

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT THE EDINA COMMUNITY CENTER
SCHOOL BOARD ROOM #349
MARCH 1, 2004
7:00 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, Kelly, Masica and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Kelly and seconded by Member Hovland approving the Council Consent Agenda with the exception of Agenda Item I. Approval of Minutes of Regular Meeting of City Council February 17, 2004; and Agenda Item IV. G. Authorize St. Louis Park to include City of Edina on Fiber Cabling Bid.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

MINUTES OF THE REGULAR MEETING OF FEBRUARY 17, 2004, APPROVED Mayor Maetzold called upon the City Clerk to explain the technical corrections made to the February 17, 2004 City Council minutes. Clerk Mangen noted the paragraph heading on page one paragraph three had included the phrase "FINDINGS OF FACT ACCEPTED", which had been removed. She explained that on page ten, paragraph one, line seven, "to restaurant" had been inserted between the words "issue" and "within". Following a brief discussion, **Member Masica made a motion approving the Minutes of the Regular Meeting of the Edina City Council for February 17, 2004.** Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

FINDINGS OF FACT ADOPTED DENYING PRELIMINARY PLAT - TWO LOT SUBDIVISION (6800 INDIAN HILLS ROAD) Mayor Maetzold called upon the proponents to report what they had accomplished since the Council continued action at their February 17, 2004, meeting to allow the proponents an opportunity to meet with the neighbors.

Curt Fretham, 12716 Cedar Lake Road, Minnetonka, the developer, thanked the Council for another opportunity to discuss his proposed subdivision.

Tom Gooden, Schoell and Madson, Inc., introduced himself to the Council and thanked them for the opportunity to address the proposal once more. He indicated he had attended some of the previous meetings with the Planning Commission and that his firm had been working with Mr. Fretham on the proposed subdivision.

Curt Fretham explained that on February 26, 2004, he held a meeting at Starbuck's Coffee in Edina to address further concerns and questions pertaining to the proposed subdivision. Mr. Fretham noted that five residents: Sharon Prevot, Penn Joslyn, Donald Wothe, Brent Fosse and John Adams attended the meeting. He said that he asked for feedback from the neighbors.

Mr. Fretham said as the developer, they would agree to the following conditions if granted the requested variances and subdivision:

- 20-foot sideyard setback on the outer edge of each lot;
- 80-foot frontyard setback either as a tree preservation area with undesirable grasses and brush cleaned out and some trees replanted or as a Conservation Restriction;

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- One common driveway for both homes originating at the existing approach and remaining as one drive until a depth of 80 feet has been reached. The common drive will be provided by easements; will take the least resistance, change and tree loss. Drive will primarily be placed on Lot 1 until the 100-foot setback has been reached;
- Height of proposed south lot home would not exceed the MSL elevation of the bottom edge of the kitchen window of the Henry and Sharon Prevot home. Estimated elevation from the topographic map was 930.5 MSL, with the exact elevation to be determined by the land surveyor;
- Trees removed for construction of homes and drives shall be replaced at a one-to-one ratio. Diseased, nature-damaged and trees less than two inches in base diameter shall not be counted for replacement. Replacement trees shall be six to eight foot coniferous or two inch deciduous;
- Two neighbors immediately adjacent shall direct the placement of eight to ten foot coniferous replacement trees (four each) on proposed lots. Trees will be placed advantageously to block sound, light and traffic disturbance;
- Non-buildable front yard setback will be 100 feet. Increase reduces the buildable area of the property and addresses neighbors' concern regarding size of new homes.

Tom Gooden, speaking for the proponent, responded to some correspondence directed to the Council regarding the proposed subdivision. He noted that the lot area of the two proposed lots had changed. Mr. Gooden pointed out the neighbors who submitted measurements had not measured at the 50-foot setback as required by code, which was in his opinion what caused the confusion.

Member Masica reminded Mr. Fretham that the proponent's personal finances would not meet the hardship requirement for granting a variance.

Mr. Gooden responded that the irregularity of the lots in the 500-foot neighborhood was not a mere inconvenience for the reasonable use of the property. He added the proposed lots would meet the character of the neighborhood. Using a graphic he showed the buildable area of the proposed lots stating it would be approximately 9,000 square feet each lot. Mr. Gooden said that if the lot were not split there would be the potential for an approximate 34,000 square foot buildable area.

