

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
APRIL 20, 2004
7:00 P.M.**

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

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

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF APRIL 7, 2004, AND SPECIAL MEETING OF APRIL 7, 2004, AND BOARD OF APPEALS AND EQUALIZATION OF APRIL 12, 2004, APPROVED** Motion made by Member Hovland and seconded by Member Masica, approving the Minutes of the Regular Meeting of the Edina City Council for April 7, 2004, and Special Council Meeting of April 7, 2004, and Board of Appeals and Equalization Meeting of April 12, 2004.

Motion carried on rollcall vote - four ayes.

RESOLUTION NO. 2004-31 APPROVING CONDITIONAL USE PERMIT FOR EDINA SCHOOL DISTRICT 273 BOND REFERENDUM PROJECTS AND ADDITIONS TO EDINA HIGH SCHOOL, VALLEY VIEW AND SOUTH VIEW MIDDLE SCHOOLS, THE EDINA COMMUNITY CENTER AND ATHLETIC FIELDS Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen informed the Council the Edina School District was seeking a Conditional Use Permit to allow construction of various additions and site improvements to the South View/Edina Community Center and Valley View/Edina High School campuses. He added these additions were a result of the November 2003 School District Capital Improvement Bond Referendum. Mr. Larsen said the proposed improvements met all City Code requirements with the exception of the Edina Community Center parking, which was deficient. However, Mr. Larsen pointed out that over 100 spaces had been added to this campus. Mr. Larsen introduced Ted Rozeboom, Rozeboom, Miller Architects Inc., the principal architect for the Edina School District.

Member Masica asked how many spaces Edina's Code would require to comply relative to parking. Mr. Larsen said that Edina Code would require one parking space per three seats in the largest venue, which would be the stadium containing 4700 seats. He added that with the reconfiguration of the lots adding 100 spaces parking issues should be eased considerably on the site.

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Proponent Presentation

Ted Rozeboom, Rozeboom, Miller Architects, Inc. reviewed the additions to the buildings and sites for both the South View Middle School/Edina Community Center/Normandale Elementary School site and the Edina High School/Valley View Middle School site as follows:

South View Middle School/Edina Community Center/Normandale Elementary School Site:

- Building Addition to South View Middle School
- Building Addition to Normandale Elementary School Portion of Edina Community Center Building
- Parking Lots Reconfiguration Adding 100 Plus Parking Spaces Overall
- New Pedestrian Walkways Redirecting Foot Traffic
- New building entrance plazas clearly identifying public entrances
- Reconfiguration of bus loops/drop off & pick up locations
- Relocation and renovation of playing and practice fields
- Installation of artificial turf on Kuhlman Field
- Widening of running track around Kuhlman Field

Edina High School/ Valley View Middle School Site:

- Building addition and remodel of classroom spaces at Edina High School
- Building addition and remodel of classroom spaces at Valley View Middle School
- Relocation of existing entry drive/ring road to the westerly edge of site
- Redesign and location of building entries and bus turn-arounds for both schools
- Relocation and renovation of playing and practice fields
- Parking lot reconfiguration
- Relocation and redesign of exterior walkways

Mr. Rozeboom said that some guiding tenets that were followed included:

- Enhancing safety (separation of traffic)
- Maximizing parking
- Preserving green space
- Increase of practice fields
- Clarify public entrances

He added that the design also looked at programmatic considerations and proximities, both for daily use and for after hours use; tying into and expanding upon the existing palette of materials in place at each site; attending to natural light in both the renovations and additions; attention to the building images in non-daylight hours. Mr. Rozeboom complimented the District 273 staff on the effort put into the thoughtful design process of the proposed improvements. Mr. Rozeboom introduced Jay Pomeroy, the landscape architect from the Civil Engineering firm of Anderson-Johnson Associates, Inc.

Mayor Maetzold asked if the new McCarthy field location was planned to be a storm water holding area and whether the new pool would be competition sized. Mr. Rozeboom replied that McCarthy field would be used for storm water if needed, and that the new pool would have eight lanes, a diving well and seating for up to 200.

Member Hovland asked if the new perimeter road at the High School was intended to be used in one or two directions; and how would ingress/egress be controlled. Member Hovland expressed some concern over the proposed orientation of the parking lot to the "ring road". Mr. Rozeboom said the ring road would be a two-way road. Mr. Pomeroy said that reorientation of the parking lot would be reviewed because it was a good suggestion.

Member Masica asked if the Edina Community Center Parking lot would meet future needs as well as current needs. Mr. Rozeboom replied that with 780 parking spaces the day time needs of the facility would be met, but that special events parking would not be met because of the volume needed to satisfy Kuhlman's 4700 seats. He added the redesign of the two campuses was challenging because of the finite land available. He added he felt the proposed design was a dramatic improvement with the least effect on the neighborhood. Mr. Rozeboom said they moved the road away from the building creating more pedestrian safety, defined the entries, and added 69 new parking stalls.

Member Hovland asked about Valley View Middle School/Edina High School site access from Valley View Road. Mr. Rozeboom said the ingress/egress remained the same.

Member Kelly asked about work proposed to be completed at the High School fields down the hill. He also asked if there would be any gain of gymnasiums at South View. Mr. Rozeboom said fieldwork was not scheduled in the current phase of improvements. School Board Member Peyton Robb said that the new gymnasium at South View would increase the available practice space because of its size and configuration.

