the proponent has increased the building size slightly, but the most significant changes happened on the Richfield side of the center, where parking and circulation have been redesigned. As a result of the changes the one-way drive aisles have been eliminated and 44 additional parking spaces have been added. Parking on the Edina portion has been reduced from 90 spaces to 88 spaces, augmented by the increase of 44 spaces on the Richfield portion of the development.

Mr. Larsen said there was still one variance needed from West 66<sup>th</sup> Street. The easterly portion of the building will provide a setback of 12 feet, 4 inches where Edina Code requires 25 feet. Thus, a 12 foot, 8-inch setback variance has been requested.

Mr. Larsen reported the Planning Commission had reviewed the plan and recommended the Council grant the final rezoning of the property as requested.

Member Masica asked how high the brick base extended on the rear elevation of the new building. David Thorp, Architectural Designs, explained the brick base was about three feet high with decorative concrete masonry and lighting.

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Member Masica asked to what extent was the older mall located in Richfield being improved. Lee Hoffman, proponent, explained that plans were being made to update the façade of the older mall with colored concrete and brick. He stated they were negotiating with the tenants and hoped to complete renovations in the spring or summer of 2004, but details had not been finalized.

Member Housh asked if the proposed improvements to the parking lot would take place no matter what the outcome was for updating the mall's façade. Mr. Hoffman stated the parking lot would hopefully be completed by the end of the summer of 2003. He added he had letters of intent from two tenants to occupy the end caps of the new building, one a bridal store and the other a jewelry store.

Member Kelly commented that his father was a principal at Madison Marquette, but he was not personally connected with the organization, therefore, he did not feel it necessary to abstain from voting on the proposal.

Mayor Maetzold called for public comment. No one appeared.

**Member Kelly made a motion closing the public hearing, seconded by Member Housh.**

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**Member Housh made a motion approving Final Rezoning including a twelve foot, eight inch setback variance from West 66<sup>th</sup> Street as per the following Ordinance No. 850-A24, Rezoning Property from POD-1 to PCD-2 for Madison-Marquette:**

**ORDINANCE NO. 850-A24**

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

**BY REZONING PROPERTY TO**

**PLANNED COMMERCIAL DISTRICT - PCD-2**

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

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

**The extent of the Planned Commercial District, PCD-2 is enlarged by the addition of the following described property:**

**That part of Lot 5, described as beginning at a point on the East line thereof 130 feet South of the Northeast corner thereof; thence West parallel to the South line of said Lot to a point of intersection with a line drawn from a point on the North line of said Lot distant 221.1 feet West of the Northeast corner of said Lot to a point on the south line of said Lot distant 219.1 feet West of the Southeast corner of said Lot; thence South to a point on the South line of said Lot distant 219.1 feet West of the Southeast corner of said Lot; thence East to the Southeast corner of said Lot; thence North along the East line of said Lot to the point of beginning, "Cassin's Outlots", except that part thereof embraced in Xerxes Avenue Addition, Hennepin County, Minnesota.**

**Torrens Certificate Number: 789946**

**Parcel 2:**

**That part of Lot 5, Cassin's Outlots, lying Southeasterly of York Avenue South and Westerly of a Southerly extension of the West line of Xerxes Avenue Addition, Hennepin County, Minnesota.**

**Abstract Property.**

**The extent of the Planned Office District, POD-1 is reduced by removing the property described above.**

**Section 2. Effective Date: This Ordinance shall be in full force and effect upon adoption and publication according to the law.**

Adopted this 15<sup>th</sup> day of July 2003.

First Reading: March 15, 2003

Second Reading: July 15, 2003

Published: July 31, 2003

Attest

\_\_\_\_\_  
Debra A. Mangen, City Clerk

\_\_\_\_\_  
Dennis F. Maetzold, Mayor

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2003-50 - APPROVING PRELIMINARY PLAT FOR GEAREN HILL (JAMES GEAREN)** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Mr. Larsen stated that James and Mary Gearen requested a two-lot subdivision of their property located at 6608 Dakota Trail. The subject property was 2.9 acres in size with frontage on both Dakota Trail and Mohawk Trail. The existing dwelling accesses Dakota Trail. The proposed lots would measure 1.57 acres and 1.32 acres respectively. He noted that a nearly identical subdivision had been proposed and approved by the City Council in 1995. However, the property owner never recorded the approved plat. According to City rules, any plat not recorded within one year of approval becomes void.