Member Housh asked staff to clarify the questions about the median lot values. Mr. Larsen said that there was agreement on the basic figures that yielded a 114-foot median lot width for the neighborhood. He added that the neighbors and proponents had used measurements differently, which caused some confusion. Mr. Larsen stated that both proposed lots measured 110.5 feet in width requiring 3.5-foot variances for approval.

Public Comment

Mayor Maetzold noted that at a previous meeting, several neighbors testified in opposition to the requested subdivision at 6800 Indian Hills Road. He noted that since the last meeting, correspondence had been received from: Donald and Kaye Wothe, 6804 Indian Hills Road; Pamela R. Weston, 6516 Indian Hills Road; Emilie and Henry Buchwald, 6808 Margaret's Lane; Lew Sandy, 6711 Indian Hills Road; Henry J. Prevot, 6728 Indian Hills Road; and Mark Peterson on behalf of the Lake Arrowhead Improvement Association, all urging the Council to deny the proposed subdivision. Mayor Maetzold asked if anyone in attendance wished to speak supporting the proposal.

Brad Hepp, 6442 Margaret's Lane, spoke in favor of granting the requested subdivision. Mr. Hepp stated he had lived his entire life in Edina and seen a number of changes occur. He added that he had seen several redevelopments such as the requested one for 6800 Indian Hills Road and urged the Council to favorably consider this request.

Council Discussion/Action

Mayor Maetzold said he felt the Council should pause and consider the Findings before the Council.

Member Kelly made a motion; seconded by Member Masica to adopt the Findings of Fact, Decision and Reasons as presented denying the requested subdivision at 6800 Indian Hills Road.

Mayor Maetzold stated he would be supporting adopting the findings, adding that at the last meeting he had believed the proponent made a compelling argument for further study of the issue. However, upon receipt of additional information and further study he would not be supporting the requested subdivision.

Member Hovland thanked all attendees for their interest. He especially noted the presentation of Dr. Wothe, the neighbors' comments and the proponent's follow-up with the neighborhood.

Member Hovland pointed out that the City Code provides discretionary authority to grant variances when considering preliminary or final plat of a subdivision. However, he noted that within that discretion, the Council was held by certain standards. Continuing, Member Hovland explained the first burden on the Council was to ascertain whether or not an unusual hardship existed on the land within the proposed subdivision coupled with an affirmative determination on each of the following:

- The hardship was not a mere inconvenience;
- The hardship was due to the particular physical surrounding, shape or topographical conditions of the land;
- The condition or conditions upon which the request for a variance was based were unique to the property being subdivided and not generally applicable to other property;
- The hardship was not caused by this section and not by the applicant;
- The variance would result in an improved plat or subdivision; and
- The variance, if granted, would not alter the essential character of the land.

Member Hovland stated that the Council has heard persuasive arguments both as to why and why not to grant the requested subdivision and subsequent variance for 6800 Indian Hills Road. He said the obligation for elected officials was to give fair process and equal treatment to citizens appearing before the Council. Member Hovland stated he felt that he and his fellow Council members take their responsibilities and citizens trust very seriously.

Member Hovland added that in the case before the Council for 6800 Indian Hills Road, he had given the requested variance and subdivision careful review. In his final analysis, however, he did not believe the applicant met its burden of proof of a hardship and therefore, would be voting for adoption of the findings denying the requested subdivision.

Member Hovland complimented the staff for bringing the request before the Council, as they must, noting every Edina property owner may make a request as was made on Indian Hills Road. He stated the staff was obligated to bring such requests forward where the Council could ultimately decide upon their acceptability.

Member Housh stated he did not agree with his colleagues and had not since the first meeting. He pointed out that the Planning Commission voted seven to one to recommend approval of the requested subdivision. He added he appreciated the efforts the developer put forth to achieve consensus. Member Housh acknowledged that requests of this nature were a challenge to neighbors.

Member Masica agreed with the Mayor and Member Hovland, stating she felt the proponent had not met the burden of proof of hardship. Member Masica noted her concern that all types of housing styles be preserved in Edina. She added she could not support granting the request because it would be convenient and financially helpful to the proponent.

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Member Kelly stated his agreement with Members Hovland, Masica and Mayor Maetzold. He added that he was concerned that there was such a difference between the Planning Commission and City Council. Member Kelly requested an opportunity for the Council to sit down with the Planning Commission and Zoning Board of Appeals. He requested the City Attorney develop some guidelines of what exactly constituted a hardship and what was not a hardship. A joint meeting would allow the Council to share its vision for where the Council believes Edina's vision should be, relative to its housing stock.

