

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL AND THE EDINA SCHOOL BOARD
HELD AT CITY HALL
NOVEMBER 16, 2004
6:30 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, 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.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

MINNESOTA CHEMICAL HEALTH WEEK PROCLAIMED Mayor Maetzold proclaimed the week of November 15 - 21, 2004, as Minnesota Chemical Health Week in Edina and encouraged citizens to participate in the activities and other alcohol and drug abuse prevention efforts year round.

Member Housh made a motion approving the proclamation of November 15 - 21, 2004, as Minnesota Chemical Health Week in Edina. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETINGS OF, OCTOBER 19, 2004 AND NOVEMBER 1, 2004, APPROVED** Motion made by Member Hovland and seconded by Member Housh, approving the Minutes of the Regular Meetings of the Edina City Council for October 19, 2004, and November 1, 2004.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2004 - 106 APPROVED, AUTHORIZING SPECIAL ASSESSMENTS FOR SOUND WALL IMPROVEMENT NOS. SA-10 AND SA-11; PROJECT NO. SA-7 SOUND WALL, DECLINED 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.

SOUND WALL IMPROVEMENT NO. SA-7

Location: TH 100 - West side from Vernon Avenue to Minnehaha Creek

Analysis for Assessment for Sound Wall Improvement No. SA-07 showed a total cost of \$534,318.00. Includes cost to construct wall. MnDOT will fund Engineering and Construction Administration. Assessment Amount: \$414,200.00 based on a three tiered per residential equivalent unit. First tier - \$17,800, second tier - \$9,900, third tier - \$3,100. Includes most of immediate neighborhood. 15-year assessment. Interest rate of 6.5%.

Engineer Houle explained that all three sound wall projects were staff initiated. He added that MnDOT was proposing to construct the improvements with the proposed sound wall north of West 44th Street during 2005. Mr. Houle explained affected residents from the projects have

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requested public contribution for the projects similar to that of the McCauley Trail Sound Abatement project. He said that project included an approximate 15% public contribution for the construction of the stone pillars. Mr. Houle added that MnDOT has verbally agreed to fund the engineering and construction administration costs for the proposed projects.

Mr. Houle explained that the sound wall for Improvement No. SA-7 would consist of constructing a 12-foot high wall within ten feet of the edge of the highway/off-ramp on the west side of TH 100 from Vernon Avenue to Minnehaha Creek. The project would extend a ten-foot high wall over the Minnehaha Creek Bridge on the West side of TH 100. He explained the public contribution for the project would amount to approximately \$120,118.00 or 22%. Mr. Houle said if the City waited for MnDOT to build the proposed sound wall it would be at least fifteen years. Therefore, he felt that getting them to contribute the engineering and construction administration was positive.

However, Mr. Houle presented a petition signed by thirteen residents to not support the sound wall at this time. He stated that eleven of the fifteen tier one residents were opposed to the sound wall. The residents cannot afford the expense of the sound wall. He noted the assessing department has also received applications for deferment of the assessment. Mr. Houle said for that reason staff was recommending that SA-7 Sound Wall not be ordered.

Assessor Wilson explained that residents 65 years or older; or disabled residents may qualify for deferral of their special assessments if the first year's installment plus interest of a special assessment were equal to more than two percent of the resident's annual income. Mr. Wilson said the City's policy, which was last amended in 1996 defers payment of the assessment, but accrues interest at one percent additional over the original assessed amount until the house was sold when the total amount accrued would be due.

Member Masica asked what the income limits were to qualify for deferment. Mr. Wilson explained that there was not a limit per se. Instead the first year's installment of a special assessment principle and interest must exceed two percent of the residents' annual income.

Member Housh expressed some concern that not building the wall proposed would mitigate the value of those walls, which were built. Mr. Houle replied that he believed each project could stand by itself and mitigate noise for the benefited property owners.

Public Comment

Dennis Knoer, 4821 Westbrook Lane, stated his support of the proposed sound wall. He stated he believed there had been a lot of confusion regarding cost in the neighborhood. Mr. Knoer asked to have the neighborhood re-surveyed. He expressed concern over the reverse petition process. Mr. Knoer urged the approval of the proposed sound wall citing quality of life and potential increases in property value with the installation. Mr. Houle explained the decision needed be made soon to ensure that the City could take advantage of MnDOT's proposed engineering and construction administration.

Member Masica asked what additional information could be provided to the neighborhood that they had not already received. Member Hovland noted MnDOT employee Wayne Norris was present in the audience and he asked him if the decision could wait.