Mr. Larsen said there were 40 lots within 500 feet of the subject property. Median dimensions and area for the lots were as follows:

<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
168 feet	199.5 feet	34,679 square feet

Mr. Larsen reported the following lot dimensions and areas of the proposed lots:

	<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
Lot 1	256 feet	249 feet	68,383 square feet
Lot 2	287 feet	206 feet	57,669 square feet

Mr. Larsen added the subject property was heavily wooded, and had steep slopes covering 56 percent of the total site. The proposed development would impact only twelve percent of the areas containing slopes exceeding eighteen percent. He said the proposal met all subdivision requirements. Mr. Larsen stated the Planning Commission reviewed the preliminary plat and recommended the Council consider granting the preliminary plat approval subject to three conditions: Final Plat approval; Subdivision Dedication; and forty-foot conservation easement along Mohawk Trail.

Mayor Maetzold noted receipt of Attorney Gilligan's memo stating he was a neighbor to the proposed subdivision. However, Mr. Gilligan was not present at the meeting, instead Jay Lindgren was present, acting as the City's counsel.

Member Housh asked if any variances would be required for this subdivision and also about the encroachment of a play structure into the setback area. Mr. Larsen said the subdivision did not require any variances, and that the staff would deal with the play structure.

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Member Masica asked for an explanation of differences between the 1995 and current plat, why the 1995 plat had not been recorded, and exactly what would the conservation restriction accomplish. Mr. Larsen said there had been a minor adjustment to the lot line defining the two lots so no variance would be required. He said he believed the 1995 plat had not been recorded because the property was sold and the new buyer chose not to subdivide at that time. Mr. Larsen explained that a conservation restriction would require a property owner to maintain the natural condition of the land relative to tree and vegetation cover.

Member Masica asked what value each new lot would have. Mr. Hughes explained that values would not be calculated until the time the proponent requested the final plat.

Member Kelly asked if the problems experienced elsewhere with run off and soil erosion have been addressed with this property. Mr. Larsen explained that was handled during the building permit process.

### Public Comment

Linda Fisher, 1500 Wells Fargo Plaza, Bloomington, Attorney for applicants, James and Mary Gearen, noted the Gearens' intent to create one new lot exceeding all City subdivision standards with no need for a variance. She stated the proposed home site would also meet all City Code requirements, and that any soil erosion or run-off during construction on the new lot would be handled through use of best practices. Ms. Fisher conveyed the Gearens' concern with both granting the requested conservation restriction and paying subdivision dedication. She indicated the Gearens' willingness to grant the conservation restriction if the subdivision dedication were eliminated.

Mayor Maetzold commented that it was the Council's intent to preserve the character of the Indian Hills neighborhood and still allow subdivision of some of the larger lots. Therefore, he believed that requiring the conservation restriction was prudent.

Member Kelly agreed with Mayor Maetzold and further requested staff to investigate the property with a play structure encroaching into an existing conservation restriction. Member Kelly said he believed the conservation restrictions must be maintained in their natural state.

Donna Hipps, 6604 Dakota Trail, stated she had no objection whatsoever to the proposed subdivision.

Member Masica said she felt the need to attempt to maintain some large estate lots. She expressed concern that if the large lots were all subdivided a unique feature of Edina would be lost. Member Masica said the Council needed to practice stewardship of the distinctive characteristic that has made Edina a premier community. The Council briefly discussed the impact the subdivision of large lots makes upon the City.

Correspondence was received from Joel and Bonnie Phillippi, 6605 Dakota Trail, supporting the proposed subdivision at 6608 Dakota Trail.

A letter was received from Dolores and Donald G. McQuarrie, M.D., 6625 Mohawk Trail, suggesting a moratorium be placed on the subdivision for further study and also for a final decision on the 'tree removal ordinance'.

