

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
OCTOBER 19, 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 Hovland and seconded by Member Housh approving the Council Consent Agenda as presented with the exception of III.A. Vacation of Public Street - Pukwana Lane, Continued to November 1, 2004, and VI.B., Resolution Authorizing Agreement No. 87193 Landscape TH 62, Tracy Avenue to Hillside Road Project No. 2673-969C.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF OCTOBER 5, 2004, AND SPECIAL MEETING OF OCTOBER 5, 2004, APPROVED** Motion made by Member Hovland and seconded by Member Housh, approving the Minutes of the Regular Meeting of the Edina City Council for October 5, 2004, and Special Meeting of October 5, 2004.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2004-97 APPROVING SPECIAL ASSESSMENTS Affidavits of Notice were presented, approved and ordered placed on file. Due notice having been given, public hearings were conducted and action taken as recorded on the following proposed special assessments.

1. MAINTENANCE IMPROVEMENT NO. M-04

Location: 50th Street and France Avenue Business District

Analysis for Assessment for Maintenance Improvement No. M-04 showed a total maintenance cost of \$148,423.25 against 339,561 assessable square feet at \$0.4371 per square foot. One-year assessment payable in 2005.

Engineer Houle explained the assessment was based on City Code Section 1215 and Chapter 429 of Minnesota State Statute. The 50th & France business district assessment charge changed from \$0.3712 per square foot in 2004 and \$0.3712 in 2003. The assessment includes all businesses west of France Avenue except the parking ramps. The increase in the assessment was due to monies moved from the general budget to the assessment area and includes maintenance of the ramp, public sidewalks, snow removal, planter and streetscape maintenance.

Member Housh inquired about the progress on the sidewalk adjacent to Lund's Market. Mr. Houle responded that concrete work will be completed by October 29, 2004, and the pedestrian flashing system will be finished in December.

Member Hovland asked if written or verbal comments have been received on the assessment. Mr. Houle said no comments have been received to date. Member Hovland asked if success had been

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realized with the removal of the painted numbers on the concrete that were leftover from the Edina Art Fair. Mr. Houle said he would recommend removal of the paint to the Public Works Department.

Member Masica asked if the cost of removal of the paint would be borne by the Art Fair Committee. Mr. Houle noted that the cost of paint removal could possibly be assessed back to the maintenance budget. Ms. Masica asked what types of garbage cans were going to be installed. Mr. Houle said the cans would be similar but smaller than the ones in the front of City Hall.

Member Housh asked when the amenities were added to the area. Manager Hughes said they were added in several stages. Mr. Housh asked what the funding approach was to replacement of the amenities instead of maintaining them. Mr. Hughes replied that replacement costs of the amenities were also assessed.

No public comments were received.

Motion made by Member Housh and seconded by Member Hovland closing the hearing for Assessment of Improvement No. M-04.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Motion made by Member Masica and seconded by Member Kelly approving the assessment of Maintenance Improvement No. M-04, 50th & France Avenue Business District.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

2. MAINTENANCE IMPROVEMENT NO. G-04

Location: GRANDVIEW BUSINESS DISTRICT

Analysis for Assessment for Maintenance Improvement No. G-04 showed a total maintenance cost of \$29,387.28 against 461,701 assessable square feet at \$0.0636 per square foot. One-year assessment payable in 2005.

Mr. Houle indicated that Grandview maintenance assessment charge has risen through the years. Areas that were maintained were the sidewalks, boulevard areas, wrought iron fencing, medians, and public areas, etc.

Member Hovland said in his observation some of the wrought iron was not standing the test of time and some of the pillars were leaning. Mr. Houle said he was aware of these issues and some corrections have begun. The cost of the corrections would be assessed as part of the maintenance.

No written or oral comments were received.

Motion made by Member Kelly and seconded by Member Masica closing the public hearing on Maintenance Improvement No. G-04 - Grandview Business District.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Motion made by Member Hovland and seconded by Member Housh approving the assessment of Maintenance Improvement No. G-04 – Grandview Business District.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

3. ROADWAY IMPROVEMENT NO. BA-324 AND A-194

Location: Maple Road to White Oaks Roadway

Analysis for Assessment of Roadway Improvement No. BA-324 and A-194 for Maple Road to White Oaks Roadway. Total amount of the (base) assessment for was \$503,783.31 against 137.26667 assessable lots at \$3,670.11 per lot in a ten-year assessment. Total amount of the (extra curb & gutter) assessment was \$27,250.71 against 12 assessable lots at \$2,270.89 per lot in a ten-year assessment. Total amount of the street light assessment was \$28,337.33 against 43 assessable lots at \$659.01 payable in a ten-year assessment.

Mr. Houle noted that the project was complex and included both installing and removing curb and gutter, reconstruction of pavement, installation of streetlights in some sections – some decorative, and replacement of some water lines. Mr. Houle noted that he has received calls regarding assessments along West 48th Street at Maple Road. These homes were included as part of the neighborhood assessment. One property owner has filed an appeal with the City Clerk.