Member Masica asked what was happening in the spaces vacated by classroom relocation to the new building additions. She also complimented the district on their attention to increasing the light in the buildings. Mr. Rozeboom said that there was several areas that were being reconfigured based upon program and proximity.

Public Comment

Peter Johnson, 6704 Rosemary Lane, expressed concern about breaks in the fence to the neighborhood and pedestrians walking across the service road. Traffic using this road will increase past his home causing more noise, trash, etc.

Ronald Johnson, 6700 Rosemary Lane, stated he had no particular objection to the proposed plans, but he had not in his 28 years, heard of any accidents happening with the accesses to the schools, as they currently exist. He pointed out that four openings in the fence have been actually installed by the School District, which students use. Mr. Johnson expressed a greater concern regarding Valley View Road from Antrim to Gleason when students are coming to or leaving the school. He said he felt they really need four lanes at that point. Mr. Johnson also asked about storm water since the pond has frequently flooded and was a concern. He added that he had not received any notices for the meeting. Mr. Pomeroy said the District was working with the watershed districts and the City Engineer. They were lowering the street and increasing the size of the storm sewer pipe. Mr. Rozeboom added that they had met with Mr. Johnson and his wife regarding this exact issue.

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Ruth Hamilton, 6613 Nordic Circle, stated that no one along Nordic Circle was personally contacted by the School District. Ms. Hamilton reported that her backyard abutted one of the openings in the chain link fence. She said she was concerned about safety with the road next to the fence. Ms. Hamilton said that she liked the roadway next to the school because many times people need to use it when accessing the buildings. She asked about the safety of people crossing the roadway.

David Arenson, 6708 Rosemary Lane, asked how many feet the road would be from the property line. Mr. Pomeroy answered that the road would end up being between 30 and 70 feet from the property line.

Jon Demars Victorsen, 7213 Cornelia Drive, questioned the handicapped access to the High School's Activities entrance. Mr. Demars Victorsen said that currently there was a split entry with steps. Mr. Rozeboom said the new entrance will be installed at the lower grade and also have access to an elevator. He added there would be a reception area staffed at the main level as well.

Marie Fesenmaier, 5713 Concord Avenue, representing the Edina Community Center Association as their President, expressed concern about how the student drop off/pick up area will be controlled. Ms. Fesenmaier asked several questions about the changes to the campus of the Edina Community Center and South View Middle School. She commented that during events, spectators park on both side of Concord Avenue, which was very dangerous. Ms. Fesenmaier requested that parking be restricted to only one side of the street or some areas signed no parking so walkers have some areas to cross. Ms. Fesenmaier asked when Concord was scheduled for reconstruction. Ms. Fesenmaier also stated she had not received any notices from the School District regarding the proposed improvements. Mayor Maetzold suggested the parking question be directed to the City's Traffic Safety Committee and Mr. Houle stated South View Lane was two to three years from reconstruction with Concord Avenue being three to four years away.

David O. Bie, 6760 Valley View Road, asked if the fence would be disturbed in any way. Mr. Pomeroy said that it would not be disturbed since the new roadway will match the existing slope.

Dr. Ken Dragseth, Superintendent of ISD 273 stated the District's publication Front Page/Back Page had been sent to every Edina resident within the last two weeks.

Mayor Maetzold commented that the Council understood many people had difficulties with communication, but stated his overall opinion that the proposed improvements were an excellent plan and suggested the project move ahead.

Member Kelly agreed that the plan as presented was a good plan. He expressed his concern that not enough dialogue had taken place with adjacent neighbors and suggested adding a condition to the approval of the Conditional Use Permit requiring the District to meet with

adjacent property owners especially at Edina High School with the relocation of the road and where site ingress/egress was a concern.

Manager Hughes summarized the conditions the Council wished to add to the approval: additional dialogue with adjacent property owners on the west side of the High School and the final grading drainage shall be approved by the City Engineer.

The Council concurred with Mr. Hughes summarization of conditions.

Dr. Dragseth stated the School District appreciated the input and had no difficulty in looking at better fencing and landscaping for the improvements. He pointed out that the hill to Nordic Circle was very steep. He urged the Council to favorably consider the requested Conditional Use Permit stating the proposed plan was a huge improvement.

Member Kelly made a motion to close the public hearing. Member Masica seconded the motion.

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

Member Kelly introduced the following resolution and motion its adoption with three conditions as follows:

**RESOLUTION NO. 2004-31
GRANTING A
CONDITIONAL USE PERMIT
TO EDINA SCHOOL DISTRICT 273**

WHEREAS, the procedural requirements of Code Section 850 (the Zoning Ordinance) have been met; and

WHEREAS, it has been determined that the Findings as required by Code Section No. 850.04 Subd. 4 have been satisfied:

NOW, THEREFORE, BE IT RESOLVED that the Edina City Council hereby grants a Conditional Use Permit to Edina School District 273, to allow the additions and renovations to: South View Middle School, Valley View Middle School, Edina Community Center, Athletic Fields, and Edina High School conditioned upon:

- 1. Minnehaha and Nine Mile Creek Watershed District Permits; and**
- 2. Edina School District meeting with adjacent property owners to discuss ingress/egress from Edina High School and landscaping; and**
- 3. Final grading and drainage to be approved by the City Engineer.**

Passed and adopted this 20th day of April 2004.

Member Hovland seconded the motion.

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

***SET HEARING DATE OF MAY 4, 2004, AMENDING ORDINANCE NO. 2004-07 - SECTION 850 FENCE HEIGHT STANDARDS Motion made by Member Hovland and seconded by Member Masica setting May 4, 2004, as hearing date amending Ordinance No. 2004-07, Section 850, Fence Height Standards.**

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Motion carried on rollcall vote – four ayes.