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Wayne Norris, MnDOT said he believed MnDOT could still make the necessary letting dates if a final decision was available from the City by December 7, 2004.

David Colwell, 5012 Edinbrook Lane, added his support to the proposed sound wall project. Mr. Colwell said he was very excited about the improvement to the quality of life and increased property values. He stated he felt this was a tremendous opportunity that should not be missed.

Mary Hartupee, 5016 Edinbrook Lane, added her support to the installation of the proposed sound wall. Ms. Hartupee said she was excited when the project was ordered, but has been disappointed to hear of the opposition and asked the Council to review the project and neighborhood before making a decision.

Barbara Carlson, 4811 Westbrook Lane, stated she was the person who circulated the reverse petition. Ms. Carlson stated that many people in her neighborhood live on fixed incomes and were just not able to afford the high cost of installing the proposed sound wall. She urged the Council to accept their reverse petition and to stop the project.

Michael Beck, 4841 Westbrook Lane, stated he supported the sound wall and he asked for a calculation of what the actual monthly cost would be of the proposed sound wall special assessment if ordered.

Mayor Maetzold cautioned the neighbors that in his over ten on the City Council there has been a high desire for sound walls and the proposed improvement presented an almost once in a lifetime opportunity to install a sound wall with a large share of public involvement.

Member Housh agreed with Mayor Maetzold. He pointed out MnDOT's willingness to engineer and pay construction administration amounted to 22% of the project costs. Member Housh asked if there had been time to conduct studies of property values of the homes on Mackey Avenue where a sound wall had been constructed. Staff replied that no studies had been performed.

Member Masica asked if there were some standard that would allow a determination of value before and after the installation of the sound wall. Mr. Wilson said that no such data existed.

Richard Barsamian, 5005 Edinbrook Lane, stated he did not want the wall installed. He stated he could not afford the installation. He suggested the City wait until MnDOT installed the wall.

Dave Brufloft, 4837 Westbrook Lane, stated he had originally supported the wall, but it was just too costly. Mr. Brufloft said he believed he could handle the costs, but being totally disabled he realized he just could not afford the costs. He added that others in the neighborhood were in a more critical position and possibly would have to sell their homes.

Member Housh asked if there were anything the City could do to assist financially, in cases where the homeowners had a demonstrated need. Manager Hughes noted the East Edina Housing Foundation might be able to help if the homeowner met their income qualification guidelines. He added the term of the project could be extended to twenty years, which would not lessen the cost, just make the annual payments smaller. Mr. Hughes said another option would be to levy the project as a level payment amortization assessment instead of as the usual reducing interest level principal amortization method. He noted the last two options would in

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the long run cost each property owner more in interest, but might assist in the short term with lower annual payments.

Jim Starr, 5025 Edinbrook Lane, stated that as a realtor he believed a sound wall would increase property values, but realized that no guarantee would be possible. Mr. Starr stated he lived in the third tier and he could understand the concern of his neighbors in the first and second tiers. He expressed some concern about a potential "bounce" affect if a sound wall were constructed on the opposite side of the highway with his side being left open.

Barbara Carlson, 4811 Westbrook Lane, interjected that many expensive homes exist without the benefit of a sound wall. She reiterated that while she initially supported the wall, it was just too costly to afford as proposed.

Doris Skold, 5101 Millpond Place, stated she had lived in her home since 1972 and in the neighborhood for 54 years. Ms. Skold said the bottom line for her was that she did not have the money to pay for the sound wall; it was something she just could not afford.

Scott Losey, 5105 West 49th Street, stated while he would like the sound wall, he did not want to pay for it.

Dennis Knoer, 4821 Westbrook Lane, asked if the wall on the east side of TH100 would be installed then would the west side experience "bounce"? Mr. Houle explained that studies of existing sound walls indicated there would be no "bounce" from one side of a highway with a wall to the side without a wall.

Nelva Allen, 4840 Westbrook Lane, stated she had originally favored the wall installation, but actually she was not bothered by the noise. She would prefer the wall not be built.

Motion made by Member Masica and seconded by Member Hovland closing the hearing for Assessment of Improvement No. SA-7.

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

Following a brief discussion, **motion made by Member Hovland and seconded by Member Masica directing staff to not proceed with Improvement Project No. SA-7 and declining the assessment.**

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

SOUND WALL IMPROVEMENT NO. SA-10

Location: TH 100 - West side from Minnehaha Creek to West 44th Street

Analysis for Assessment for Sound Wall Improvement No. SA-10 showed a total cost of \$400,287.00. Includes cost to construct wall. MnDOT will fund Engineering and Construction Administration. Assessment Amount: \$310,300.00 based on a three tiered per residential equivalent unit. First tier - \$19,500, second tier - \$14,600, third tier - \$7,200. Includes most of immediate neighborhood. 15-year assessment. Interest rate of 6.5%.