Member Masica inquired what the improvements were on Maple Road. Mr. Houle said curb/gutter and pavement were replaced and decorative streetlights were installed. On 49th Street the watermain and curb/gutter were replaced from Maple Road to France Avenue. Mr. Houle noted that anywhere curb/gutter were replaced, driveway aprons were also replaced. Townes Road was scheduled for ‘spot’ curb replacement and upon examination removal and replacement of curb/gutter was more economical. On 48th Street bituminous pavement was replaced as well as some curb/gutter. On White Oaks Road and Meadow Circle the pavement and storm sewers were replaced. Mr. Houle added that spot sanitary sewer lines were repaired throughout the project.

Public Comments

Roberta Castellano, 4854 France Avenue, voiced objection with the proposed assessment. She presented correspondence alleging that stairs and vegetation were damaged on her property during the road construction. She said City staff had assured her the repairs would be done. Mayor Maetzold referred Ms. Castellano to staff to work through the process. Mr. Hughes said he understood what was being filed tonight was an objection to the assessment. If the levy were approved Ms. Castellano’s recourse would be to file an action with the Court. He stated Ms. Castellano had filed a claim with the City, which he and the City’s insurance carrier have denied. Mr. Hughes added that if the claim were submitted again, he would again deny it.

Member Housh asked what the process was in working with the neighborhood. Mr. Houle said the process was straight forward with many unique areas and staff in the field works with the homeowners to make the project work.

Barb Halweg, 4012 West 48th Street, questioned the basis on which the assessments were made. Mr. Houle said costs were based on actual construction costs, engineering services and interest

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He explained projects must be posted by the end of November and if they were not final with the contractor they must be held over for the final assessment hearing. This was a neighborhood assessment based on \$3,670.11 per residential unit and benefits all residents who use the roads to transverse the bituminous roadways. Ms. Halweg said their assessment was approximately \$4,300.00. Mr. Houle said their assessment would include the streetlight as well at \$659.01. He said upon further examination, he believed the streetlight assessment should be removed from their assessment role.

Member Hovland questioned the assessment of \$219.67 at 4719. Mr. Houle responded the 4719 address was on Townes Road and explained peripheral addresses were assessed at one-third the rate. Member Hovland asked if the light was on the property at 4719. Mr. Houle said he recommended removing the assessment for the streetlight on the Halweg property at 4012 West 48th Street.

Mike Dunn, 4808 Townes Road, said he remembered that all of Townes Road voted down the streetlight installation and stated he felt they should not be assessed. Mr. Houle said the \$659.01 assessment covered 4101 and 4801, but the remaining properties along Townes Road to the south had not been assessed.

Ms. Halweg, 4012 West 48th Street, questioned the amount of difference in the amount of the assessment for three properties. Mr. Houle said they were assessed at one-third for both streetlights and roadway costs. Ridge Lane and Townes Road to 48th Street will be reconstructed next year at a 100% assessment. He predicts that the assessment will be higher because of less volume and economy of scale.

Member Housh asked if the difference in cost was because of a corner lot. Mr. Houle said the reason was their address was Townes Road, which was not a part of the roadway project.

Mr. Dunn questioned whether costs were ever discussed at the meetings he attended and whether anyone on the Council had been assessed for this type of project. Mayor Maetzold said roads must be reconstructed at some point because of more traffic and the City has stepped up efforts to accomplish this. When the roads were deteriorated, the City must reconstruct them leaving no option. Engineering cost estimates were taken, public hearings were held and bids awarded for the project. Mayor Maetzold stated he lived at 4320 Oakdale for 15 years and was assessed for had curb/gutter and roadway reconstruction.

Member Housh recollected that residents spoke at a public hearing where projected costs were presented. He said upon review, the cost was less than had been anticipated. Mr. Houle added at the first meeting with residents, a graphic was shown depicting the assessment amount and comparing it against the market value of the home. A home cannot be assessed more than what the benefit of the reconstruction would be.

Member Masica questioned how the benefit was determined. Mr. Houle said it was determined on the market value of the home and one way would be to appraise the property before the project and after the project.

Daryl Beekman, 4001, West 49th Street, praised staff with the manner used to work with the residents during the project. He shared that his wife was in a wheelchair and accommodations

were made for the entrance/exit of their property during the reconstruction. He questioned why method of calculating assessments on apartments was not used for double homes. Mr. Houle explained that double homes were assessed on a per unit basis. Continuing, Mr. Houle stated apartment assessments were based on transportation engineer's formulas because typically apartments have fewer trips per day. Member Housh asked if this policy could be revisited. Member Hovland said it was similar to a single-family home with numerous cars. He believed the present policy should be maintained. Mayor Maetzold, Member Kelly and Member Masica agreed.

Member Hovland questioned whether the notification process for Mr. Dunn was flawed. Mr. Houle responded if the mail were delivered to 4808 Townes Road, he would have received all 8 - 10 mailings.

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

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Housh asked if a copy of the letters outlining the assessment was available. Mr. Houle presented the letters of notification showing date, time, type of project and assessable cost.