Mr. Larsen suggested an amendment to the written findings be drafted to include the March 1, 2004 meeting. Mr. Hughes briefly outlined the suggested addition:

- Council conducted a hearing on March 1, 2004, and received testimony from the proponent;
- Proponent briefed Council on results of neighborhood meeting and the proponent's view of findings required to be made to grant a variance;
- Resident appeared to speak in favor of proponent's request;
- Council received petitions and letters from surrounding residents providing reasons for denial; and
- Council reviewed findings necessary for granting the variance and shared individual viewpoints concerning applications, merits, and findings necessary for a variance.

Member Kelly accepted the amendment to his previous motion to adopt the amended Findings, Decision and Reasons as follows denying the Preliminary Plat for a two-lot subdivision at 6800 Indian Hills Road:

CITY OF EDINA

**In the Matter of the Application of
Brad Pederson, Curt Fretham for
A Subdivision of Lot 5, McCauley
Heights First Addition; 6800 Indian Hills
Road, Edina, MN. (S-03-9).**

**FINDINGS,
DECISION,
AND REASONS**

The above-entitled matter was heard before the City Council, City of Edina, on January 20, 2004, February 17, 2004, and March 1, 2004. Bradley Dean Pederson ("Property Owner"), and Curt Fretham, ("Proponent") were present. The City Council, having heard and reviewed the evidence adduced by the Proponent, the Property Owner, City Staff, City Planning Commission, and property owners in the vicinity and being fully advised, after due consideration, hereby makes the following:

FINDINGS OF FACT:

1. The Proponent, on November 12, 2003, submitted an application for Subdivision of a 66,960 square foot parcel of land located at 6800 Indian Hills Road, Edina, MN. This parcel ("Subject Property") has an existing single dwelling building located in the central portion of the lot. According to City records, the Property Owner owns the lot. The Planning Commission at their regular meeting of November 26, 2003, heard the application for subdivision. It was pointed out by a resident at the meeting that several lots zoned R-2, Double Dwelling Unit District were included in the calculations establishing neighborhood median averages for lot size comparison purposes. At that time, the Proponent indicated he would withdraw the request, and resubmit with calculations excluding the R-2 lots as required by the Subdivision Ordinance.
2. The Proponent, on December 17, 2003, submitted a new application for Subdivision of 6800 Indian Hills Road, Edina, MN. City Staff reviewed the revised application and determined it was complete, and placed the request for Subdivision on the January 7, 2004, Planning Commission agenda. The application for Subdivision depicted two R-1, Single Dwelling Unit lots. Lot 1 measured 32,478 square feet in area, and Lot 2 measured 34,482 square feet. The Proposed Subdivision indicated the existing building would be removed.
3. The Edina Planning Commission reviewed the Proposed Subdivision at their January 7, 2004, meeting. The Proponent made a presentation explaining lot calculations were revised to eliminate the R-2 lots, and pointed out that he met with some neighbors prior to the meeting.

Several property owners in the vicinity of the Proposed Subdivision spoke in opposition to the proposal. Concerns raised by neighbors included tree loss, impact on the site caused by grading, that no hardship existed to warrant the proposed lot width variance for Lot 1, that the scale of new homes would be out of character with the existing neighborhood, and the potential for traffic hazards caused by an additional lot having a curb cut on Indian Hills Road. After receiving testimony of City staff, the Proponent, and neighbors, the Planning Commission voted to recommend approval of the Proposed Subdivision.

4. The City Council, on January 20, 2004, conducted a public hearing on the Proposed Subdivision, and received the report and recommendation of the Planning Commission. Pursuant to applicable city ordinances, notice of the public hearing was published in the Edina Sun Current and mailed to property owners within 500 feet of the Proposed Subdivision. The City Council heard testimony from the Proponent, the Property Owner and neighbors. Among the issues discussed and considered in written and oral testimony were:
 - A. The Proposed Subdivision would alter the character and symmetry of the neighborhood, and thus would violate the purpose and intent of the Subdivision Ordinance.
 - B. The proponents did not demonstrate a hardship to justify the 19-foot lot width variance for Lot 1 of the Proposed Subdivision. The justification for the variance was purely economic in nature.
 - C. The homes illustrated for the new lots would cause significant tree loss, and would not be compatible in scale with existing homes in the area.
 - D. The driveway approach to the street could cause safety problems due to the steep grades present on the site.
5. Council conducted a public hearing on March 1, 2004, and received testimony from the Proponent and his representative. Proponent briefed City Council on the outcome of a neighborhood meeting. Proponent and representative provided a reply to petitions submitted to the City in opposition to the application. Proponents also spoke to their view of the findings required to be made for the granting of a variance. Mr. Brad Hepp, 6442, Margaret's Lane appeared and spoke in favor of the application. The Council received several petitions and letters from surrounding residents providing reasons for denial of the application: The Council also reviewed the findings necessary for the grant of the variance and shared their individual viewpoints concerning the merits of the application and the findings necessary for a variance.