Mr. Houle said that no written comments or phone calls had been received for Sound Wall SA-10, which was also a staff initiated improvement. Mr. Houle said MnDOT has agreed to cover the cost of engineering and construction administration. Again he said the preliminary hearing was held March 16, 2004, with the improvement to construction a 12-foot high wall along the chain link fence. The wall would extend ten feet high over West 44th Street Bridge and Minnehaha Creek Bridge and would stop at the south abutment of the Minnehaha Creek Bridge.

Public Comment

Paula Heikell, 4600 Cascade Lane, asked about the location of the actual wall and whether the costs were final. Mr. Houle explained the wall would be attached to the retaining side of the existing chain link fence. He added the costs were not finalized, but that a contingency had been included in the calculations.

Jeremy Mandler, 4605 Cascade Lane, stated he felt the construction costs were excessive, the interest rate of 6.5% was too high and he asked how long the wall would be. Mr. Houle said the wall would be 955 feet in length. Director Wallin explained that the City was allowed by state law to charge one to two percent over its borrowing costs for all special assessments. It was pointed out that homeowners could seek their own financing and pay the entire assessment before any interest was charged.

Kenneth Hanson, 4601 Cascade Lane said he was very enthusiastic about the installation of the wall. He said he thought there were funds allocated in the 2005 City budget for the wall construction. Mr. Hughes pointed out there was a public component to the project that amounted to 22% of the total cost.

Motion made by Member Housh and seconded by Member Hovland closing the hearing for Assessment of Improvement No. SA-10.

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

Member Masica made a motion to order Sound Wall Improvement No. SA-10 to construct a sound wall on the west side of TH 100 from Minnehaha Creek to West 44th Street. Member Hovland seconded the motion.

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

Member Hovland explained that he was removing himself from the discussion and vote of Sound Wall Improvement No. SA-11 because he was one of the affected property owners. Attorney Gilligan concurred that it was proper for Member Hovland to take this action.

SOUND WALL IMPROVEMENT NO. SA-11

Location: TH 100 - East side from Minnehaha Creek to West 44th Street

Analysis for Assessment for Sound Wall Improvement No. SA-11 showed a total cost of \$556,893.00. Includes cost to construct wall. MnDOT will fund Engineering and Construction Administration. Assessment Amount: \$431,700.00 based on a four tiered per residential equivalent unit. First tier - \$19,000, second tier - \$10,300, third tier - \$6,700, fourth tier - \$3,800.00. Includes most of immediate neighborhood. 15-year assessment. Interest rate of 6.5%.

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Mr. Houle noted that the proposed sound wall project would consist of constructing a twenty-foot high wall along the chain link fence on the east side of TH100 between Minnehaha Creek to West 44th Street. Mr. Houle added the City of Edina's Heritage Preservation Board had issued a certificate of appropriateness and the Minnesota Historical Society has approved the concept of the wall because it was in the historic Country Club District. He said the wall should have little impact on the homes visually because of the large amount of vegetation in the area.

Public Comment

Tom Dougherty, 4911 Sunnyside Road asked for clarification of the meaning of full vegetation. Mr. Houle explained that the trees and shrubs in the area were mature and therefore offered full coverage from the highway.

Bill Jarrett, 4500 Browndale Avenue, stated he was a fourth tier property owner, but the noise really booms on his property. Mr. Jarrett urged the Council to approve and construct the wall.

Mr. Lehman, 4801 East Sunnyslope asked for an explanation of the assessment calculation methodology. Mr. Houle said that assessments were based upon residential units and proximity to the highway, those closer receiving a proportionally higher share of benefit for four tiers in this area.

Motion made by Member Housh and seconded by Member Masica closing the hearing for Assessment of Improvement No. SA-11.

Ayes: Housh, Masica, Maetzold

Abstain: Hovland

Motion carried.

Member Housh made a motion to order Sound Wall Improvement No. SA-11 to construct a sound wall on the east side of TH 100 from Minnehaha Creek to West 44th Street. Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Masica, Maetzold

Abstain: Hovland

Motion carried.

Member Housh made a motion introducing the following resolution and moving its adoption:

RESOLUTION NO. 2004-106

A RESOLUTION LEVYING SPECIAL ASSESSMENT

FOR SOUND WALL IMPROVMENTS

SA-10 AND SA-11 - TRUNK HIGHWAY 100

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 improvement listed below:

Sound Wall Improvement No. SA-10 - west side of TH 100

Sound Wall Improvement No. SA-11 - east side of TH 100

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 assessment 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 assessment levied against it.