Member Housh made a motion approving assessment for Improvement No. BA-324 and A-194 for Maple Road to White Oaks Roadway. Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

4. ROADWAY IMPROVEMENT NO. BA-323 and TS-34

Location: Valley View Road and West 65th Street

Analysis for Assessment for Roadway Improvement No. BA-323 and TS-34 showed a total cost of \$282,756.71 against 961,778 assessable square footage at \$0.2932 a square foot. Ten-year assessment.

Mr. Houle explained this was the intersection and roadway at Valley View Road and West 65th Street. He stated calls have been received regarding properties that have changed ownership since the original agreement with Fairview Health Services and Fairview Southdale Physicians building Limited Partnership (BTO Development Corporation) was executed in 2000. The Council ordered the project through a public hearing on April 2, 2002. Due to the complexity of the project it was not completed until late 2003. The final assessment role was based on the size and land use at the time the project was ordered. No further comments have been received.

Member Housh questioned the process of allocation based on when the project was ordered versus the actual properties being there when the improvement was completed. Mr. Houle said the methodology was based from square footages of when the project was ordered. Attorney Gilligan elaborated that during review of this assessment with Mr. Houle and Mr. Hughes, this was the proper way to do the assessment. Member Masica inquired when a property was purchased were they made aware of pending assessments. Mr. Gilligan noted that upon coming to City Hall the purchaser can check the pending assessment roles.

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No written or oral comments were heard.

Motion made by Member Masica and seconded by Member Hovland closing the public hearing on Roadway Improvement No. BA-323 and TS-34.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica noted that the off-ramp on Valley View Road and 62 Crosstown relieves congestion in the area and makes an easier access to the hospital.

Member Hovland commended staff for the foresight in introducing this plan and bringing it to fruition.

Member Hovland made a motion approving the assessment for Roadway Improvement No. BA-323 and TS-34 for Valley View Road and West 65th Street. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Hovland introduced the following resolution and moved its approval:

RESOLUTION NO. 2004-97

**A RESOLUTION LEVYING SPECIAL ASSESSMENTS
FOR VARIOUS PUBLIC IMPROVEMENTS AND PROJECTS**

WHEREAS, pursuant to proper notice duly given as required by law, the Edina City Council has met and heard and passed upon all written and oral objections to the proposed special assessments for improvements listed below:

Maintenance Improvement No. M-04 - 50th and France Avenue Business District

Maintenance Improvement No. G-04 - Grandview Business District

Roadway Improvement No. BA-324 and A-194 - Maple Road to White Oaks Roadway

Roadway Improvement No. BA-323 and TS-34 - Valley View Road and West 65th Street

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

1. Each special assessment as set forth in the special assessments rolls on file in the office of the City Clerk for each aforementioned improvement is hereby accepted and shall constitute the special assessments against the lands named therein, and each tract of land therein included is herein found to be benefited by the improvement in the amount of the special assessments levied against it.

2. The special assessments shall be payable in equal installments, the first of said installments together with interest at a rate of six and one-half percent (6 1/2%) per annum, on the entire special assessments from the date hereof to December 31, 2005. To each subsequent installment shall be added interest at the above rate for one year on all unpaid installments. The number of such annual installments shall be as follows:

<u>NAME OF IMPROVEMENT</u>			<u>NUMBER OF INSTALLMENTS</u>
Maintenance Improvement	M-04	Levy No. 16066	1 year
Maintenance Improvement	G-04	Levy No. 16067	1 year
Roadway Improvement	BA-324 & A-194	Levy No. 16091	10 years
Roadway Improvement	BA-323 & TS-34	Levy No. 16090	10 years

3. The owner of any property so assessed may, at any time prior to certification of special assessment to the County Auditor, pay the whole of the special assessments on such property, with interest accrued to the date of payment, to the City Treasurer, except that no interest shall be charged in the entire special assessments is paid within 30 days from the adoption of this resolution and they may, at any time thereafter, pay to the City Treasurer the entire amount of the special assessments remaining unpaid, with interest accrued to December 31, of the year in which such payment is made. Such payment must be made before November 15, or interest will be charged through December 31 of the succeeding year.

4. The clerk shall forthwith transmit a certified duplicate of these special assessments to the County Auditor to be extended on the property tax lists of the County. Such special assessments shall be collected and paid over in the same manner as other municipal taxes.

Adopted this 19th day of October, 2004. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

VACATION OF PUBLIC STREET - PUKWANA LANE - CONTINUED TO NOVEMBER 1, 2004 An unidentified member of the audience asked the vacation of Pukwana Lane be removed from the consent agenda for further information. Following a brief conversation with staff, the audience member acknowledged her understanding that the vacation hearing had been postponed until November 1, 2004.

Member Hovland made a motion approving the continuation of the vacation of a public street (Pukwana Lane) until November 1, 2004. Member Maetzold seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***FINAL PLAT/FINAL REZONING - MARK JONES ADDITION (5125 WEST 49TH STREET) CONTINUED TO NOVEMBER 1, 2004** Motion made by Member Hovland and seconded by Member Housh continuing the Final Plat/Final Rezoning of the Mark Jones Addition at 5125 West 49th Street to November 1, 2004.