ORDINANCE NO. 2004-04 ADOPTED AMENDING SECTIONS 105, 185, 400, 410 AND ADOPTING CURRENT MINNESOTA STATE BUILDING CODE

Mr. Hughes noted the Council had granted first reading to the ordinance adopted the current Minnesota State Building Code at their last meeting. He said the corrections staff noticed had been made and the ordinance was ready for adoption.

Member Masica asked if the name of the Construction Board of Appeals had been changed. Building Official Kirchman said the name of the Board would remain the same.

Member Masica made a motion granting second reading to Ordinance No. 2004-04 as follows:

EDINA ORDINANCE NO. 2004-04
AN ORDINANCE AMENDING SECTIONS 105, 185, 400, and 410
OF THE CITY CODE TO PROVIDE UPDATES TO THE
MINNESOTA STATE BUILDING CODE AND

REMOVING ALL REFERENCES TO THE UNIFORM BUILDING CODE,
THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. Subsection 105.05 Definitions is hereby amended to read as follows:

“Construction Board of Appeals. The board which hears and decides appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the Building Code, pursuant to ~~Section 204 of the Uniform Building Code~~ MSBC 1300.0230, as defined in Section 410 of this Code.”

Section 2. Subsection 185.01 is hereby amended by deleting the Building Code Compliance Inspection fees for Residential or Commercial properties.

Section 3. Subsection 400.01 of Section 400 Construction Board of Appeals is hereby amended to read as follows:

“400.01 Establishment. The Council does hereby establish the Construction Board of Appeals (the “Board”) pursuant to ~~Section 105 of the Uniform Building Code (UBC)~~ MSBC Chapter 1300.0230, adopted by Section 410 of this Code.”

Section 4. Subsection 400.02. Powers and Duties of Section 400 Construction Board of Appeals is hereby amended to read as follows:

“400.02 Powers and Duties. The Board shall:

A. Fulfill duties imposed upon it by ~~Section 105 of the UBC~~ MSBC chapter 1300.0230.

B. Consider appeals from any order, requirement, permit, decision, refusal or determination made by the Building Official or the Sanitarian in the application or interpretation of this Code regulating (i) construction, alteration, moving or demolition of buildings, (ii) the construction, installation, alteration or removal of plumbing, gas piping or equipment, water softening or filtering equipment, (iii) the installation, alteration or removal of electrical wiring and equipment, or (iv) excavations under Section 420 of this Code. The Board shall not hear any appeal from, nor have any jurisdiction over, actions taken by any official of the City ~~under Section 102 of the UBC~~ or under Section 470 of this Code, or any section of this Code enforced by means of the procedures set forth in Section 470 of this Code.

C. Study and review new types of materials and methods of construction, and advise the Building Official and the Council as to the suitability of alternate materials and types of construction to assist in progressive development of the provisions of the building, plumbing, heating, gas piping, and electrical codes or sections of this Code, and to make recommendations relative to the Codes.

D. Study and review from time to time the building, plumbing, heating, gas piping, and electrical codes or sections of this Code and similar code provisions applicable in communities surrounding the City and such other codes as may come to their attention, and recommend to the Council such new legislation as the Board may deem desirable.

E. Consider matters referred to the Board by the Council or by the Building Official and make recommendations relative to them."

Section 5. Subsection 400.08 Change of Name of Section 400 Construction Board of Appeals shall hereby be amended to read as follows:

"400.08 Change of Name. All references in all sections of this Code to the Building Construction Appeals Board or to the Building Construction Codes Commission shall mean and refer to the Board of Appeals created by ~~Section 105 of the UBC~~ MSBC Chapter 1300.0230, and called the Construction Board of Appeals in this Code."

Section 6. Section 410 Building Code is hereby amended to read as follows:

"Section 410 - Building Code

Section 16 State Building Code Adopted. There is hereby adopted and incorporated herein by reference, as a section of this Code, the Minnesota State Building Code (the "MSBC") as promulgated by the State Department of Administration pursuant to M.S. 16B.59 through 16B.75. The Minnesota State Building Code includes the following chapters of Minnesota Rules:

2. 1300, Administration of the Minnesota State Building Code;
3. 1301, Building Official Certification;
4. 1302, State Building Code Construction Approvals;
5. 1303, Minnesota Provisions;
6. 1305, Adoption of the 2000 International Building Code;
7. 1307, Elevators and Related Devices;
8. 1309, Adoption of the 2000 International Residential Code;
9. 1311, Adoption of the 2000 Guidelines for the Rehabilitation of Existing Buildings;
10. 1315, Adoption of the 2002 National Electrical Code;
11. 1325, Solar Energy Systems;
12. 1330, Fallout Shelters;
13. 1335, Floodproofing Regulations;
14. 1341, Minnesota Accessibility Code;
15. 1346, Adoption of the Minnesota State Mechanical Code;
16. 1350, Manufactured Homes;
17. 1360, Prefabricated Structures;
18. 1361, Industrialized/Modular Buildings;
19. 1370, Storm Shelters (Manufactured Home Parks);

20. 4715, Minnesota Plumbing Code; and

21. 7670, 7672, 7674, 7676 and 7678, Minnesota Energy Code

~~including amendments to the MSBC in effect on October 5, 1998, and Adoption includes including the following, but only the following, listed optional provisions of the MSBC and of the 1997 Edition of the Uniform Building Code as promulgated by the International Conference of Building Officials (the "UBC"),~~ except, however, that fees shall be as provided in this Section. The optional provisions which are hereby adopted are as follows:

A. Chapter 1306 with ~~Option 8 (Group M, S, or F occupancies with 2,000 or more gross square feet)~~ 1306.0020, Subp. 2 and 1306.0030, item E, option 1, of the MSBC relating to Special Fire Protection Systems.