Therefore, based on the foregoing Findings, the City Council does hereby make the following

DECISION:

The application for Preliminary Plat approval for the Proposed Subdivision of 6800 Indian Hills Road, Edina, MN by Bradley Pederson and Curt Fretham is denied.

The above decision is made for the following

REASONS:

In determining the appropriateness of a subdivision, the City Council relies on the standards and guidelines contained in its Subdivision Ordinance (Section 810 of the City Code).

Section 810.05 of the Subdivision Ordinance provides that the "Council shall grant variances only upon finding that an unusual hardship exists as to the land within the plat or subdivision, and specifically that:

- A. The hardship is not a mere inconvenience;
- B. The hardship is due to the particular surroundings, shape or topographical condition of the land;
- C. The condition or conditions upon which the request for a variance is based are unique to the property being platted or subdivided and not generally applicable to other property;
- D. The hardship is caused by this section and not by the applicant;
- E. The variance will result in an improved plat or subdivision; and
- F. The variance, if granted, will not alter the essential character and symmetry of the land within the plat or subdivision or in the neighborhood."

The proposed 19-foot lot width variance proposed for Lot 1 of the Proposed Subdivision (modified proposal requiring 3.5 foot width variance for each lot) does not satisfy the criteria set forth for the granting of a variance.

Section 810.11 of the Subdivision Ordinance provides guidelines and criteria for the City Council to consider when reviewing proposed subdivisions: Among the considerations set forth are:

- A. The impact of the proposed plat or subdivision, and proposed development, on the character and symmetry of the neighborhood as evidenced and indicated by, but not limited to, the following matters:
 - 1. The suitability of the size and shape of the lots in the proposed plat or subdivision relative to the size and shape of lots in the neighborhood; and
 - 2. The compatibility of the size, shape, location and arrangement of the lots in the proposed plat or subdivision with the proposed density and use of the lots in the neighborhood."

The lots in the proposed subdivision are incompatible with the character and symmetry of the lots in the surrounding neighborhood.

Member Masica seconded the motion accepting the proposed amendment to the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Nay: Housh

Motion carried.

ADOPTED RESOLUTION NO. 2004-18 APPROVING 2004 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Larsen explained that Edina’s 2004 Community Development Block Grant (CDBG) entitlement was \$171,153, a 2.3% reduction from the 2003 allocation. Requests for funding for the public services portion of the budget had been received from the same organizations Edina has funded in the past. Mr. Larsen said staff recommended reducing the amount allocated in the past by 2.3% reflecting the overall budget reduction. He said that Edina’s Human Relations Commission reviewed the proposed budget and agreed with staff’s recommendation.

Mr. Larsen outlined the budget, noting that public services may not exceed 15% of the total budget. Therefore, Edina’s 2004 public services allotment may not exceed 25,672. He said the same agencies funded in year 2003 applied for 2004 funds:

- Greater Minneapolis Daycare Association (GMDCA), providing daycare subsidies to income eligible parents.
- Senior Community Services (H.O.M.E.), Housing and Outdoor Maintenance for the Elderly, providing housekeeping and chore services to Edina seniors who pay for services on a sliding fee scale.
- Community Action for Suburban Hennepin (CASH), provides housing programs for low and moderate income homeowners and homebuyers.
- HOME Line provides tenant advocacy services for Edina renters.