**Member Masica made a motion closing the public hearing, seconded by Member Housh.**

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

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

**RESOLUTION NO. 2003-50  
APPROVING GEAREN HILL ADDITION  
PRELIMINARY PLAT**

**BE IT RESOLVED** by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "GEAREN HILL ADDITION", platted by James and Mary Gearen, and presented at the regular meeting of the City Council on July 15, 2003, be and is hereby granted preliminary plat approval with three conditions: Final Plat approval; Subdivision Dedication; and forty-foot conservation easement along Mohawk Trail.

**Passed and adopted this 15<sup>th</sup> day of July, 2003.**

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**ORDINANCE NO. 2003-9 ADOPTED - ADDING NEW SECTION 1225, ESTABLISHING A TRANSPORTATION COMMISSION** Manager Hughes indicated First Reading of Ordinance No. 2003-9 was granted at the July 1, 2003, regular Council Meeting. At that meeting, concerns were voiced about membership composition of the Commission. Mr. Hughes said he had folded language into Section 1225.03 of the Ordinance. Mr. Hughes recommended proceeding to Second Reading.

Member Masica said she was not opposed to the forming of a Transportation Commission but voiced opposition with language 'not' mandating the geographic distribution of members. She said she could not support the Ordinance as presented without language mandating geographic distribution of members.

Mayor Maetzold said occasionally it was difficult to attract applicants for appointment to boards/commissions/committees and it would be even more difficult if limitations were placed on the choice of appointment mandated from a specific geographic location.

Member Housh said while he believes appointing persons to serve on the Transportation Commission could be a challenging job, mandating a geographic distribution of members could injure the commission's chemistry.

Ms. Masica said traffic was an emotional issue. Traffic patterns in Edina have been so volatile those commission members need to experience traffic concerns on a daily basis to gain an understanding of what happens in each geographic area. She stated she felt that it was imperative that persons be appointed from each quadrant of the City.

Member Kelly stated he agreed on all points with Member Masica, but felt that mandating the appointment to each quadrant would be a mistake. He felt Mayor Maetzold would see there was the needed geographic representation. Member Kelly pointed out that in the future the ordinance could be amended if the Council deemed it necessary.

**Member Kelly introduced the following Ordinance No. 2003-9, and moved approval:**

**EDINA ORDINANCE NO. 2003 - 9  
An Ordinance Amending the City Code  
By Adding a New Section 1225  
Transportation Commission**

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

**Section 1. The City Code is hereby amended by adding a new Section 1225 as follows:**

**“Section 1225 -Transportation Commission**

- 1225.01 Policy and Establishment.** The Council finds that the creation and operation of a street and transportation system is an integral part of the long-term vision for the City. The Council also finds that congestion on the regional roadway system and the failure of that system to accommodate the continued growth in traffic volumes has created and exacerbated traffic volumes, speed and congestion on local streets; that such volumes, speed and congestion are adversely affecting the quality of life of the City’s residents; that businesses located in the City are adversely affected by the inadequacy of the regional system to move people and goods; and that improving the local transportation system is consistent with the Comprehensive Plan and strategic plans of the City. Therefore, the Council hereby establishes the Transportation Commission (the “Commission”).
- 1225.02 Purpose and Duties.** The Commission shall:
- A.** Advise the Council on matters relating to the operation of the local street system with respect to traffic volumes, congestion, and functional classification, but not maintenance activities, of the City.
  - B.** Review and comment on plans to enhance mass transit opportunities in the City.
  - C.** Review the findings of the Local Traffic Task Force and offer recommendations for implementation.
  - D.** Evaluate methods for traffic calming and other speed and volume mitigation measures and recommend their implementation where appropriate.
- 1225.03 Membership.** The Commission shall consist of seven members appointed by the Mayor with the consent of the majority of the Council. The Mayor shall endeavor to appoint members such that the Commission is reflective of the different geographic areas of the City. One member of the Commission shall also be a member of the Planning Commission. One member of the Commission may be a high school student. Members shall serve until a successor has been appointed. All members of the Commission shall be residents of the City and shall be appointed for a term of three years except the student member shall be appointed for a one year term. The Council may stagger the terms of the first Commission appointed. Upon termination of a member’s term, that member’s successor shall be appointed for the remainder of such term. Members of the Commission shall serve without compensation and may resign voluntarily or be removed by a majority vote of the Council pursuant to Section 180 of this Code. Commission members who discontinue legal residency in the City may be removed from office by the Mayor with the consent of a majority of the Council.
- 1225.04 Meetings.** All meetings of the Commission shall be open to the public, be governed by Robert’s Rules of Order, and otherwise be held pursuant to its bylaws. The Commission shall hold its regular meetings on such fixed date and in such fixed place as it from time to time shall determine. The minutes of all meetings shall be recorded and a copy thereof transmitted to each member of the Council.”