B. Chapter 1335, parts 1335.0600 to 1335.1200 of the MSBC relating to Floodproofing.

Section 16 Fees and Surcharges.

Subd. 1 Fees. Permit fees ~~required~~ authorized by the MSBC ~~or the UBC~~ shall be in the amounts set forth in Section 185 of this Code.

Subd. 2 Other Permit Related Fees. Reinspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

Subd. 3 Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in addition to the required permit fees. The investigation fee shall be equal to the permit fee.

Subd. 4 Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

Subd. ~~2~~ 5 Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70.

Subd. ~~3~~ 6 Additional Surcharge. In addition to the fees charged pursuant to Subd. 1 and Subd. ~~2~~ 5 of this Subsection, each building permit issued for work that requires a licensed residential building contractor, remodeler, or specialty contractor pursuant to, and as defined in M.S. 326.83 and 326.84 (Chapter 306, 1991 Session Laws), shall pay to the City a surcharge as allowed by M.S. 326.86, and in the amount set forth in Section 185 of this Code.

~~Section 17 Codes on File. One copy of each of the following, each marked "Official Copy", is on file in the office of the Clerk and shall remain on file for use and examination by the public:~~

~~The State Building Code regulations known and identified as Chapters 1300, 1301, 1302, 1305, 1306, 1307, 1315, 1325, 1330, 1335, 1340, 1346, 1350, 1360, 1361, 1370, 4715 and 7670.~~

~~The UBC, with all appendices.~~

~~The 1996 Edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA70-1996).~~

~~The 1987 American National Standard Safety Code for Elevators and Escalators adopted by the American National Standards Institute and the American Society of Engineers (ANSI/ASME) A17.1-1987, together with supplement A17.1 (a)-1988 and ANSI A17.3-1986 as published by the American Society of Mechanical Engineers.~~

~~Chapters 1 to 20 of the 1991 Edition of the Uniform Mechanical Code promulgated by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, with appendices A, B and C.~~

~~Minnesota Energy Code as set out in Chapter 7670 of Minnesota Rules, 1998~~

~~Minnesota Plumbing Code as set out in Chapter 4715 of Minnesota Rules, 1998.~~

~~Interim Guidelines for Building Occupant Protection from Tornadoes and Extreme Winds, TR-83A, January 1980, Sections 1 and 2, published by the Federal Emergency Management Agency, Washington, D.C.~~

~~The 1972 Edition of Flood Proofing Regulations: as promulgated by the Office of the Chief Engineer, U.S. Army, Washington, D.C.~~

410.04 410.03 Organization and Enforcement. The organization of the Building Department of the City, and enforcement of this Section, shall be as established by ~~Chapter 1 of the UBC~~ Chapter 1300 of the Minnesota State Building Code.

410.05 410.04 Penalty. Any person who violates or fails to comply with any provision of this Section shall be subject to the penalties provided by Subsection 100.09 of this Code, and shall also be subject to other penalties and remedies available to the City under the MSBC."

Section 7. Subdivision 8 of Subsection 430.03 License Requirements of Section 430 shall hereby amended to read as follows:

"Subd. 8 Fee Fees and Surcharges. All applications for licenses shall be accompanied by a fee in the amount set forth in Section 185 of this Code.

Section 18 Other Permit Related Fees. Reinspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

Section 19 Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in addition to the required permit fees. The investigation fee shall be equal to the permit fee.

Section 20 Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

C. Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the

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amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70.”

Section 8. Subsection 185.01 is hereby amended by adding the following fee category:

430	<u>430.03 Subd. 8</u>	<u>Other Permit Related Fees</u>	<u>\$47.00</u>	<u>Per hour or the total hourly cost to City, whichever is greatest (includes supervision, overhead, equipment, hourly wages and fringe benefits of employees involved</u>
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Section 9. Subsection 435.07 Permit Fee of Section 435 is hereby amended to read as follows:

~~“435.07 Permit Fee~~ Fees and Surcharges. ~~The fee~~ fees and surcharges for a permit required by this Section shall be in the amount set forth in Section 185 of this Code.

Subd. 1 Other Permit Related Fees. Re-inspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

Subd. 2 Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in addition to the required permit fees. The investigation fee shall be equal to the permit fee.

Subd. 3 Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

Subd. 4 Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70.”

Section 10. Subsection 185.01 is hereby amended by adding the following fee category:

435	<u>435.07 Subd. 2</u>	<u>Other Permit Related Fees</u>	<u>\$47.00</u>	<u>Per hour or the total hourly cost to City, whichever is greatest (includes supervision, overhead, equipment, hourly wages and fringe benefits of employees involved</u>
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Section 11. Subsection 440.04 Fee of Section 440 is hereby amended to read as follows:

~~“440.04 Fee~~ Fees and Surcharges. Applications for permits pursuant to this Section shall be accompanied by the ~~fee~~ fees set out in Section 185 of this Code.

Subd. 1 Other Permit Related Fees. Reinspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

Subd. 2 Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in

addition to the required permit fees. The investigation fee shall be equal to the permit fee.