Motion carried on rollcall vote - five ayes.

***HEARING DATE SET OF NOVEMBER 1, 2004, FINAL DEVELOPMENT PLAN APPROVAL (7101 WASHINGTON AVENUE - LOT 1, BLOCK 1, NORTHWESTERN BANK BUILDING) BUILDING EXPANSION** Motion made by Member Hovland and seconded by Member Housh to continue the hearing date for Final Development Plan Approval at 7101 Washington Avenue (Lot 1, Block 1, Northwestern Bank Building) building expansion until November 1, 2004.

Motion carried on rollcall vote - five ayes.

ORDINANCE NO. 2004-13 APPROVED - ENACTING A NEW SECTION ESTABLISHING A SPECIAL EVENTS CODE Chief Siitari indicated that Ordinance No. 2004-13 an Ordinance Adding New Section 225 of the City Code - Special Events, was granted First Reading at the October 5, 2004, Council meeting. He noted the suggested language changes have been incorporated into the current version. Subsection 225.04 (C), Deposit for City Expenses, has been added to provide additional protection to the City if deemed necessary. The Ordinance will codify the informal process currently used to handle special events.

EDINA ORDINANCE NO. 2004-13
AN ORDINANCE ADDING NEW SECTION 225
OF THE CITY CODE-SPECIAL EVENTS

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. The following new Section 225 is added to the City Code:

225.01 Declaration; Purpose. The purpose and intent of this Section is to:

A . Provide a systematic application process for events having an effect on public property and/or public services.

B. Lessen undue impact on private property.

C. Ensure that City, state and federal codes are adhered to.

D. Recapture any City expenditures lost for the development of, and operational costs for, a privately sponsored event.

225.02 Definitions.

Event. Any parade, race or special event that requires closure of a public street or special traffic control.

Parade. Any parade, march, or procession in or upon any street except the sidewalks thereof, or in or upon any alley in the City.

Race. Any organized bicycle race, foot race, race walking, wheelchair racing, rollerblading, marathon, jogging event, and similar events.

Special Event. Any privately sponsored event as defined by paragraph A of this Subsection 225.02, which occurs on a public street, sidewalk or any municipal property. This includes, but is not limited to, any fair, show, carnival, sporting event, school event and grand opening.

225.03 Permit Required; Procedure Exceptions. No person shall engage in, participate in, aid, form or start any event, unless a permit has been procured therefore. The provisions of Section 160 of this Code shall apply to all permits required by this Section and to the holders of such permits except the permit shall be issued or denied by the Manager. No permit shall be required for:

A. Funeral processions.

B. Governmental agency acting within the scope of its functions.

C. Block parties on a residential street that has an average daily traffic volume of less than 1000 vehicles per day provided that the block party does not occur more than once annually for in excess of 8 hours.

D. Lawful picketing.

E. An event taking place entirely within the confines of a City park subject to the written permission of the Park Director pursuant to Section 1230 of this Code.

225.04 Application For Permit.

Subd. 1 Time for Application. A person seeking issuance of an event permit shall file an application with the Clerk on forms provided by the Clerk. The application shall be accompanied by the fee set forth in section 185 of this Code. To ensure an orderly approval process, permit applications should be filed as soon as possible in advance of the event. Permit applications must be filed not less than sixty (60) days or more than one year before the date on which the event is proposed to take place. Failure to file in a timely manner may be grounds for denial of the permit.

Subd. 2 Content of Application. The provisions of this paragraph are in addition to the requirements of Section 160 of this Code. The application for a permit shall set forth the following information:

- A. The name, address and telephone numbers, daytime and nighttime, of the person who will be responsible for performance of the duties of the permit holder.**
- B. The date when the event is to be conducted.**
- C. The details of proposed route requested, the starting point, the termination point and the desired location of any assembly areas.**
- D. The approximate number of persons who, and animals and vehicles which will, constitute such event; the type of animals, and description of the vehicles.**
- E. The hours when such desired event will assemble, start and terminate.**
- F. A statement as to whether the event would occupy all or only a portion of the width of the streets proposed to be traversed.**
- G. Listing of all food vendors.**
- H. The estimated number of participants in the most recent year.**
- I. Such other information as the Clerk shall find necessary to evaluate the application.**

Subd. 3 Deposit for City Expenses. The Clerk may require the applicant to deposit with the City the estimated cost of City services to be performed in connection with the event. The estimated cost shall be determined by the Clerk.

225.05 Duties Of Permit Holder.

A. A permit holder hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The permit holder or the person designated by paragraph B (1) of Subsection 225.04, shall carry the event permit upon his or her person during the conduct of the event.

B. Within the two (2) hour period immediately following the end of the event, the permittee or event coordinator will clean up, remove and dispose of all litter or material of any kind, which is placed or left on the street, park or other public property because of such event. Should the permittee, or event coordinator fail to

do so; the City will bill the permittee or event coordinator for all costs related to the clean up, removal and disposal of litter because of the event. In addition, no future applications will be considered until all obligations are satisfied.

