

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT THE EDINA COMMUNITY CENTER
SCHOOL BOARD ROOM #349
FEBRUARY 17, 2004
7:00 P.M.**

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

CONSENT AGENDA ITEMS APPROVED Motion made by Member Housh and seconded by Member Hovland approving the Council Consent Agenda as presented with the exception of Agenda Item IV.B. 2004-2005 Labor Agreement with Teamsters 320 (Dispatchers), and Agenda Item IV.C. 2004-2005 Labor Agreement with Teamsters 320 (Animal Control and CSO's).

Rollcall:

Ayes: Housh, Hovland, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF FEBRUARY 3, 2004 , APPROVED** Motion made by Member Housh and seconded by Member Hovland, approving the Minutes of the Regular Meeting of the Edina City Council for February 3, 2004.

Motion carried on rollcall vote – three ayes.

ACTION CONTINUED FOR PRELIMINARY PLAT OF TWO-LOT SUBDIVISION (6800 INDIAN HILLS ROAD) Manager Hughes stated that at their meeting on January 20, 2004, the Council had directed staff to prepare Findings, Decisions, and Reasons on the proposed Preliminary Plat of a two-lot subdivision at 6800 Indian Hills Road. Mr. Hughes stated the requested findings had been prepared. He added that the proponents had responded with a petition in support of their requested variance. Mr. Hughes stated the proponents were in attendance to present their petition.

Proponent Comment

Curt Fretham, 2716 Cedar Lake Road, Minnetonka, apologized for lack of presentation at the previous meeting. He said they had not understood the level of concern regarding the requested variance. Mr. Fretham pointed out the statistical data supporting their request for the subdivision.

Member Hovland said that in the materials submitted in support of their request for subdivision, the proponents indicated their willingness to agree to certain conditions if the request were granted. He asked if they were prepared to state conditions they would be willing to have imposed upon the two lots in the proposed subdivision.

Tom Fretham, 3710 Westmark Drive, Minnetonka, stated the developer had met with the neighbors immediately on either side of the affected property. He stated they had offered an additional thirty-foot front yard setback, which would be used as a preserve and left in its natural state in the front yard. Mr. Fretham said that if required he believed that a

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twenty-foot sideyard setback could also be arranged as a condition to the subdivision approval. Mr. Fretham stated the proponents would replace each tree removed over two inches in diameter with a like tree, meaning that the same diameter tree would replace the one removed. Also, if an eight-foot pine were removed, an eight-foot pine would be replanted.

Member Hovland asked if a mature oak were removed would a large overstory tree replace it. He also asked about using a very gradual grade on the driveway. Mr. Tom Fretham said they would replace any removed tree with as large a tree as practical. However, he said he was not certain he could promise a specific grade to the driveway.

Mayor Maetzold stated that in his opinion the proponents had made a compelling case for the variance in their submittal. However, he was still struggling with how to set limitations on the new lots and/or homes. He asked the staff to outline some possibilities.

Attorney Gilligan said that the Council could if it desired, place conditions upon any variance it chose to grant. These conditions could include: conservation restrictions; height of proposed homes, square footage, and setbacks from various lot lines. Mr. Gilligan said these were suggestions and not the only restrictions that could be delineated if a variance were granted.

Member Housh expressed concern that the neighborhood be allowed the opportunity to comment upon the issue. Mayor Maetzold said he believed the Council could either approve the findings as presented by staff or continue actions and direct staff to re-notify the neighborhood.

Member Housh expressed his agreement with the Mayor, stating that in his opinion the proponent has taken the Planning Commission recommendation and expanded upon it.

Member Kelly stated he still had not changed his mind. He said the variance requested was too significant and that there was no compelling hardship, which would provide a reason for granting a variance in this situation. Member Kelly suggested the Council adopt the Findings as prepared by staff at the Council's direction. **Member Kelly made a motion adopting the Findings of Fact, Decisions and Reasons to deny the application for Preliminary Plan approval for the proposed subdivision of 6800 Indian Hills Road.** Motion died for lack of a second.