	2003	2004	2004
Public Services			Proposed
<u>Agency</u>	<u>Budget</u>	<u>Requests</u>	<u>Budget</u>
GMDCA Daycare Subsidy	\$14,985	\$15,000	\$14,633
H.O.M.E. Sr. Comm. Services	\$ 9,316	\$ 9,316	\$ 9,089
CASH	\$ 996	\$ 2,500	\$ 975
HOME Line	\$ 996	\$10,000	\$ 975
TOTAL	\$26,293	\$36,816	\$25,672

Mr. Larsen said that \$145,481 would remain to be directed toward community development projects. He said that staff recommendations included funding the Rehabilitation of Private Property and the Scattered Site Affordable Housing programs. Mr. Larsen added these two housing programs have successfully contributed to maintaining Edina's housing stock and also aided in providing affordable housing opportunities. He outlined the following distribution of funds for community development purposes:

<u>Activity</u>	<u>2003 Budget</u>	<u>2004 Proposed Budget</u>
Rehab of Private Property	\$ 68,551	\$ 60,000
Scattered Site Afford. Housing	<u>\$ 80,000</u>	<u>\$ 85,481</u>
TOTAL	\$149,551	\$145,481

Member Hovland asked if the fifteen percent allowed for public service was controlled locally or by whom. Mr. Larsen replied that HUD set the fifteen percent, but he believed it was also mandated by federal statute.

Public Comment

Laurie Possin, Community Support Department Manager, Greater Minneapolis Day Care Association, thanked the Council for their continued support and said that the monies come directly back into Edina to service families in need. She said that the GMDCA has lost twenty percent of their funding and the waiting list was now much longer (24 months). Ms. Possin said there were currently about 27 families on the waiting list and the monies from Edina would allow GMDCA to assist five to six families with their daycare needs.

Member Masica asked about the requirement she noted in GMDCA's printed materials, under the steps to receive services, that a family must be receiving assistance. Ms. Possin explained the budget cutbacks had increased the family's share of day care to a far greater percentage of the family budget. Therefore, GMDCA, has been assisting with a scholarship that pays a portion of family's share who were already receiving assistance, but albeit at a reduced amount.

Marcy Harris, Community Action for Suburban Hennepin, CASH, thanked the Council for their support. Ms. Harris stated that CASH has provided residents of Edina with full life-cycle homeownership services since 1992. She said these services include foreclosure prevention, rehabilitation advice and assistance, first-time homebuyer training and counseling, and reverse mortgage counseling. Ms. Harris noted that the reverse mortgage counseling has been particularly utilized in Edina. Member Hovland asked rates seniors were paying for reverse mortgages in Edina. Ms. Harris replied this often depended when CASH got involved. She said ideally rates would be between five and seven percent, but she has dealt with cases where the vulnerable elderly homeowner has been gouged for as much as eighteen percent.

Ted Snyder, Executive Director HOME Line, thanked the Council for their past support. He noted that the HOME Line helps approximately 90-100 Edina residents annually resolve conflicts with their landlords. Some issues include:

- Court advocacy project providing free legal representation to renter families with children facing eviction;
- Renter Education for High School Students –A one-session program on the “basics of renting” for young people who will be entering the rental market for the first time on their own;
- Policy Advocacy including substandard housing, demand for property, guest rights, neighbor violation, privacy issues, and return of security deposit.

Mr. Snyder urged the Council to continue funding his organization in 2004.

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Mr. Hughes noted for the record that he serves on the Board of Directors of the Senior Community Services. He added that this organization receives funding from Edina's CDBG funds and provides services as Household and Outside Maintenance for Elderly (HOME), in Edina. Mr. Hughes stated he had not entered into any conversations or deliberations with either staff or the Human Relations Commission during their review process of the 2004 CDBG funds. He added that he does not receive any financial remuneration for his service on the Board.

Member Kelly made a motion to close the public hearing on the 2004 Community Block Grant Program. Member Masica seconded the motion.

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

Member Masica made a motion introducing the following resolution and moving its adoption approving the 2004 Community Development Block Grant Program as presented:

RESOLUTION NO. 2004-18

**RESOLUTION APPROVING PROPOSED USE OF 2004 URBAN COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS
AND AUTHORIZING EXECUTION OF SUBRECIPIENT AGREEMENT
WITH HENNEPIN COUNCIL AND ANY THIRD PARTY AGREEMENTS**

WHEREAS, the City of Edina, through execution of a Joint Cooperation Agreement with Hennepin County, is cooperating in the Urban Hennepin County Community Development Block Grant Program; and

WHEREAS, the City of Edina has developed a proposal for the use of 2004 Urban Hennepin County Community Development Block Grant funds made available to it; and

WHEREAS, the City held a public hearing on March 1, 2004, to obtain the views of citizens on housing and community development needs and priorities and the City's proposed use of \$171,153 from the 2004 Urban Hennepin County Community Development Block Grant.