C. Required undertakings. In addition to the information required in Subsection 225.04, the permit holder shall, at permit holder's expense, and without expense to the City, undertake the following:

1. Provide either authorized civilian or police personnel at all intersections requiring traffic-control personnel.
2. Provide volunteers to monitor the barricades at all intersections not requiring traffic-control personnel, as determined by the police department.
3. Provide, install and remove the barricades, signs and delineation equipment as directed by the Engineer, Police Chief, or their designees.
4. Defend and hold the City harmless from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such permit, including attorney fees and expenses.

225.06 Notice To Abutting Property Owners. This Subsection 225.06 shall apply only to races.

A. Upon issuance of an event permit for a race, the permit holder shall notify the occupants and building managers of property abutting the event route by leaflet at least five (5) days, but not more than fourteen (14) days, before the event.

B. In the case of a residential building containing three (3) units or less, a leaflet shall be distributed to each unit. In the case of a residential building or facility containing more than three (3) units, a leaflet shall be prominently posted in the lobby or common entryway. Leaflets shall also be distributed to nonresidential abutting properties.

C. The leaflet shall briefly describe the nature of the event, shall identify the name and telephone number of the permit holder and the date and time of the event, shall contain a map of the route, and shall describe all restrictions upon traffic and parking on or crossing the event route.

D. Prior to distribution of the leaflet, the permit holder shall file a copy of the leaflet with the Clerk's office, the Police Chief and the Public Works Department. The leaflet must be approved by the Clerk prior to its disbursal.

225.07 Insurance. Upon compliance with all other provisions of this Section 225, a permit for an event may be granted only after the applicant has secured and filed with the Clerk the insurance provided for in this section. The policy or policies shall specifically provide for payment by the insurance company on behalf of the insured all sums which the insured's shall be obligated to pay by reason of liability imposed upon them by law for injuries or damages to persons or properties arising out of the activities and operations of the insured's pursuant to the provisions of this chapter.

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Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

PRESENTATION BY MINNEAPOLIS MAYOR, R.T. RYBAK ON BUS RAPID TRANSIT AND MUNICIPAL CONSENT

Minneapolis Mayor Rybak introduced Minneapolis Council Member Scott Benson, and Minneapolis staff members. He spoke about how the regional community transportation plan was shaped focusing especially on the Crosstown and 35W. He stated the importance of municipal consent was complicated. Mayor Rybak said a balance has been sought between more roads, more transit and a broader transportation agenda. He acknowledged funding was one of the roadblocks adding a strong partnership with Edina was essential because the future of the region depends on what happens on 35W, the Crosstown, I-494 and Highway 100.

Scott Benson, stated Municipal Consent afforded three options:

1. Say yes to the plan as presented by MnDOT
2. Say no we would not accept the MnDOT's plan under any circumstances.
3. Say no we would not accept MnDOT's plan as presented, but here was the plan with acceptable changes.

The letting date for the project was April 2006. The disputes of the plan can be characterized as:

1. Small issues - matter most to residents - not as much to MnDOT
2. Mid-range issues - Design Review Committee began in 2001 - date to complete by December 12 to work out issues
3. Larger issues - Rapid Transit Bus future - need to insure use

Mr. Benson said if Minneapolis said no, with conditions, the MnDOT Commissioner can either decide to: 1) not do this project, 2) do this project and incorporate every one of the changes, or 3) let the arbitration process begin. The project must have resolution prior to the letting date of April 2006.

Member Hovland, Chair of the I-494 Committee, asked if the Bus Rapid Transit proposal would require new funding from the legislature. Mr. Benson said yes, and the projected completion dates were 2010/2011. Mayor Rybak reiterated that, 'there has to be more money in the system', adding that in his view, the funding stream for roads and transit must be rolled together. Member Hovland inquired whether new sources of funding were coming forward. Mayor Rybak said the strategy was to come forward in two tiers - 1) lay out the problem and scope and 2) be back in mid-November with funding strategies.

Member Kelly stated one of the major issues in Edina was cut-through traffic - Edina was surrounded by traffic that does not move. He asked, 1) if an appeal process was in place following arbitration could that cause further delay, and 2) if BRT was planned for, and the route was not funded, could the lane be converted to other use, such as HOV. Mr. Benson said the BRT lane would be used for HOV traffic. He responded to Question No. 1 that if this was considered an interstate system, the three-member arbitration board gives an opinion to the commissioner and the final decision was from the commissioner. If it was a trunk highway system, the decision of the three-member board was final. Member Kelly urged Mr. Benson to stall the project if the results were less than desired. He added further delay would be devastating to Edina.

Member Hovland said the I-494 Commission favors new funding for transportation (roads, bridges and transit). The six cities in the Commission want to support the Itasca Project, the State Chamber, or the Association of Minnesota Counties. He said the I-494 Commission supported the Crosstown Commons project. Member Hovland said we can be patient and trusting in the next 6 - 9 months until an accord can be reached with the Commissioner of Transportation. He agreed that utilization of the HOV lanes for three passengers or more was misplaced - and stated he believed eventually the excess capacity on the HOV lane on 394 will be for sold off for single occupancy vehicles.