2. The special assessments shall be payable in one installment in 2005, together with interest at a rate of six and one-half percent (6 ½%) per annum, on the entire special assessment from the date hereof to December 31, 2005.

<u>NAME OF IMPROVEMENT</u>	<u>NO. OF INSTALLMENTS</u>
SA-10 SOUND WALL IMPROVEMENT – Levy No. 16236	15 YRS
SA-11 SOUND WALL IMPROVEMENT – Levy No. 16237	15 YRS

3. The owner of any property so assessed may, at any time prior to certification of assessment to the County Auditor, pay the whole entire amount of the assessment on such property, to the City Treasurer.
4. The clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County. Such assessment shall be collected and paid over in the same manner as other municipal taxes.

Adopted this 16th day of November 2004.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Masica, Maetzold

Abstain: Hovland

Motion carried.

***PUBLIC HEARING FOR VACATION OF PUBLIC STREET FOR PUKWANA LANE CONTINUED TO DECEMBER 7, 2004** Motion made by Member Hovland and seconded by Member Housh approving the continuation of the vacation of the public street for Pukwana Lane to December 7, 2004.

Motion carried on rollcall vote – four ayes.

***PUBLIC HEARING FOR FINAL PLAT/FINAL REZONING FOR MARK JONES ADDITION (5125 WEST 49TH STREET) CONTINUED TO DECEMBER 7, 2004** Motion made by Member Hovland and seconded by Member Housh approving the continuation of the final plat/final rezoning for Mark Jones Addition at 5125 West 49th Street to December 7, 2004.

Motion carried on rollcall vote – four ayes.

NEW ON-SALE AND SPECIAL SUNDAY SALE OF INTOXICATING LIQUOR LICENSES APPROVED FOR LAKESHORE GRILL (MARSHALL FIELDS, SOUTHDALE) Mr. Hughes

explained that in July, the May Company became the owner of the Marshall Field's stores. Edina Code Section 900 states that a change in corporate ownership of more than ten percent constitutes a new licensee. The Lakeshore Grill was essentially the very same operation just licensed by the City in May, but has new ownership. The necessary paperwork has been filed and applicable fees paid. The Planning Department, the Health Department and the Police Department have reviewed the application and approve granting of the license.

Member Masica made a motion, seconded by Member Housh closing the public hearing on the new on-sale and Special Sunday sale of intoxicating liquor licenses for Lakeshore Grill, Marshall Fields, Southdale.

Ayes: Housh, Hovland, Masica, Maetzold

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Motion carried.

Walter Rockenstein, Attorney for the May Company, with Faegre Benson Law Firm, 643 East 57th Street, Minneapolis, asked the Council for an affirmative vote on the applications.

Member Masica made a motion approving the on-sale intoxicating and Special Sunday Sale liquor licenses to Dayton's Iron Horse Liquors, Inc., dba/Marshall Fields, Lakeshore Grill, 100 Southdale Center, for period beginning November 17, 2004, and ending March 31, 2005. Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

NEW ON-SALE WINE AND 3.2 BEER ON-SALE LICENSE APPROVED FOR CHAPATI (7078 AMUNDSON AVENUE) Mr. Hughes indicated that a license has been applied to the City for an on-sale wine and 3.2 beer license for a new establishment located at 7078 Amundson Avenue. The applicant has filed all necessary documentation and paid applicable fees. The Planning Department, Health Department and Police Department have completed their investigation with no negative findings. Staff recommends approving the on-sale wine license.

Norman Butler, 709 Summit Avenue, Northfield, MN, representing the Chapati Edina Restaurant said the restaurant serves East Indian food and was open for lunch and dinner.

Member Hovland made a motion approving the new on-sale wine and 3.2 beer on-sale license for Chapati Restaurant at 7078 Amundson Avenue. Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica. Maetzold

Motion carried.

***TRAFFIC SAFETY STAFF REVIEW FOR NOVEMBER 8, 2004, APPROVED** Motion made by Member Hovland and seconded by Member Housh approving the Traffic Safety Staff Review of November 8, 2004, Section A:

1. Installation of "Disabled Child Area" signs along the 6300 block of Wilryan Avenue; and

Section B and C.

Motion carried on rollcall vote – four ayes.