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

**First Reading: July 1, 2003**  
**Second Reading: July 15, 2003**  
**Published: July 24, 2003**

Attest

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

\_\_\_\_\_  
Mayor

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Kelly, Maetzold

Nays: Masica

Ordinance Adopted.

**\*AWARD OF BID FOR NORMANDALE PARK PLAYGROUND IMPROVEMENTS** Motion made by Member Masica and seconded by Member Housh for award of bid for the Normandale Park Playground Equipment to recommended low bidder, Koolmo Construction, Inc., at \$127,487.00 plus sales tax.

Motion carried on rollcall vote - three ayes.

**\*AWARD OF BID FOR SANITARY SEWER MANHOLE REPAIRS FOR UTILITY DEPARTMENT** Motion made by Member Masica and seconded by Member Housh for award of bid for sanitary sewer manhole repairs to recommended low bidder, Quality Underground Services, Inc., at \$32,000.00.

Motion carried on rollcall vote - three ayes.

**\*AWARD OF BID FOR MULTIFUNCTION PRINTER/PLOTTER/SCANNER FOR ENGINEERING AND BUILDING DEPARTMENTS** Motion made by Member Masica and seconded by Member Housh for award of bid for a multifunction printer/plotter/scanner for the Engineering and Building Departments to recommended low bidder, Oce' Engineering Systems, at \$22,500.00.

Motion carried on rollcall vote - three ayes.

**BID AWARD CONTINUED FOR TWO, ½ TON PICKUP TRUCKS (ONE EXTENDED CAB AND ONE REGULAR CAB) FOR STREET DEPARTMENT** Mr. Hughes removed the bid award from the consent agenda for two ½ ton pickup trucks (one extended cab and one regular cab) for the street department. He explained the City was awaiting a storm damage settlement from the insurance company for one of the pickups before awarding the bid and suggested tabling the issue until the settlement was received.

**Member Housh made a motion to table the bid award for two ½ ton pickup trucks (one extended cab and one regular cab) for the street department until a settlement was reached for an insurance claim.** Member Kelly seconded the motion.

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**TRAFFIC SAFETY STAFF REVIEW FOR JUNE 25, 2003, CONTINUED TO COUNCIL MEETING OF AUGUST 19, 2003** Mr. Hughes explained that residents who wished to speak about the June 25, 2003, Traffic Safety Staff Review Section B, 1 and 2, have requested the issue be continued to the regular Council Meeting of August 19, 2003.

**Member Kelly made a motion to continue approval of the June 25, 2003, Traffic Safety Staff Review until the regular Council Meeting of August 19, 2003.** Member Masica seconded the motion.

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**\*RESOLUTION NO. 2003-52 AUTHORIZING CITY PARTICIPATION IN MINNESOTA DEPARTMENT OF PUBLIC SAFETY "SAFE AND SOBER PROGRAM"** Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2003-52  
A RESOLUTION AUTHORIZING  
EXECUTION OF AGREEMENT FOR  
SAFE AND SOBER GRANT**

WHEREAS, the City of Edina Police Department has chosen to enter into a grant agreement with the Minnesota Department of Public Safety, Office of Traffic Safety for the project entitled, **SAFE AND SOBER COMMUNITIES** during the period from October 1, 2003, through September 20, 2004; and

WHEREAS, the Chief of the Edina Police Department is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of the Edina Police Department and to be the fiscal agent and administer the grant.