Mayor Rybak thanked Edina for being a good neighbor and working for a transportation system that works for everyone.

No formal Council action was taken.

RESOLUTION NO. 2004-92 - AUTHORIZING AGREEMENT NO. 87193 LANDSCAPE TH 62, TRACY AVENUE TO HILLSIDE ROAD - PROJECT NO. 2673-969C Member Masica removed Resolution No. 2004-98, Authorizing Agreement No. 87193 for Landscape of TH62, Tracy Avenue to Hillside Road, Project No. 2673-969C from the Consent Agenda for further information. She asked how far the plantings extend to the east. Mr. Keprios said plantings would go along Valley View Road to Hillside Road. Mr. Mark Ritter was an Edina resident and a landscaper by trade and has volunteered to install and care for the plantings. Member Masica wanted to publicly thank Mr. Ritter for his efforts to beautify the community.

Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2004-92
AUTHORIZING AGREEMENT NO 87193
LANDSCAPE OF TH62
TRACY AVENUE TO HILLSIDE ROAD
PROJECT NO. 2673-969C**

BE IT RESOLVED that the City of Edina, enter into Mn/DOT Agreement No. 87193 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City of the State's share of the costs for the acquisition of landscape materials to be placed along Trunk Highway No. 62 from Tracy Avenue to Hillside Road within the corporate City limits under State Project No. 2763-969C.

IT IS FURTHER RESOLVED that the Mayor and City Manager are authorized to execute the Agreement and any amendments to the Agreement.

Passed and adopted this 19th day of October, 2004.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

EXTENSION OF RESIDENTIAL RECYCLING COLLECTION CONTRACT APPROVED Mr. Hughes said the Edina Recycling and Solid Waste Commission has recommended extending the contract with Browning Ferris Industries (BFI) of MN for recycling collection through 2005. The monthly contract rate for single family and duplex would increase from \$2.28 per unit up to \$2.40. The monthly contract for multi-unit dwellings would increase from \$2.08 to \$2.20. A revenue sharing offer by BFI to share in the revenues received from recyclable materials. Mr. Hughes added the City could use these funds for any purpose, 1) add the rebate into the general fund, or 2) rebate the funds to the residents. He recommended waiting for a year so that an actual

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amount would be known. Another reason to wait a year was for an opportunity to evaluate the system and whether the City should remain as the vendee on the contract for recycling or whether we should go to open hauling system, similar to what the City has for garbage.

BFI will share the revenues received from the recyclables with the City. The City will receive 75 percent of the total revenues after a processing fee of \$46 per ton of paper and \$86 per ton of plastic, cans and glass. The estimated amount of revenue sharing will result in a rebate of \$5,000 per month for the City. Recycling will continue to be picked up at the curb. As in the past, accommodations will be available for people who were physically unable to transport their recycling bins to the curb.

Member Housh made a motion approving the extension of the Residential Recycling Collection Contract with Browning Ferris Industries (BFI) of MN for recycling collection through 2005 at \$2.40 for single family and duplex and \$2.20 for multi-unit. Member Hovland seconded the motion.

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

***RESOLUTION NO 2004-95 - AMENDMENT TO HEALTH CARE REIMBURSEMENT ACCOUNT PLAN** Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

**RESOLUTION NO. 2004-95
APPROVING AMENDMENT TO
HEALTH CARE REIMBURSEMENT
ACCOUNT MAXIMUM**

The undersigned, Debra Mangen, serving as City Clerk of the City Council of the City of Edina, (the "City"), duly organized and existing under the laws of the State of Minnesota, does hereby certify that at a meeting of the City Council, held on the 19th day of October 2004, at which a quorum was present, the City Council of the City of Edina unanimously adopted the following resolution:

WHEREAS, City of Edina (the "Employer") provides employees with an opportunity to pay for certain employee welfare benefits on a pre-tax basis through the above mentioned Plan (the "Plan"); and

WHEREAS, the Employer considers it desirable and in the best interests of the Plan to make the following amendment to the Plan;

NOW, THEREFORE, pursuant to the authority reserved in the Plan to allow amendments to the Plan, the Plan is amended as follows:

- The Health Care Reimbursement Account Maximum shall be increased from \$2,000 to \$3,000 per calendar year.
- The Plan will operate using the Final COBRA Regulations issued May 26, 2004.

NOW, THEREFORE, BE IT RESOLVED, that City of Edina Flexible Benefit Plan be and the same is amended effective January 1, 2005;

BE IT FURTHER RESOLVED, that any proper members of the City Council are hereby authorized to make such contributions from the funds of the City as are necessary to carry out the provisions of said plan at any time; and

BE IT FURTHER RESOLVED, that in the event any conflict arises between the provisions of said Plan and the Employee Retirement Income Security Act of 1974 (ERISA) or any other applicable law or regulation (as such law or regulation may be interpreted or

amended), the Company shall resolve such conflict in a manner which complies with ERISA or such law or regulation.