BE IT RESOLVED, that the City Council of the City of Edina approves the following projects for funding from the 2004 Urban Hennepin County Community Development Block Grant Program and authorizes submittal of the proposed budget to Hennepin County.

<u>Activity</u>	<u>Budget</u>
Rehabilitation of Private Property	\$60,000
Scattered Site Affordable Housing	\$85,481
Greater Minneapolis Daycare Association	\$14,633
Senior Community Services (HOME)	\$ 9,089
Community Action for Suburban Hennepin (CASH)	\$ 975
HOME Line	\$ 975

BE IT FURTHER RESOLVED, that the City Council hereby authorizes and directs the Mayor and the City Manager to execute the Subrecipient Agreement and any required Third Party Agreement on behalf of the City to implement the 2004 Community Development Block Grant Program.

ADOPTED: the 1st day of March 2004.

Member Kelly seconded the motion.

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

FIRST READING GRANTED TO ORDINANCE NO. 2004-01 - AMENDING EDINA CODE SECTION 450 - RESIDENTIAL SWIMMING POOLS

Community Health Administrator Velde explained at the December 2, 2003, regular Council meeting, staff recommended amending the current City Code regulating residential swimming pools. He said the amendment would allow the use of a swimout or a bench as a means of egress from residential swimming pools and would allow for a

reduction in the required deck around the residential swimming pool thereby permitting certain special features such as a vanishing edge pool or a waterfall.

Mr. Velde explained Section 1 of the proposed amendment defined underwater seats, benches and swimouts. Section 2 of the proposed amendment would allow the application of a "vanishing edge" or waterfall along a maximum of 15 feet of the required deck, or one entire side of the swimming pool if the maximum depth of the residential swimming pool did not exceed 54 inches. Section 3 of the proposed amendment would allow the installation of swimouts, seats or benches, which were visually set apart, as a means of egress from a swimming pool in lieu of a ladder.

Mr. Velde said the proposed amendment would not change the prohibition on above ground swimming pools in Edina. He recommended granting First Reading to Ordinance No. 2004-01, amending Code Section 450 regulating residential swimming pools.

Member Hovland asked if requiring a non-slip material to be used in the swimout was given consideration. Mr. Velde noted that the ordinance stated that the swimout must be visually 'set apart'.

Member Masica asked how the 15-foot maximum for the vanishing edge had been set. Mr. Velde explained a 15-foot vanishing edge should allow rescuers to help swimmers in trouble in front of that vanishing edge because shepherd's poles were 12 feet long. Ms. Masica asked if a handrail was required on pool steps. Mr. Velde replied a handrail was not required on the shallow end of the pool.

Member Housh asked if surrounding communities have as stringent rules for pools as Edina. Mr. Velde said Edina's rules were more extensive.

Barry Cart, 4208 Branson Street, inquired about research on water depth as well as the length of the diving well. Mr. Velde said the City Code has minimum distances from the diving wall out to the deep point as well as a specific distance from the deep point to the first transition and then back up to the shallow end. The model was taken from the National Spa and Pool Institute (NSPI).

Member Kelly made a motion granting First Reading to Ordinance No. 2004-01, amending Code Section 450 regulating residential swimming pools. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RENTAL HOUSING REPORT PRESENTED Manager Hughes stated that the rental housing report had been completed in response to questions and concerns that were discussed at the January 20, 2004, meeting. The group that attended the meeting recommended the Council adopt a rental licensing ordinance.

Chief Siitari stated he surveyed six surrounding suburbs and reported that Hopkins, Bloomington and Richfield require licensing for rental housing, including single-family homes. Mr. Siitari said St. Louis Park required a license for multi-family rental housing (3 or more units) but Minnetonka and Eden Prairie have no rental housing licensing. He added that Hopkins and Richfield both have disorderly behavior clauses in their licensing qualifications, but do not focus on the housing stock, only activities within the housing. Mr. Siitari said the two cities having licensing for rental housing have a limited track record, but feel the disorderly behavior clause was important and used most often for noise complaints. He said the disorderly behavior clause can be a valuable tool with proper documentation.