Subd. 3 Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

Subd. 4 Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70."

Section 12. Subsection 185.01 is hereby amended by adding the following fee category:

440	<u>440.02 Subd. 2</u>	<u>Other Permit Related Fees</u>	<u>\$47.00</u>	<u>Per hour or the total hourly cost to City, whichever is greatest (includes supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)</u>
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Section 13. Subdivision 3 Proximity to Power Lines of Subsection 815.05 of section 815 is hereby amended to read as follows:

"Subd. 3 Proximity to Power Lines. No antenna, dish antenna or tower shall exceed a height equal to the distance from the base of the antenna, dish antenna or tower to the nearest overhead electrical power line (except individual service drops), less five feet. Monopoles designed to comply with the wind loading requirements of the ~~Uniform Building Code~~ International Building Code need not conform to the requirements of this Subd. 3."

Section 14. Subsection 830.05 Permit of Section 830 is hereby amended to read:

"Subd. 1 Application. Prior to engaging in any activity requiring a permit, an application shall be submitted to the Building Official on forms provided by the Building Official. The application shall be accompanied by a schedule for the commencement and completion of the work. ~~The application shall be accompanied by the fee in the amount set forth in Section 185 of this Code.~~ The application shall also be accompanied by a plan drawn at a scale of not less than one inch equals 30 feet which contains the following information:

- A. Location of trees to be removed.
- B. Existing and proposed buildings and structures.
- C. Existing and proposed contours.
- D. Provisions for temporary and permanent erosion control.
- E. Proposed revegetation of disturbed area.
- F. Provisions for temporary and permanent drainage.

Subd. 2 Fees and Surcharges Applications for permits pursuant to this Section shall be accompanied by the fees set out in Section 185 of this Code.

Section 21 Other Permit Related Fees. Reinspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

B. Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in

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addition to the required permit fees. The investigation fee shall be equal to the permit fee.

C. Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

D. Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70."

Section 15. Subsection 185.01 is hereby amended by adding the following fee category:

830	<u>830.05 Subd. 2</u>	<u>Other Permit Related Fees</u>	<u>\$47.00</u>	<u>Per hour or the total hourly cost to City, whichever is greatest (includes supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)</u>
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Section 16 Effective Date. This ordinance shall be in full force and effect after it adoption and publication according to law.

Passed and adopted 20th day of April 2004.

First Reading: April 7, 2004

Second Reading: April 20, 2004

Published: April 29, 2004

Attest

Debra A. Mangen, City Clerk

Dennis F. Maetzold, Mayor

Member Kelly seconded the motion.

Rollcall:

Aye: Hovland, Kelly, Masica, Maetzold

Ordinance Adopted.

ORDINANCE NO. 2004-05 ADOPTED ESTABLISHING A DISORDERLY HOUSE

ORDINANCE Mr. Hughes said that this would be the second reading for a proposed ordinance to define and regulate disorderly houses. He stated the proposed ordinance would allow the City to take actions against the property's owner as well as the tenant. Mr. Hughes explained the ordinance had been modeled after Minnesota State Statute 609.33 with a broader range of violations specified, adding that both owner occupied and rental housing would be covered by the proposed ordinance.

Public Comment

Jon Demars Victorsen, 7213 Cornelia Drive, stated he was a landlord and property owner in Edina. He said he felt the proposed ordinance was unnecessary since the "Disorderly" house statute already existed. Mr. Demars Victorsen said that in his review of complaints there had only been 25 and only a fifth of those involved rental housing. He added the ordinance was just reiterating language already contained in every standard housing lease. Mr. Demars Victorsen suggested a more proactive approach would be forming a collaborative such as the Bloomington Housing Collaborative. He expressed concern that the definition of habitual was vague.

Mr. Hughes noted the proposed ordinance was not specific to rental housing, but was an attempt to provide some more options for enforcement. He added he was familiar with the Bloomington Collaborative and stated he believed that Edina was attempting to establish a similar collaborative. Mr. Hughes stated that habitually was a term defined in statute and with a body of case law supporting the definition. He said that Items. E, F, G, and H had been added to Edina's ordinance making it more restrictive than State law.

Member Masica stated her belief that the proposed ordinance would aid landlords in dealing with a problem tenant.

Karin Ritter, 4812 West 62nd Street, stated she did not believe the proposed ordinance would aid her neighborhood in dealing with the negative issue they have lived with for months. She said she would like to see greater detail in the ordinance and stated she was very disappointed with the limitations of the proposed ordinance.

Diane Andersen, 6129 Ryan Avenue, shared some of the research she had done on ordinances adopted in other jurisdictions, stated her disappointment with the Police Department's communications and that the neighborhood was not able to be involved in drafting the ordinances. Ms. Andersen said she felt that her concerns had not been validated and she feared that the proposed ordinance would not give them the relief they deserve.

Member Kelly stated that he believed the proposed ordinance was strong enough to be of use in circumstances that would meet the definition of disorderly house.

Mr. Hughes pointed out that the proposed ordinance would become part of a larger City Code and state law. He said violation of the City Code can be either a misdemeanor or gross misdemeanor with a fine of up to \$1,000 plus jail time. Mr. Hughes added the proposed ordinance in his opinion would give additional tools to the police, but stressed there still must be evidence of a violation.