NOW, THEREFORE BE IT RESOLVED that the City of Edina hereby declares its commitment to enter into a grant agreement with the Minnesota Department of Public Safety, Office of Traffic Safety for the project entitled, **SAFE AND SOBER COMMUNITIES**; and

BE IT FURTHER RESOLVED, that the **SAFE AND SOBER COMMUNITIES** grant be effective during the period October 1, 2003 through September 20, 2004.

Adopted the 15<sup>th</sup> day of July 2003.

Motion carried on rollcall vote - three ayes.

**CHANGE ORDER NO. 1 AND 2; COMMUNICATIONS CONDUIT - WILLSON ROAD; IMP. NO. FO-001, CONTRACT NO. 03-3 ENGINEERING** Member Housh removed Change Order No. 1 and 2; Communications Conduit for Willson Road, Imp. No. FO-001, Contract No. 03-3 for Engineering, from the Consent Agenda for further information. He questioned whether the budget was over or under for the communications conduit. Mr. Houle responded that the change order amount of \$16,693.24 brings the total closer to the budgeted amount.

**Member Housh made a motion approving Change Order No. 1 and 2; Communications Conduit for Willson Road; Imp. No. FO-001, Contract No. 03-3 for the Engineering Department in the amount of \$16,693.24.** Member Masica seconded the motion.

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

**\*CHANGE ORDER NO. 1: WATER TREATMENT PLANT NO. 1, CONTRACT NO. 03-5 PUBLIC WORKS** Motion made by Member Masica and seconded by Member Housh authorizing Change Order No. 1 to correct roof settlement at Water Treatment Plant No. 1, due to delamination of the beams in the amount of \$9,500.00.

Motion carried on rollcall vote - three ayes.

**RESOLUTION NO. 2003-51, SETTING FEES FOR EDINBOROUGH PARK PLAYPARK** Director Keprios explained the Park Board, at their June 10, 2003, meeting, unanimously passed a motion proposing new fees and charges for the Edinborough Play Park, as proposed by staff. With construction of the new indoor playground structure being placed over the skating rink area, plus a new portable play amenity in the Great Hall (inflatable play structure), there was added play value for park users.

Mr. Keprios showed graphics depicting fees and charges for the "new" play park as follows:

(*) Playpark Daily Admission	\$4.00 per person
Children Under 12 Months	Free
Adults	Free with paid child
(**) ED Association Members Daily Pass	\$2.00
Playpark Punch Pass (10 uses)	\$35.00

Playpark Season Pass	\$75.00/resident
	\$100.00/non-resident
Total Facility Daily Admission	\$6.00

\* Playpark admission includes admission to lower level of Edinborough Park, including "new" playpark structure, Great Hall, tot lot and grotto

\*\* Edinborough Association Members contractually receive complimentary use of the pool and fitness area (Edinborough Corporate Center, Edina Park Plaza, Edinborough Village Home residents and Marriott Residents Inn)

Mr. Keprios reviewed prices for indoor play facilities in surrounding suburbs.

Member Kelly inquired what would happen to the existing tot lot. Mr. Keprios said what equipment that was left will be utilized until parts were no longer available. At that time, the area may be used as a space for birthday party rentals. Member Kelly stated usage rates should be higher for non-residents for both the daily use and punch pass, such as \$5.00/day and \$40.00/punch pass. Member Kelly asked how the fee structure was developed. Mr. Keprios responded that staff at Edinborough Park developed the fee structure. Mr. Hughes reiterated that the fee structure was based on a pro forma that purports to generate approximately \$100,000.00 annually for this premiere facility. Member Kelly asked what the shortfall was at Edinborough Park. Mr. Hughes said Edinborough and Centennial Lakes shortfall bottom line varies by year but was approximately \$200,000 to \$250,000.