Administrator Velde explained the Health Department fields all complaints regarding dilapidated houses, and tenant complaints against landlords. Mr. Velde said that of the 121 complaints the

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Department has received since 1995, 25 were about rental dwellings, the remainder were about owner occupied dwellings. The remaining complaints were about the condition of the exterior of the homes and many of them were owner occupied. Edina has approximately 4027 apartment buildings of four units or more, 3465 condominium dwelling units, and 615 townhouse complexes. Mr. Velde stated that in Edina approximately 963 homes have not been filing for their Homestead Exemption. He said the staff would estimate about 40 - 50 of them have been rented out. Mr. Velde added the housing ordinance would basically be a maintenance ordinance because the City does not get involved in tenant's rights issues.

Mr. Hovland inquired what the cost would be to implement a licensing program. Mr. Velde said he estimated two people would be required at an approximate cost of \$100,000.00, for salary and benefits.

Mr. Hughes noted that fees could be charged for a licensing program that would cover staff costs. Attorney Gilligan said the goal would be for the fees to cover the cost of the program.

Mr. Gilligan said in dealing with activities within a house and not the condition of the house, the Council might want to consider a disorderly house ordinance. He added a disorderly house law existed under which it was a gross misdemeanor of the person who owns, leases, operates or manages a disorderly house. The owner of the house would be the responsible party even though the tenant was the one perpetrating the activity. Mr. Gilligan said a disorderly house was defined as, ...a building dwelling, place, establishment, or premises in which actions or conduct habitually occur in violation of laws relating to the: 1) sale of alcoholic beverages, 2) gambling, 3) prostitution, or 4) sale or possession of controlled substances. He added the law did not prohibit or restrict a local governmental unit from imposing more restrictive provisions.

Mr. Housh asked for a definition of habitual. Mr. Gilligan said when enforcement becomes an issue; it would be a way to get the attention of the landlord.

Following a brief discussion, the Council indicated giving the Police another tool of enforcement with inclusion of an ordinance amendment covering disorderly housing and would be a positive step forward.

Mr. Gilligan suggested he could collaborate with the City's Prosecuting Attorney Halberg and prepare a draft ordinance for presentation to the Council at the first meeting in April.

Jerry Parr, 6201 Virginia Avenue South, challenged the numbers of rental properties in Edina presented previously and suggested further study be done. He restated the concerns of the neighbors brought out at their first appearance.

Karin Mother, 4812 West 67th Street, said concern should be with disorderly behavior not beautification of the area. Ms. Mother expressed frustration that the Police do not have the avenue necessary to stop the disorderly behavior and she suggested pursuing the disorderly house amendment.

No formal Council action was taken.

ON-SALE INTOXICATING, CLUB ON-SALE AND SUNDAY SALE LIQUOR LICENSE RENEWALS

APPROVED Mr. Hughes presented a list of restaurants holding On-Sale Intoxicating, Club On-Sale and Sunday Sale licenses which were recommended for approval. He explained that applications for renewal have been reviewed by the Edina Police Department. Paperwork has been submitted from all applicants in accordance with City Ordinances and State Statutes and license fees paid. Mr. Hughes stated that one licensee Ikasu Sushi Bar had not completed their renewal paperwork in time to be included with the other renewals and would be presented at a later date.

Member Hovland made a motion to approve renewals for the following: ON-SALE INTOXICATING and SUNDAY SALE: Big Bowl Café, California Pizza Kitchen, Eden Avenue Grill, Maggiano's Restaurant & Bakery, P.F. Chang's Bistro, Romano's Macaroni Grill, Ruby Tuesday, Sidney's Pizza Café, Tejas, and The Cheesecake Factory; CLUB ON-SALE and SUNDAY SALE: Edina Country Club and Interlachen Country Club. Member Housh seconded the motion.

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

ON-SALE WINE AND ON-SALE 3.2 BEER LICENSE RENEWALS APPROVED Mr. Hughes presented the list of restaurants holding On-Sale Wine and On-Sale Beer Licenses recommended for approval. He noted that when establishments receive both an on-sale Wine license and an on-sale 3.2 beer license they may per State Statute, with no further license, sell strong beer in their restaurants. Mr. Hughes reported that all necessary documentation has been submitted for renewal, fees collected, and the Police Department recommended renewal.