***RESOLUTION NO. 2004-102 APPROVING THE STRUCTURAL COLLAPSE STATE TEAM - FIRE DEPARTMENT** Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

RESOLUTION NO. 2004-102

FIRE DEPARTMENT

COLLAPSE STRUCTURE STATE TEAM

WHEREAS, the City of Edina and the Minnesota Department of Public Safety, Division of Homeland Security and Emergency Management, act on behalf of the State of Minnesota (hereinafter "HSEM") have agreed to enter into an agreement for the acquisition of Collapse Structure equipment and training. The City of Edina agrees to implement a Collapse Structure Rescue Team that would be accessible to the State of Minnesota Division of HSEM when available. This Collapse Structure Rescue Team is intended to enhance the City of Edina and the State of Minnesota's abilities to prevent, deter, respond to, and recover from threats and incidents of terrorism.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Edina, Minnesota hereby accepts the letter of agreement and documents relating to U.S. Department of Homeland Security, Office of Domestic Preparedness Federal Fiscal Year 2004 Homeland Security Grant Program, Award Number 2004-GE-T4-0028

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 16th day of November 2004.

Motion carried on rollcall vote – four ayes.

***2005 COUNCIL MEETING DATES AND HOLIDAYS APPROVED** Motion made by Member Hovland and seconded by Member Housh approving the 2005 Council Meeting Dates and Holidays as presented.

Motion carried on rollcall vote – four ayes.

PRESENTATION GIVEN ON PUBLIC SAFETY DISPATCH SERVICES Chief Siitari explained the City received a letter from Hennepin County in August 2004, offering to provide Public Safety dispatch services at no cost to the ten cities currently operating independent dispatch centers in Hennepin County. A decision to accept or decline the offer was necessary by November 30, 2004. The issue was initially discussed at a previous Council work session on September 21, 2004. Staff was directed to research the actual cost savings of having the County provide dispatch services and to clarify the terms of a contract, ambulance dispatching and dispatch protocols.

Staff studied the issue and after the transition year, the annual cost savings would be approximately \$160,000.00. The number was significantly less than our present annual cost because dispatchers provide a myriad of other duties that would need to be performed even if the City does not operate a dispatch center. The staff would be reduced but not eliminated. Another factor in the cost savings equation with the City's new dispatch center and transition to the 800 MHz radio systems. These investments would not be recovered with a move to the County system.

Mr. Siitari questioned whether the cost savings would justify the change in service level. He also questioned about how long the dispatch services would remain "free", and the lack of control over future costs and operating procedures seem to reduce the attractiveness of the offer. Staff recommends the Council decline the County offer to provide dispatch services for Edina. The cost savings do not justify the change in service level or loss of control.

Jon Barnett, 5633 Interlachen Circle, owner of Edinalarm, noted he has had a good working relationship with the Fire and Police Departments and the citizens of Edina were fortunate to have this fine service and it should be maintained.

Following Council comments, **Member Housh made a motion declining the Hennepin County offer to provide Public Safety Dispatch services at no charge to the City.** Member Masica seconded the motion.

Ayes: Housh, Hovland, 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

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Check Register dated November 3, 2004, and consisting of 23 pages: General Fund \$99,177.30; CDBG Fund \$2,618.50; Communications Fund \$970.00; Working Capital Fund \$12,150.18; Construction Fund \$3,254.84; Art Center Fund \$3,826.32; Golf Dome Fund \$275.00; Golf Course Fund \$5,519.21; Edinborough/Centennial Lakes Fund \$56,376.57; Liquor Fund \$97,434.13; Utility Fund \$77,183.58; Storm Sewer Fund \$416.58; PSTF Fund \$4,496.57; TOTAL \$363,698.78; and for approval of payment of claims dated November 10, 2004, and consisting of 30 pages: General Fund \$275,296.11; Communications Fund \$1,023.91; IBR #2 Fund \$16,506.26; Working Capital Fund \$25,405.34; Art Center Fund \$3,807.12; Golf Dome Fund \$671.53; Aquatic Center Fund \$2,429.65; Golf Course Fund \$14,288.48; Ice Arena Fund \$29,427.18; Edinborough/Centennial Lakes Fund \$11,788.04; Liquor Fund \$282,208.05; Utility Fund \$277,801.43; Storm Sewer Fund \$504.81; Recycling Fund \$32,171.80; PSTF Fund \$1,189.87; TOTAL \$974,519.58.

Motion carried on rollcall vote – four ayes.

TRUTH IN TAXATION MEETING DECEMBER 6, 2004 Mayor Maetzold reminded the Council of the Truth in Taxation Meeting to be held on December 6, 2004, at 5:00 P.M. in the Council Chambers.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:20 P.M.

City Clerk