Deputy Police Chief Ken Carlson, said the Police Department had reviewed calls for service between March 1, 2003 and January 14, 2004, in the area of 6100-6400 Parnell, 4600-4900 West 62nd and 6400 Ryan Avenue. He reported that he located only one incident where a citation could be issued that of an underage consumption of alcohol. Mr. Carlson added that the Police Department intended to assign an officer to the situation with instructions to watch for specific violations.

Jerry Paar, 6201 Virginia Avenue, stated he believed the adoption of the proposed ordinance would be a step in the right direction. However, he said he felt a huge portion of the problem has been the Edina Police Department's reaction to the neighbors. He expressed his frustration that residents calling in with eyewitness accounts of blatant violations being told that was not enough for a citation. Mr. Paar expressed his opinion that the Edina Police Department would not be a help to the concerned citizens in his neighborhood.

Mr. Carlson responded that eyewitness accounts were enough to begin asking questions, but that citations could not be written until there was more evidence. He urged the neighbors to

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work with the Police Department in notifying them of problems and allow them to work together to solve their issues. Mr. Carlson stated that the Edina Police Department would use the tools given them by the Disorderly House ordinance to assist the neighbors.

Following a brief council discussion **Member Masica made a motion to grant second reading to Ordinance NO. 2004-5 as follows:**

**EDINA ORDINANCE NO. 2004-5
AN ORDINANCE ADDING NEW
SECTION 1080 OF THE CITY CODE -
DISORDERLY HOUSE**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. The following new Section 1080 is added to the City Code:

1080.01 Declaration; Purpose. The Council finds and declares that citizens of the City should be able to enjoy on their properties a sense of well-being, tranquility and security; that the keeping of a disorderly house tends to cause emotional disturbances and distress to occupants of surrounding properties and visitors to such properties and tends to interfere with and obstruct their sense of well-being, tranquility and security.

1080.02. Definition. A disorderly house means a building, dwelling, place or premises in which actions or conducts habitually occurs in violation of laws related to:

- A. Sale of intoxicating liquor, intoxicating malt liquor or 3.2 percent malt liquor;**
- B. Gambling;**
- C. Prostitution as defined in M.S. 609.321, Subd. 9 or acts relating to prostitution;**
- D. Sale or possession of controlled substances as defined in M.S. 152.01, Subd. 4;**
- E. Possession of firearms or weapons;**
- F. Causing, maintaining or permitting a nuisance that annoys, injures or endangers the health, comfort or repose of the public;**
- G. Disorderly conduct as defined in M.S. 609.72; or**
- H. Open house party as defined in Section 905 of this Code.**

1080.03. Owning or Operating a Disorderly House. No person may own, lease, operate, manage, maintain, or conduct a disorderly house, or invite or attempt to invite others to visit or remain in the disorderly house.

1080.04. Additional Remedies. Upon any violation of Subsection 1080.03, the City may exercise, with or separately from any remedies and at the same and separate times, all and any legal and equitable remedies then available to the City by this Code or State Law to enforce Subsection 1080.03, including, without limitation, injunctive relief.

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

First Reading: April 7, 2004
Second Reading: April 20, 2004
Publication: April 29, 2004

Attest _____

Debra A. Mangen, City Clerk

Dennis F. Maetzold, Mayor

Member Hovland seconded the motion.

Rollcall:

Aye: Hovland, Kelly, Masica, Maetzold

Ordinance Adopted.

***HEARING DATE SET OF MAY 4, 2004, ORDINANCE NO. 2004-8 AMENDING SECTIONS 900 AND 1230 TO PERMIT ISSUANCE OF WINE AND ON-SALE LIQUOR LICENSE AT BRAEMAR GOLF COURSE** Member Hovland made a motion, seconded by Member Masica to set May 4, 2004 as the hearing date for consideration of Ordinance No. 2004-8 amending Sections 900 and 1230 of the Edina City Code to permit the issuance of Wine On-Sale Licenses at Braemar Golf Course.

Motion carried on rollcall vote - four ayes.

***AWARD OF BID FOR 400 KW PORTABLE POWER GENERATOR** Motion made by Member Hovland and seconded by Member Masica approving the award of bid for a 400 kW Portable Generator for the Utility Fund to recommended sole bidder, Ziegler Power Systems at \$88,902.00.

Motion carried on rollcall vote - four ayes.

***AWARD OF BID FOR WINDOWS FOR GRANGE HALL AND CAHILL SCHOOL BUILDINGS** Motion made by Member Hovland and seconded by Member Masica approving the award of bid for windows for Grange Hall and Cahill School Buildings to recommended low bidder, A-Craft Windows at \$22,977.37.

Motion carried on rollcall vote - four ayes.

***AWARD OF BID FOR TREATMENT OF LAKES AND PONDS** Motion made by Member Hovland and seconded by Member Masica approving the award of bid for the treatment of Edina lakes and ponds for 2004, to recommended low bidder, Lake Management, Inc., at \$25,755.27.

Motion carried on rollcall vote - four ayes.

***TRAFFIC SAFETY STAFF REVIEW OF APRIL 1, 2004, APPROVED** Motion made by Member Hovland and seconded by Member Masica approving the Traffic Safety Staff Review of April 1, 2004, Section A as follows:

1. Approve Parking Restrictions on the west side of the 5600 block of St. Andrews Avenue stating NO PARKING MONDAY - FRIDAY 8:AM - 6:00 PM, and consistent with restrictions presently on Dalrymple Road and Sherwood Avenue; and
2. Change 15 minute parking restrictions in front of South View Middle School at 4725 South View Lane back to original 2 hour parking restrictions; and

Sections B and C.