Member Hovland stated that at the last meeting he had thought the subdivision should be denied, however, upon review of the proponents submittal, he believed the Council should take a second look before finally deciding this issue.

At this point a woman in the audience became loudly argumentative with the Council and Mayor Maetzold recessed the meeting at 7:30 P.M for five minutes until order could be restored.

Mayor Maetzold reconvened the meeting at 7:35 P.M. and called for public comment on the issue.

Public Comment

Sharon Prevot, 6728 Indian Hills Road, urged the Council to not grant the requested subdivision. She stated that two homes would be too much for the property and stated her preference for one very large home on one lot as opposed to two large homes on two lots. Ms. Prevot asked the Council to deny the request and preserve the character of the neighborhood.

Mayor Maetzold commented he believed the variance was a technicality because the Code was based upon rectangular lots.

Member Kelly stated that he disagreed. He stated the findings showed that no hardship existed and the massive variance requested was contrary to the City's 20/20 Vision. He stated he felt the Council should adopt the findings and deny the subdivision, not continue action, causing neighbors to attend more meetings.

Don Wothe, 6804 Indian Hills Road, stated he had attended four meetings and at each meeting the developer used a different survey and median values for lot width. Mr. Wothe said he would like to see one survey as official. Mr. Wothe said that he found two other properties in the neighborhood with large estate homes and they did not spoil the neighborhood's character. He urged the Council to deny the subdivision request.

Mayor Maetzold asked staff about the survey values used to calculate median lot sizes. Mr. Larsen stated he believed the numbers currently in use were correct and pointed out the subject property was in a unique neighborhood.

Janice Joslyn, 6718 Indian Hills Road, apologized for her outburst, but not her frustration. She stated she was the neighbor with the steep driveway and she had no intention of re-grading her driveway. Ms. Joslyn stated that in her opinion, the subdivision, if granted, would very negatively change the character of her neighborhood. She stated the proponent had demonstrated no hardship as required by law. Ms. Joslyn said that she and the neighbors were very frustrated with the developers and the Council. The neighbors did not want the lot split. She urged the Council to take action immediately denying the subdivision.

Pen Joslyn, 6718 Indian Hills Road, state he felt the people on the other side of Arrowhead Lake should be notified at the very least if the Council was considering continuing the actions on this issue.

Henry Prevot, 6728 Indian Hills Road, stated he was the neighbor immediately to the east of the subject property. He indicated his surprise at how things were working out. Mr. Prevot noted that every household has testified that they were against the proposal. Mr. Prevot said in his opinion the issue was two houses versus one house. He asked the Council to not allow two large houses to overwhelm what will in his opinion become two lots too small to accommodate the foot prints of the houses proposed. Mr. Prevot expressed his disappointment that the Council was still allowing the developers to continue their applications without any demonstrated hardship.

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Brad Peterson, 6800 Indian Hills Road, stated he was the homeowner of the property for which the subdivision had been requested. Mr. Peterson said that he believed the changes offered in the petition, presented to the City in response to the proposed Findings plus the unique nature of the irregularity of the lots in Indian Hills, should qualify for approval of his requested subdivision.

Sharon Prevot, 6728 Indian Hills Road, stated she used to be secretary of the Arrowhead Lake Association and asked that at a very minimum all members of the Association be notified if action were continued on this item.

Mr. Larsen suggested that if Council desired, they direct staff to prepare draft conditions and provide them to the Developer. Then require the developer to take the proposed conditions to a meeting with the neighbors. Lastly, continue action on this issue until March 1, 2004, making sure all the neighbors including those around all of Arrowhead Lake be notified.

Member Hovland made a motion continuing action until March 1, 2004, 1) directing staff to: send mailed notice to the neighbors including all residents of Lake Arrowhead, 2) prepare draft conditions of the subdivision; and 3) recommending that the developer meet with the neighbors. Member Housh seconded the meeting.