Member Hovland made a motion to approve issuance of ON-SALE and ON-SALE 3.2 BEER Licenses as follows: Beaujo's Bistro, Boundary Waters Restaurant, Chipotle Mexican Grill, Chuck E. Cheese's, D'Amico & Sons, Edina Grill, Good Earth Restaurant, Locanda De Giorgio, Inc., New Delhi Indian Bistro, Pizzeria Uno, Residence Inn Edina, Szechuan Star Restaurant, and Yorktown Cinema Grill. Member Housh seconded the motion.

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

3.2 BEER LICENSE RENEWALS APPROVED Mr. Hughes presented a list of applicants for renewal of their 3.2 beer licenses, both On-Sale and Off-Sale. All necessary documentation has been submitted for renewal, fees have been collected and the Police Department recommended approval.

Member Housh made a motion approving issuance of beer license renewals as follows: ON-SALE 3.2 BEER LICENSES: Braemar Golf Course, Davanni's Pizza Hoagies, Fred Richards Golf Course, TJ's Family Restaurant, and OFF-SALE 3.2 LICENSES: Cub Foods, Holiday Stationstore #217, Jerry's Food, and Speedway SuperAmerica, LLC. Member Masica seconded the motion.

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

APPOINTMENTS MADE TO COMMUNITY HEALTH COMMITTEE, HUMAN RELATIONS COMMISSION, PARK BOARD AND PLANNING COMMISSION Mayor Maetzold requested endorsement of his recommendations for appointments to the Community Health Committee, Human Relations Commission, Park Board and Planning Commission, as follows:

Community Health Committee - Two-Year Terms

- Lynn Moline - Consumer
- William Alldredge - Consumer
- Brad Montgomery - Provider

Human Relations Commission - Three-Year Term

Carol Carmichiel

Park Board - Three-Year Terms

- Alice Hulbert
- Jeff Sorem

Planning Commission - Three-Year Term

Michael Fischer

Member Kelly made a motion approving the appointments to the various boards, committees and commissions as presented. Member Housh seconded the motion.

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

***STEEL CHANGE ORDERS CITY HALL APPROVED** Motion made by Member Kelly and seconded by Member Hovland authorizing staff to process change orders exceeding 10% for the Western Steel contract in the amount of \$21,000. 00.

Motion carried on rollcall vote – five ayes.

ST. LOUIS PARK AUTHORIZED TO INCLUDE CITY OF EIDNA ON FIBER CABLING BID

Member Masica asked that the authorization to be included on the St. Louis Park fiber optic cabling bid be removed from the consent agenda for further information. She inquired what the fiber optic cabling would be used for. Mr. Anderson said in conjunction within the multi-year Capital Improvement Plan (CIP), the T-1 lines (high-capacity and phone lines) were installed from the Public Works Building to City Hall. Lines from the Fire Department to City Hall would be installed in the future under the CIP. Including Edina in the St. Louis Park system would allow a greater option to make the connection with LOGIS more quickly. Mr. Anderson said this installation would remove the reliance on the Qwest phone lines.

Member Masica made a motion authorizing St. Louis Park to include the City of Edina’s fiber project as an add/alternate to their fiber optic cabling bid. Member Kelly seconded the motion.

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

***CONFIRMATION OF CLAIMS PAID** Member Kelly 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 19, 2004, and consisting of 31 pages: General Fund \$735,927.36; Communications Fund \$9,231.94; Working Capital Fund \$179,416.38; Construction Fund \$86,570.88; Art Center Fund \$4,741.35; Golf Dome Fund \$15,984.83; Aquatic Center Fund \$37.28; Golf Course Fund \$38,020.70; Ice Arena Fund \$703.82; Edinborough/Centennial Lakes Fund \$19,208.36; Liquor Fund \$105,695.55; Utility Fund \$583,384.17; Storm Sewer Fund \$157,285.83; PSTF Agency Fund \$1,121.21; TOTAL \$1,937,329.66; and for approval of payment of claims dated February 25, 2004, and consisting of 26 pages: General Fund \$270,245.84; Communications Fund \$2,613.36; Working Capital Fund \$41,531.99; Art Center Fund \$6,165.62 Golf Dome Fund \$1,919.98; Golf Course Fund \$7,748.20; Ice Arena Fund \$1,155.71; Edinborough/Centennial Lakes Fund \$1,889.07; Liquor Fund \$98,851.36; Utility Fund \$118,806.09; Storm Sewer Fund \$35,978.15; PSTF Fund \$13,373.16; TOTAL \$600,278.53.

Motion carried on rollcall vote – five ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 8:55 P.M.

City Clerk