Motion carried on rollcall vote - four ayes.

RESOLUTION NO. 2004-32 ADOPTED - RECEIVING FEASIBILITY STUDY FOR NOISE ABATEMENT IMPROVEMENT NO. TH 62 AT VALLEY VIEW ROAD - IMPROVEMENT NO. SA-6 Engineer Houle stated the Engineering Department had

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completed the feasibility study responding to a petition signed by 24 persons representing 16 properties requesting a noise abatement improvement along TH 62 at Valley View Road. Mr. Houle stated that staff reviewed the potential project for Noise Abatement Improvement TH 62 at Valley View Road, Improvement No. SA-6 and felt there was not local support to fund the project through the special assessment process as allowed under State Statute Chapter 429. He stated that TH62 was constructed in the 1970's without noise abatement walls, adding that traffic dramatically since 1975. Mr. Houle said the homes between Valley View Road and TH62 were approximately 20-30 feet below TH62.

Mr. Houle explained that he held two neighborhood informational meetings in July and October of 2003. He said two surveys were taken with communications received from residents either by letter or comments on the surveys. Mr. Houle stated the project would consist of constructing an eight-foot high concrete "Type F" barrier with a wooden screen on top along the outer edge of the shoulder on TH62. He said this type of barrier reduces tire noise.

Mr. Houle said there was legislation in the House that would require MnDOT to construct sound barriers whenever adding bus shoulders or striping for bus lanes, but at this time the only support from MnDOT would be in covering Engineering and Construction Administration costs. He reviewed the estimated project costs and potential special assessments for the project:

Project Costs:

- Estimated Construction Cost - \$167,000
- Cost is the difference in cost from a normal steel guard safety rail.
- MnDOT will fund Engineering and Construction Administration costs.

Proposed Assessments:

- Option A - \$16,000 per lot for properties between Valley View Road and TH62
- Option B - \$11,700 per lot for properties between Valley View Road and TH62
\$ 5,200 per lot for properties north of Valley View Road

Mr. Houle said almost every property owner would like a barrier, but there was an overwhelming lack of support of owners willing to pay for the installation. He added the petitioners had been made aware of staff's recommendation not to proceed with Improvement SA-6 Noise Abatement.

Member Masica questioned what would happen to the decibel level with installation of a bus lane and whether more buses would be using TH62. Mr. Houle said he was not an expert on noise levels, and that it seemed logical that more busses would be using TH62 given the condition of I-494.

Alexei Sacks, 6321 Valley View Road, said he believes, 1) this was a missed opportunity to get state funding for the project. 2) many residents would approve a sound wall if it were funded, 3) the Jersey barrier in place when they bought their home did help and he requested when TH62 was reconstructed that sound abatement be a part of the reconstruction, and 4) he encouraged the bill before the legislature for sound abatement because of the "quality of life" issue.

Member Masica inquired if MnDOT could be encouraged to pre-plan for a bus shoulder during reconstruction of a roadway. Mr. Houle said they could be encouraged to reinforce the shoulder of the road during reconstruction.

Member Hovland asked if this project was handled differently because it came forward via petition and whether the petition form was clear. Mr. Houle explained the petition form states clearly that by signing the form, "...the Council may assess the costs of these improvements against benefiting properties". He added when a petition was received, he notifies the neighbors that a petition has been received and that a potential for assessment exists. Mr. Houle said staff would review the petition form.

Member Hovland made a motion introducing Resolution No. 2004-32 and moving its adoption as follows:

**RESOLUTION NO. 2004-32
RECEIVING FEASIBILITY REPORT
NOISE ABATEMENT IMPROVEMENT NO. SA-6**

WHEREAS, the Edina City Council received a petition May 20, 2003 signed by sixteen residents requesting sound mitigation walls be installed along the north side of TH62 from the CP Rail Bridge to Hillside Road; and

WHEREAS, the Edina City Council directed the City Engineer to prepare a feasibility report on the requested improvement; and

WHEREAS, the City Engineer has prepared said feasibility report, which provides information regarding whether the proposed project is necessary, cost effective, and feasible.

NOW, THEREFORE, BE IT RESOLVED BY THE EDINA CITY COUNCIL that the feasibility report be formally received.

BE IT FURTHER RESOLVED to direct City staff to not proceed with the project for Noise Abatement Improvement for north side of TH62 from CP Rail Bridge to Hillside Road, Improvement No. SA-6.

Adopted this 20th day of April 2004. Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

***RESOLUTION NOS. 2004-33, 2004-34 & 2004-35 ADOPTED APPROVING "NO PARKING" ON VALLEY VIEW ROAD AND WOODDALE AVENUE Member Hovland made a motion, seconded by Member Masica introducing the following resolution and moving its adoption:**

**RESOLUTION NO. 2004-33
RELATING TO PARKING RESTRICTIONS ON
S.A.P. 120-150-08 (VALLEY VIEW ROAD)
WEST 64TH STREET TO WOODDALE AVENUE**

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WHEREAS, the City of Edina has planned the improvement of MSAS 150 Valley View Road from West 64th Street to Wooddale Avenue; and

WHEREAS, the City of Edina will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina shall ban the parking of motor vehicles on the west side of MSAS 150 Valley View Road from West 64th Street to Brookview Avenue and on both sides of MSAS 150 Valley View Road from Brookview Avenue to Wooddale Avenue, at all times.

Passed and adopted this 20th day of April 2004.