Ayes: Housh, Hovland, Maetzold

Nay: Kelly

Motion carried.

***PRELIMINARY REZONING AND PRELIMINARY PLAT CONTINUED TO APRIL 6, 2004 - WALLINGFORD PARTNERSHIP (5101 WEST 70TH STREET)** Motion made by Member Housh and seconded by Member Hovland continuing action on the Preliminary Rezoning and Preliminary Plat for 5101 West 70th Street, Wallingford Partnership to April 6, 2004.

Motion carried on rollcall vote - three ayes.

FINAL DEVELOPMENT PLAN APPROVED - LUNDS (3945 WEST 50TH STREET) Mr. Larsen explained that Lund Food Holdings, applied for a Final Development Plan approval to construct an addition to their existing building on 50th Street. The proposal would add a small 1500 square foot addition to the west side of the store within the existing loading dock area. They would also remodel the balance of the existing store including upgrades to the exterior facade.

Mr. Larsen noted the proposed addition complied with all ordinance requirements. He added the property was located within the 50th and France Redevelopment area. Mr. Larsen said the Plan allowed the use of public parking to satisfy the Code's parking requirements. In addition, Lund's provides surface parking in front of their existing store.

Mr. Larsen reported the Planning Commission reviewed the Final Development Plan request at their January 28, 2004, meeting and recommended the Council approve the plans as presented.

John Pazahanik and Kris Wirtanen representing Lund Food Holdings Inc., told the Council the Lund's store will be receiving a total facelift adding a Caribou Coffee, Living Wisely, Prairie Stone Pharmacy, and a room on the new mezzanine that will be available for community use. They presented graphics depicting the exterior elevations of the proposed remodeling.

Public Comment

Bob Larsen, 5037 Indianola Avenue, asked if the new Lund's project would delay the installation of the crosswalk that had been scheduled for spring. Engineer Houle said the development would not delay the project. He added they were waiting for a two-foot easement from Lund's to begin the project.

Member Hovland introduced the following resolution and moved its adoption approving the Final Development Plan as presented:

**RESOLUTION NO. 2004-16
APPROVING FINAL DEVELOPMENT PLAN
LUND FOOD HOLDINGS, INC.
3945 WEST 50TH STREET**

BE IT RESOLVED, that the Final Development Plan dated February 6, 2004, submitted by Lund Food Holdings, Inc., and presented to the Edina City Council, February 17, 2004, is hereby approved.

Passed and adopted this 17th day of February 2004.

Member Kelly seconded the motion.

Ayes: Housh, Hovland, Kelly, Maetzold

Motion carried.

FINAL PLAT APPROVED FOR GRANDVIEW SQUARE THIRD ADDITION Mr. Larsen stated the Final Plat for Grandview Square Third Addition was ready for consideration. He explained that this would allow the developer to begin transferring title for units in Building 2, which was nearing completion.

Mayor Maetzold called for public comment. No one appeared to comment.

Member Kelly introduced the following resolution and moved its approval:

**RESOLUTION NO. 2004-17
GRANTING FINAL PLAT APPROVAL TO
GRANDVIEW SQUARE 3RD ADDITION**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "GRANDVIEW SQUARE 3RD ADDITION", platted by R.E.C. Inc., a Minnesota Corporation, and presented at the regular meeting of the City Council on February 17, 2004, be and is hereby granted final plat approval.

Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Maetzold

Motion carried.