Motion carried on rollcall vote – five ayes.

RESOLUTION NO. 2004-96 ADOPTED DIRECTING COMMENTS BE SENT REGARDING THE METROPOLITAN COUNCIL TRANSPORTATION POLICY PLAN

Mr. Houle indicated the Metropolitan Council was directed by Minn. Statute Sec 473.145 to prepare a comprehensive development guide for the seven-county Twin Cities area. This was the tenth update of the regional transportation plan first adopted by the Council in 1971 and represents the fifth decade of coordinated efforts in planning and implementing this region’s metropolitan urban transportation system. It replaces the 2001 Transportation Policy Plan.

Due to the Edina Transportation Commission (ETC) meeting schedule, members were sent a copy of the summary and the link to the Metropolitan Council’s web site. No comments were received from the ETC. Staff recommends authorizing Resolution No. 2004-96 Directing Comments be Sent Regarding the 2030 Metropolitan Council Transportation Policy Plan.

Member Hovland presented comments on the Metropolitan Plan from the I-494 Corridor Commission. He suggested adding a paragraph to Resolution No. 2004-96 approving comments from the City and the Association of Metropolitan Municipalities (AMM) on the Transportation Plan from the I-494 Corridor Commission as well.

Member Housh suggested adding language that included Highway 100 in St. Louis Park into the comments on the Plan, and commenting it was a bottleneck that needs a solution. Member Hovland commented MnDOT says it was one of the most congested segments in the metro area.

Member Masica voiced concern with the comments being a band-aid since no funding sources were noted.

Joni Bennett, 4003 Lynn Avenue, member of the Edina Transportation Commission said she objected to point number one in the Edina staff recommendations, which objected to a fully interconnected street system. Ms. Bennett stated traffic calming could be used for two things, 1) speed control and 2) volume control. Volume control cannot be achieved without shifting traffic from one location to another. She concluded that the street grid system does work and not everything old needs to be changed.

Motion made by Member Hovland introducing the following resolution as amended and moving its adoption:

**RESOLUTION 2004-96
APPROVING THE
METROPOLITAN COUNCIL
2030 TRANSPORTATION POLICY PLAN**

WHEREAS, forecasts call for almost one million additional residents in the seven-county metropolitan area by the year 2030;

WHEREAS, an effective and efficient transportation system, that includes both roads and transit, is key to the successful growth and development of our region;

WHEREAS, congestion and mobility issues are already among the most pressing challenges facing our region;

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WHEREAS, a comprehensive and well-rounded plan for our regional transportation system requires the input of numerous stakeholders, including local governments;

NOW THEREFORE BE IT RESOLVED, that the City of Edina supports the attached comments prepared by the Association of Metropolitan Municipalities, by the I-494 Corridor Commission and by Edina Staff in regards to the draft 2030 Transportation Policy Plan and urges the Metropolitan Council to make the requested changes to the draft plan before granting it final approval. Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

FEASIBILITY STUDY FOR INDOOR ATHLETIC FIELD FACILITY FOR BRAEMAR PARK REJECTED

Director Keprios explained at the June 8, 2004, Park Board Meeting, the Park Board recommended that the indoor athletic field facility for Braemar Park should be:

1. A permanent building located at Braemar Park
2. A permanent structure allows for a field 80 yards wide by 120 yards long (\$5 million)
3. That user groups should pay 50% of construction costs
4. That user groups raise an additional \$500,000 as a reserve to cover operational expenses that exceed revenues

At the September 7, 2004, Council Meeting, The Council directed staff to solicit a proposal from a consultant to draw up preliminary designs and establish more definitive construction and operational expenses. Anderson/Johnson and Associates studied the Braemar site in 2001 for a bubble.

- Anderson/Johnson teamed up with Cunningham Group Architecture P.A.
- Total consulting fee \$16,5250 (a 75 day process)
- Topographic survey cost would be \$7,500
- Total cost - \$24,000

Mr. Keprios explained the commitments that have been received from user groups were as follows:

<u>USER GROUP</u>	<u>HOURS COMMITTED</u>
Edina Baseball Association	75
Edina Soccer Club (100 ½ field hours)	50
Edina Soccer Association	0
Edina Football Association	15
Edina Girls Fast Pitch (48 ½ field hours)	24
Edina Lacrosse Association	72
Edina High School Athletic	<u>20</u>
GRAND TOTAL	256
TOTAL HOURS AVAILABLE	1,200

Local dome facilities that exist and hours of use were as follows:

<u>FACILITY</u>	<u>HOURS - 2003</u>	<u>HOURS - 2004</u>
Holy Angels	1,700	1,200
Eden Prairie	1,100	800
Plymouth	1,250	700
Woodbury	1,100	1,100
Minnetonka		712

Mr. Keprios introduced Alice Hulbert and Floyd Grabiell from the Park Board.