Motion carried on rollcall vote - four ayes.

Member Hovland made a motion, seconded by Member Masica introducing the following resolution and moving its adoption:

RESOLUTON NO. 2004-34
RELATING TO PARKING RESTRICTIONS ON
S.A.P. 120-151-08 (VALLEY VIEW ROAD)
FROM TRACY AVENUE TO VALLEY LANE

WHEREAS, the City of Edina has planned the improvement of MSAS 151 Valley View Road from Tracy Avenue to Valley Lane; and

WHEREAS, the City of Edina, will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina, shall ban the parking of motor vehicles on both sides of MSAS 151 Valley View Road from Tracy Avenue to Valley Lane, at all times.

Passed and adopted this 20th day of April 2004.

Motion carried on rollcall vote - four ayes.

Member Hovland made a motion, seconded by Member Masica introducing the following resolution and moving its adoption:

RESOLUTON NO. 2004-35
RELATING TO PARKING RESTRICTIONS ON
S.A.P. 120-150-07 (WOODDALE AVENUE)
FROM VALLEY VIEW ROAD TO WEST 56TH STREET

WHEREAS, the City of Edina, has planned the improvement of MSAS 150 Wooddale Avenue from Valley View Road to West 56th Street; and

WHEREAS, the City of Edina, will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the City Council of the City of Edina, shall ban the parking of motor vehicles on the west side of MSAS 150 Wooddale Avenue from Valley View Road to West 56th Street, at all times.

Passed and adopted this 20th day of April 2004.

Motion carried on rollcall vote – four ayes.

PRESENTATION BY CITY PROSECUTOR Marsh Halberg, City Prosecutor with Thomsen, Nybeck Law Firm, said he has been the City's prosecutor for 22 years and wanted to become reacquainted with the Council and staff. He elaborated that because of budgetary restraints, the business in the Court House was constantly being restructured. Mr. Halberg explained he and an associate work three days a week in Court representing Edina. Edina was third in citations of the five cities using the Court House, behind Minneapolis and Bloomington. Mr. Halberg noted that the type of offenses has changed since he began prosecuting cases for Edina. English was not the first language any longer and because of economics, more persons qualify for public defense.

Following a brief discussion, the Council thanked Mr. Halberg for his presentation.

***CONFIRMATION OF CLAIMS PAID** Member Hovland made a motion and Member Masica seconded the motion approving payment of the following claims as shown in detail on the Check Register dated April 7, 2004, and consisting of 27 pages: General Fund \$106,324.37; Communications Fund \$14,629.25; Working Capital Fund \$92,028.81; Art Center Fund \$8,341.64; Golf Dome Fund \$13,777.83; Aquatic Center Fund \$478.75; Golf Course Fund \$24,732.77; Ice Arena Fund \$25,197.87; Edinborough/Centennial Lakes Fund \$15,228.49; Liquor Fund \$151,885.78; Utility Fund \$54,372.40; Storm Sewer Fund \$2,814.20; Recycling Fund \$32,171.80; Payroll Fund \$688.15; TOTAL \$542,672.11; and for approval of payment of claims dated April 14, 2004, and consisting of 25 pages: General Fund \$172,343.87; Communications Fund \$1,011.99; Working Capital Fund \$180,875.49; Art Center Fund \$3,269.85; Golf Dome Fund \$161.83; Aquatic Center Fund \$37.28; Golf Course Fund \$71,087.20; Ice Arena Fund \$9,446.98; Edinborough/Centennial Lakes Fund \$13,379.08; Liquor Fund \$102,037.54; Utility Fund \$277,360.14; PSTF Fund \$849.70 TOTAL \$831,860.95.

Motion carried on rollcall vote – four ayes.

CONCERN OF RESIDENT Sandy Jackson, 6208/10 France Avenue, had asked to be on the Agenda for the April 20, 2004, meeting. Ms. Jackson failed to appear.

2004 BOARD OF APPEAL AND EQUALIZATION RECONVENED Mayor Maetzold explained at the April 12th Board of Appeal and Equalization meeting, three property owners appealed their 2004 property valuations, two in person and one via letter. He stated the purpose of the reconvened meeting was to take formal action on those appeals. The original date for the reconvened meeting had been set for Monday April 26, 2004, but it was decided to move to the April 20, 2004, regular Council meeting due to the small number of cases under review.

The Board did not request additional information on the Appeals from the Assessing Department.

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Member Hovland commented that after doing the math on the differences in the three assessed values, he concurred with staff's recommendation.

Member Kelly made a motion to sustain the values of the three properties as presented. Member Hovland seconded the motion.

Member Masica said she took a windshield tour of the subject properties and felt the proposed assessment on property on Branson Street was high. She also viewed the comparable home on Jefferson. Following a brief discussion, the Mayor suggested if the motion maker and seconded agreed the Board act on each case separately. **Member Kelly withdrew his motion.** Member Hovland concurred and withdrew his second.

Member Kelly made a motion to sustain the assessor's suggested value of \$321,600.00 for the property of Alex Zhuravel at 5812 Hansen Road. Member Masica seconded the motion.

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

Member Masica made a motion to sustain the assessor's suggested value of \$314,900 for the property of John J. Carlson at 5509 Merritt Circle. Member Kelly seconded the motion.

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

Member Kelly made a motion to sustain the assessor's suggested value of \$239,200 for the property of Patrick Fleetham at 4300 Branson Street. Member Hovland seconded the motion.

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

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:05 P.M.

City Clerk