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***BID AWARDED FOR 2004 TYPE-III AMBULANCE REMOUNT (FIRE DEPARTMENT)**
Motion made by Member Housh and seconded by Member Hovland for award of bid for Type III Ambulance Remount to sole bidder, North Central Ambulance at \$74,990.00.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR LEWIS PARK WEST ATHLETIC FIELD RENOVATION** Motion made by Member Housh and seconded by Member Hovland for award of bid for the Lewis Park West Athletic Field Renovation No. 04-02PK, to recommended low bidder, Glenn Rehbein Excavating, Inc., at \$337,360.00.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR WEST ARENA AMMONIA/BRINE CHILLER** Motion made by Member Housh and seconded by Member Hovland for award of bid for the West Arena Ammonia/Brine Chiller to recommended low bidder, Cool Air Mechanical, Inc., at \$74,850.00.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR BUILDING DEMOLITION AND REMOVAL** Motion made by Member Housh and seconded by Member Hovland for award of bid for the demolition and removal of old Edina City Hall, Contract 04-03 (Engineering) to recommended low bidder, Doboszinski and Sons, Inc., at \$52,900.00.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR STREET SWEEPER – PUBLIC WORKS** Motion made by Member Housh and seconded by Member Hovland for award of bid for a street sweeper for Public Works to recommended bidder MacQueen Equipment Company, under State Contract #431137 at \$122,329.10.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR ONE ARTICULATED TRACKLESS SIDEWALK PLOW WITH BLOWER – PUBLIC WORKS** Motion made by Member Housh and seconded by Member Hovland for award of bid for one articulated trackless sidewalk plow with blower for Public Works to recommended bidder, MacQueen Equipment Co. under State Contract #430636 at \$77,642.76.

Motion carried on rollcall vote – three ayes.

***BID AWARDED FOR 4 X 4 EXTENDED CAB - 1/2 TON PICK-UP TRUCK – POLICE DEPARTMENT** Motion made by Member Housh and seconded by Member Hovland for award of bid for one 4 x 4 extended cab 1/2 ton pickup truck to recommended bidder, Thane Hawkins Polar Chevrolet at \$21,221.91, under State of Minnesota Cooperative Purchasing Contract #432191.

Motion carried on rollcall vote – three ayes.

RENTAL HOUSING LICENSE REPORT CONTINUED TO MARCH 1, 2004 Manager Hughes explained the Rental Housing License Report will be continued to the regular meeting of the Council on Monday, March 1, 2004.

2004-2005 LABOR AGREEMENT APPROVED WITH TEAMSTERS 320 (DISPATCHERS) Member Housh asked that the 2004-2005 Labor Agreement with Teamsters 320 - Dispatchers be removed from the Council consent agenda for further information. He inquired whether the commitment for a future increase in the labor contract was in the City's best interest, considering the levy limits. Mr. Hughes said after collaborating with the bargaining units, a two-year agreement was approved. He added some cities have three-year contracts.

Member Housh made a motion approving the 2004-2005 Teamster 320 Public Safety Dispatchers Contract as presented. Member Hovland seconded the motion.

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

2004-2005 LABOR AGREEMENT APPROVED WITH TEAMSTERS 320 (ANIMAL CONTROL AND CSO'S) Member Housh asked that the 2004-2005 Labor Agreement with Teamsters 320 - Animal Control and CSO's be removed from the Council consent agenda for further information. Information was provided in the previous labor agreement approval.

Member Housh made a motion approving the 2004-2005 Teamster 320 Animal Control and CSO contract, as presented. Member Hovland seconded the motion.

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

***RESOLUTION NO 2004-12 ADOPTING HENNEPIN COUNTY HAZARD MITIGATION PLAN** Member Housh introduced the following resolution, seconded by Member Hovland and moved its adoption:

**RESOLUTION NO. 2004-12
CITY OF EDINA**

TO ADOPT AN ALL HAZARD MITIGATION PLAN

WHEREAS, the Act establishes a framework for the development of a county hazard mitigation plan; and

WHEREAS, the county as part of the planning process with the cities established a public participation process and local coordination among county and neighboring local units of government, businesses and other organizations; and

WHEREAS, the plan includes a risk assessment including past hazards, hazards that threaten the county, maps of hazards, an estimate of structures at risk, a general description of land uses and development trends; and

WHEREAS, the plan includes a mitigation strategy including goals and objectives and an action plan identifying specific mitigation projects and costs; and

WHEREAS, the plan includes a maintenance or implementation process including plan updates, integration of plan into other planning documents and how the county will maintain city and public participation and coordination; and

WHEREAS, the draft plan was shared with state and federal agencies for review and comment; and

WHEREAS, the county has notified the public of its intent to adopt the hazard mitigation plan, and has made the plan available on the Hennepin County website for

public comment prior to final adoption by the City Council and County Board as required by Minnesota Statutes 375.51 and 394.26.