Alice Hulbert, Park Board Member, said at the onset of this consideration, the Park Board was told the Athletic Associations were willing to raise one-half of the cost of construction and of operation. At present there was a softening of support for the project by the Athletic Associations. She said the issue needed to be tabled and that the Council not spend the \$24,000 for the consulting fee until there was more support from the community.

Floyd Grabiell concurred with Ms. Hulbert's comments.

Mr. Keprios said options on the issue would be to 1) table the issue and direct it back to the Park Board for further discussion, or 2) consider the option of the user groups paying for the consulting fee.

Member Housh said he has the impression that this facility was more of a luxury than of a need and he sees no reason to go forward with the project.

Member Kelly and Member Hovland concurred.

Member Masica questioned that the athletic organizations only committed to 256 hours of use. Mr. Keprios said the area has reached a saturation point with facilities and that could be one reason. Member Masica asked if the City was required to take bids on acquiring a feasibility study. Mr. Keprios commented that no the City was not required to take bids on professional services.

Member Hovland said the offer to hire a consultant should be withdrawn and that no more time should be spent on it.

Member Hovland made a motion to reject the proposal for the feasibility study, based upon the low demand for hours. Member Housh seconded the motion.

Member Housh asked if the Park Board Members in attendance at the meeting would speak to this issue.

Floyd Grabiell, 4817 Wilford Way, commented he too was surprised at the lack of commitment of use and said dropping the proposal seemed right.

Member Masica asked if rental hours could be increased by soliciting other communities. Mr. Keprios said there was some non-resident marketability but he would be only guessing about the amount of interest.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Member Hovland made a motion and Member Housh seconded the motion approving payment of the following claims as shown in detail on the Check Register dated October 6, 2004, and consisting of 30 pages: General Fund \$147,732.69; Communications Fund \$1,524.00; Working Capital Fund \$142,726.61; Construction Fund \$4,606.00; Art Center Fund \$590.68; Golf Dome Fund \$715.45; Aquatic Center Fund \$924.37; Golf Course Fund \$14,533.30; Ice Arena Fund \$13,990.80; Edinborough/Centennial Lakes Fund \$16,356.93; Liquor Fund \$131,852.76; Utility Fund \$81,982.65; Storm Sewer Fund \$3,497.54;

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Recycling Fund \$32,171.80; PSTF Agency Fund \$1,481.83; TOTAL \$594,687.41; and for approval of payment of claims dated October 13, 2004, and consisting of 30 pages: General Fund \$163,038.09; Communications Fund \$13,878.72; Working Capital Fund \$49,109.08; Art Center Fund \$2,315.23; Golf Dome Fund \$216.61; Aquatic Center Fund \$3,618.93; Golf Course Fund \$21,474.01; Ice Arena Fund \$28,846.41; Edinborough/Centennial Lakes Fund \$10,064.91; Liquor Fund \$145,141.15; Utility Fund \$39,368.54; Storm Sewer Fund \$35,595.55; PSTF Agency Fund \$3,503.54; TOTAL \$516,170.77.

Motion carried on rollcall vote – five ayes.

SELECTION OF AUDITORS APPROVED Mr. Hughes noted that the Finance Department sent request for proposals (RFP) for professional auditing services to ten auditing firms in August 2004. Firms receiving RFP's were chosen from a list of Government Auditors on the Minnesota Society of Certified Public Accountants website and were chosen based on proximity to the City of Edina and membership in the Minnesota Finance Officers Association. One firm was eliminated due to a conflict of interest. A pre-proposal meeting was held in September to answer questions about the RFP. Seven of the ten firms attended the meeting and submitted proposals on September 15.

The Finance Director, Assistant Finance Director and Accountant reviewed proposals, listed fees, client base, audit approach and experience of assigned audit staff as rating criteria. Based on criteria, three firms were interviewed and references checked by staff. Staff recommends acceptance of the proposal from the firm Malloy, Montague, Karnowski, Radosevich and Company, P.A. (MMKR). MMKR audits similar cities and have a 'paperless' audit process saving time and resources. MMKR was highly recommended in reference calls. Fees were on the higher end as there were more hours of upper management review yet the fee would be \$4,300 less for the 2004 audit than for the 2003 audit.

Mr. Hughes said a Council Committee composed of Mayor Maetzold and Member Hovland reviewed the staff's recommendation on October 13 and concurred with the recommendation.

Member Hovland made a motion approving the acceptance of Malloy, Montague, Karnowski, Radosevich & Co., P.A. (MMKR) as the City's Auditor. Mayor Maetzold seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

CONCERN OF RESIDENT EXPRESSED

Floyd Grabiell, 4817 Wilford Way, expressed his concern regarding the change of the polling location for Edina Precinct 16 to Arneson Acres Park from Christ Presbyterian Church. Mr. Grabiell said he believed that parking would be very tight and turning left out of the facility would be a problem. Council discussed the move. Mr. Hughes said this had been discussed with staff and that it was planned to have officers assisting with traffic as necessary.

Joni Bennett, 4003 Lynn Avenue, stated that voters have to wait outside at Weber Park the polling location for Precinct 4 when there were long lines.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:50 P.M.

City Clerk