Member Masica asked if the \$75.00/resident fee for a season pass was for an individual or family. Mr. Keprios said the \$75.00 was per person. Ms. Masica asked for more information on the inflatable play structure. Ms. Kattreh, Assistant Manager at Edinborough Park said the structure was a 15 feet x 15 feet inflatable castle. The plan was to divide the Great Hall to house the castle as well as for mats for a play space.

Member Housh inquired whether Edinborough Park has adequate parking to handle this "new" structure. Mr. Keprios responded that parking would be adequate.

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

**RESOLUTION NO. 2003-51  
SETTING PARK AND RECREATION FEES FOR  
EDINBOROUGH PARK  
PLAYPARK**

**BE IT RESOLVED that the Edina City Council does hereby approve and set the following 2003 Park and Recreation Fees for the Edinborough Park Playpark as follows:**

<b>EDINBOROUGH PARK "PLAYPARK"</b>		
	<b>2003</b>	
<b>(*) Playpark Daily Admission:</b>		
Resident	<b>\$4.00/person</b>	
Non-resident	<b>\$5.00/person</b>	
<b>Children Under 12 Months</b>	<b>FREE</b>	
<b>Adults</b>	<b>Free With Paid Child</b>	
<b>(**) Edinborough Association Members Daily Pass</b>	<b>\$2.00</b>	
<b>Playpark Punch Pass - 10 Uses:</b>		
Resident	<b>\$35.00</b>	
Non-resident	<b>\$40.00</b>	
<b>Playpark Season Pass</b>		
Resident	<b>\$75.00</b>	
Non-resident	<b>\$100.00</b>	

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<b>Total Facility Daily Admission:</b>		
<b>Resident</b>	<b>\$6.00</b>	
<b>Non-resident</b>	<b>\$8.00</b>	

(\*) Playpark admission would include admission to lower level of Edinborough Park including the new contained play structure, Great Hall, tot lot and grotto.

(\*\*) Edinborough Association Members contractually receive complimentary use of pool and fitness area. Members include Edinborough Corporate Center, Edina Park Plaza, Edinborough Village Home Residents and Marriott Residence Inn.

Adopted this 15<sup>th</sup> day of July, 2003.

Member Housh seconded the motion.

Ayes: Housh, Kelly, Masica, Maetzold

Motion carried.

\*CONFIRMATION OF CLAIMS PAID Member Masica 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, 2003, and consisting of 29 pages: General Fund \$81,622.90; CDBG Fund \$1,419.00; Communications Fund \$8,778.93; Working Capital Fund \$690,002.39; Art Center Fund \$2,820.29; Aquatic Center Fund \$7,007.24; Golf Course Fund \$29,848.14; Ice Arena Fund \$7,864.66; Edinborough/Centennial Lakes Fund \$7,917.90; Liquor Fund \$48,517.68; Utility Fund \$32,846.65; Storm Sewer Fund \$2,407.91; PSTF Fund \$428,878.00; TOTAL \$1,349,931.69; and for approval of payment of claims dated July 10, 2003, and consisting of 34 pages: General Fund \$146,827.00; Communications Fund \$2,547.56; Working Capital Fund \$96,486.10; Construction Fund \$105,551.50; Art Center Fund \$348.17; Golf Dome Fund \$1,988.11; Aquatic Center Fund \$7,674.42; Golf Course Fund \$22,708.02; Ice Arena Fund \$4,730.48; Edinborough/Centennial Lakes Fund \$12,785.08; Liquor Fund \$196,618.53; Utility Fund \$94,731.55; Storm Sewer Fund \$24,644.57; Recycling Fund \$3,256.42; TOTAL \$720,897.51.

Motion carried on rollcall vote - three ayes.

\*PETITION RECEIVED FROM RESIDENTS FOR STREET IMPROVEMENTS (BETWEEN 5800 AND 6111 HALIFAX; BETWEEN 5900 AND 5941 GRIMES AVENUE; BETWEEN 3901 AND 3912 GRIMES AVENUE; AND BETWEEN 3909 AND 3921 60<sup>TH</sup> STREET) Motion made by Member Masica and seconded by Member Housh accepting the petition requesting street improvements for locations, 1) 5800 to 6111 Halifax Avenue; 2) 5900 to 5941 Grimes Avenue; 3) 3909 to 3921 West 60<sup>th</sup> Street, and 4) 3901 to 3912 Grimes Lane, and submitting it to the Engineering Department for processing as to feasibility.