NOW THEREFORE BE IT RESOLVED, that the City formally adopts the Hennepin County Hazard Mitigation plan as part of the Edina Emergency Operations Plan.

Adopted this 17th day of February 2004.

Motion carried on rollcall vote – three ayes.

*CONFIRM SCHOOL DISTRICT 273 APPOINTMENT AND REAPPOINTMENTS TO HUMAN RELATIONS COMMISSION Member Housh made a motion, seconded by Member Hovland approving School District 273 appointments and reappointments as follows:

Amy Frankfurt – Appointment for three-year term to February 1, 2007

Jim Campbell – Reappointment for a three-year term to February 1, 2007

Motion carried on rollcall vote – three ayes.

*RESOLUTION NO. 2004-13 ADOPTED AUTHORIZING CATV AGREEMENT WITH CITY OF BLOOMINGTON Member Housh introduced the following resolution, seconded by Member Hovland and moved its approval:

RESOLUTION NO. 2004-13

A RESOLUTION AUTHORIZING
EXECUTION OF AGREEMENT WITH THE
CITY OF BLOOMINGTON
FOR CATV SERVICES

WHEREAS, the City of Bloomington has submitted an Agreement to the City of Edina requesting execution by the Mayor and City Manager allowing the City of Bloomington Communications staff to assist the Edina Communications Director with CATV services; and

WHEREAS, the Agreement shall be in force February 15, 2004, through December 31, 2004.

NOW THEREFORE, the Edina City Council has authorized the Mayor and City Manager to sign the agreement and return a copy to the City of Bloomington.

Adopted this 17th day of February 2004.

Motion carried on rollcall vote – three ayes.

*HEARING DATE SET FOR MARCH 16, 2004, FOR SOUND MITIGATION - TH100 FROM MINNEHAHA CREEK TO WEST 44TH STREET IMPROVEMENT NOS. SA-10 AND SA-11 Motion made by Member Housh and seconded by Member Hovland setting March 16, 2004, adopting Resolution No. 2004-14 setting a hearing date for sound mitigation as follows:

RESOLUTION NO. 2004-14

A RESOLUTION SETTING MARCH 16, 2004, FOR
SOUND MITIGATION IMPROVEMENT AT
TH100 FROM MINNEHAHA CREEK TO WEST 44TH STREET
IMPROVEMENT NOS. SA-10 & SA-11

BE IT RESOLVED BY THE CITY COUNCIL OF EDINA, MINNESOTA, that a public hearing shall be held on the 16th day of March 2004, in the Council Chambers at City Hall at 7:00 P.M. to consider Improvement No. SA-10 and SA-11 for sound mitigation improvement on TH100 from Minnehaha Creek to west 44th Street; and

BE IT FURTHER RESOLVED that the City Clerk shall give mailed and published notice of such hearing and improvement as required by law.

Adopted this 17th day of February 2004.

Motion carried on rollcall vote – three ayes.

***RESOLUTION NO 2004-15 APPROVED ADOPTING A PLAN OF TREATMENT FOR 4400 WEST 50TH STREET** Motion made by Member Housh and seconded by Member Hovland approving the following resolution as presented:

**RESOLUTION NO. 2004-15
ADOPTING PLAN OF TREATMENT
GEORGE BAIRD HOUSE
4400 WEST 50TH STREET**

WHEREAS, the Edina City Council on February 18, 2003 adopted Ordinance No. 850-A23 designating the George Baird House, 4400 West 50th Street as an Edina Heritage Landmark, and;

WHEREAS, the Edina Heritage Preservation Board has met with the property owners and developed an appropriate Plan of Treatment for the Landmark Property.

NOW, THEREFORE BE IT RESOLVED, that the Edina City Council adopts the plan of treatment designed to identify the goals and procedures for preservation of the George Baird House, 4400 West 50th Street.

Adopted this 17th day of February 2004.

Motion carried on rollcall vote – three ayes.

***CONFIRMATION OF CLAIMS PAID** Member Housh made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated February 4, 2004, and consisting of 21 pages: General Fund \$139,555.17; CDBG Fund \$100,000.00; Communications Fund \$2,020.53; Working Capital Fund \$167,577.25; Construction Fund \$109,234.50; Art Center Fund \$854.30; Golf Dome Fund \$12.08; Golf Course Fund \$8,888.31; Ice Arena Fund \$6,147.69; Edinborough/Centennial Lakes Fund \$7,053.75; Liquor Fund \$60,789.41; Utility Fund \$39,507.05; Storm Sewer Fund \$1,162.48 Recycling Fund \$32,171.80; PSTF Fund \$2,944.01; **TOTAL \$677,918.33;** and for approval of payment of claims dated February 11, 2004, and consisting of 31 pages: General Fund \$228,553.52; Communications Fund \$3,552.71; Working Capital Fund \$626,425.62; Art Center Fund \$2,058.69; Golf Dome Fund \$10,941.86; Aquatic Center Fund \$422.41; Golf Course Fund \$4,973.69; Ice Arena Fund \$23,576.67; Edinborough/Centennial Lakes Fund \$12,949.32; Liquor Fund \$161,790.54; Utility Fund \$70,853.44; Storm Sewer Fund \$161.79; PSTF Agency Fund \$26,934.60; **TOTAL \$1,173,194.86.**

Motion carried on rollcall vote – three ayes.

REQUEST RECEIVED FROM OUTBACK STEAKHOUSE Mr. Hughes explained Outback Steakhouse was considering establishing a restaurant in the space now occupied by Pizzeria Uno at 6750 France Avenue. He noted Pizzeria Uno was licensed for on-sale wine license and beer. Mr. Hughes stated Outback would like to apply for a full on-sale intoxicating liquor license, if they lease the premises, and have submitted a letter requesting a modification to Section 900 of the City Code (the liquor ordinance).

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Mr. Hughes said the reason that there would be a need for a modification of Section 900 was because 6750 France Avenue was a Planned Office District. He noted that when the Council adopted the ordinance allowing on-sale intoxicating licenses they were limited to properties in the PC-2, PC-3 and the Mixed Development District. The subject property therefore was not eligible for an on-sale intoxicating license. Mr. Hughes added that the legislature in 2003 removed the limit on the number of on-sale intoxicating licenses a city may issue to restaurants within their jurisdiction. He said that if the Council chose, they could direct staff to prepare an amendment to the liquor code and suggested calling a public hearing to review such an amendment at their March 16, 2004, meeting.

Greg Michaels, a joint venture partner for Outback Steakhouse, and resident of 1632 Seashell Lane, Waconia, presented a letter from the owner of Pizzeria Uno, Ron Busch, stating his desire to sell his interest in the restaurant. Mr. Michaels also presented a letter from the Welsh Companies stating their approval of the assumption of the Pizzeria Uno's lease with them and stating that Outback would be a welcome amenity for the tenants and Southdale Office. Mr. Michaels also stated that in order for Outback Steakhouse to compete with neighboring restaurants in Southdale, they would need to be able to obtain a full on-sale intoxicating license.

Following a short discussion, **Member Kelly made a motion directing staff to prepare the requested amendment and setting a public hearing to consider the amendment for the March 16, 2004, Council meeting.** Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:05 P.M.

City Clerk