Motion carried on rollcall vote - three ayes.

CONCERNS OF RESIDENTS

Dan Mulvehill, 5940 Walnut Drive, voiced concern with noise originating from Fountain Wood Condominium's air conditioning units. Fountain Woods Management has not been helpful in abating the noise to the surrounding neighborhood. The ground level units were grandfathered in and not subject to the state law that mandates rooftop units. Mr. Mulvehill said Sanitarian Velde had monitored the noise and found it to be over the nighttime standard. He said there was no place in his home to avoid the noise. Management at Fountain Woods set up a meeting on August 15<sup>th</sup> to seek exemption from nighttime standards for noise. Mr. Mulvehill suggested a wall made from cinderblocks with a vented top to stifle the noise yet keep the unit cool. Mr. Mulvehill presented a letter from neighbor Marty Nelson, 6012 Walnut, who concurs with the concerns. Mr. Mulvehill stated that no houses sell in the area during air-conditioning season, because of the noise, only when it gets cold.

Scott Erickson, 5928 Walnut Drive, stated he has, on numerous occasions, visited the Mulvehill home and he concurred with Mr. Mulvehill's assessment of the noise. Mr. Erickson explained that previous to buying his home at 5928 Walnut Drive in 1991, he lived at Fountain Woods. He said that never while living there could he open his windows. A solution needs to be found to solve this noise problem and he believes that a cinderblock wall would be that solution. Mr. Erickson said if the acid test followed state guidelines with the intent to protect quiet enjoyment, the test was a failure. He asked if the City could adopt an ordinance that would supersede the state standard.

John Maiten, 5904 Walnut Drive, elaborated that the sound was a hum, much like a dehumidifier. He added he did not remove storm windows from the portion of his home on the Fountain Woods side and that his family avoided that side of their home.

Member Housh asked what the course of action would be to rectify this situation and asked if when the units were replaced would they be put in the same location. Mr. Hughes said he was not aware of a requirement that air conditioning units must be placed on the roof. He added that because of technology new units would most likely be quieter.

Mr. Erickson said that today, he did not believe single family homes would be built so close to multi-family dwelling units.

Member Kelly acknowledged the situation was bad but wondered if a letter to the management of Fountain Woods would do any good. He suggested studying the options that might be taken and setting up the monitoring equipment again. He reiterated this was not a Communist society and the City cannot tell people what to do.

Member Masica indicated that technology was available to solve the issue. The next steps will be, 1) to study the state statute regarding noise to see if stricter standards could be incorporated for Edina, 2) to find out if this could be retroactive; and 3) as a last resort if No. 1, and No. 2 are not feasible, to work with the building owner to alleviate the noise problem.

No formal Council action was taken.

Jim Schell, 4929 Dale Drive, also representing Bernie Brogan, 4809 Hilltop Lane, voiced concern with the new City Hall being an overpowering presence stating it has changed their quality of life. He suggested a sound wall or landscaping as a buffer from the new building.

Member Housh suggested waiting until completion of the new City Hall before doing anything as permanent as a buffer.

Member Kelly commented that the span of the 'one' new building was, in his estimation, less than the previous span of the old City Hall and Library. He suggested speaking with Assistant Manager Anderson to review the plans for landscaping, composition and lighting of the new building.

Mr. Schell inquired about what lighting there would be after dark. Mr. Hughes said the northerly portion of the building houses administrative offices and the southerly portion of the building would be the 24-hour portion, which was away from the Schell home. Mr. Hughes asked for direction from the Council.

Ms. Masica suggested waiting until the building was completed before any action was taken.

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Member Housh indicated he would visit the Schell property personally to see what impact the new City Hall has on the property. He further suggested the City Attorney study the issue.

Mayor Maetzold suggested starting a dialog between the Schell's and the City. He reminded the Council there were a number of issues that require careful study.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:55 P.M.

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City Clerk