

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JANUARY 4, 2005
7:00 P.M.**

OATHS OF OFFICE ADMINISTERED Judge James Swenson administered the Oath of Office to Ann Swenson, Council Member. Clerk Mangen administered the Oath of Office to James B. Hovland, Mayor and Linda Masica, Council Member. Terms of office for the Mayor and Council Members will be to January 1, 2009.

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

CONSENT AGENDA ITEMS APPROVED Motion made by Member Housh and seconded by Member Masica approving the Council Consent Agenda as presented with the exception of Approval of Special Minutes of December 21, 2004.

Rollcall:

Ayes: Housh, Masica, Swenson, Hovland

Motion carried.

***MINUTES OF THE REGULAR MEETING OF DECEMBER 21, 2004, APPROVED** Motion made by Member Housh and seconded by Member Masica, approving the Minutes of the Regular Meeting of the Edina City Council for December 21, 2004.

Motion carried on rollcall vote - five ayes.

MINUTES OF THE SPECIAL MEETING OF DECEMBER 21, 2004, APPROVED AS AMENDED Mayor Hovland removed the Special Meeting Minutes of December 21, 2004, from the agenda for an addition of language, "Conceal Carry Legislation", to the list of topics discussed.

Motion made by Mayor Hovland and seconded by Member Housh approving the Minutes of the Special Meeting of December 21, 2004, as amended.

Ayes: Housh, Masica, Swenson, Hovland

Motion carried.

ORDINANCE NO. 2005-1 AN ORDINANCE ADDING NEW SUBSECTION 130.04 - FILLING OF VACANCIES IN OFFICE APPROVED, WITH WAIVER OF SECOND READING Mayor Hovland noted that two years remain on his term on the Council because of his election to Mayor. Manager Hughes noted according to State Law, the Council must designate whether Council vacancies will be filled by special election or by appointment. He asked Attorney Gilligan to draft an Ordinance providing the method for filling this vacancy. He noted that at any time, the Ordinance could be amended.

Member Masica asked: for history on the process and if a formal application had been developed. Mr. Hughes replied that he had been through the appointment process three times. He noted that in all three cases the Councils decided to fill the vacancies by appointment as opposed to a special election. Mr. Hughes recalled in two cases the applicants were questioned about their interest in seeking election at the next general election. He said an application similar Boards' and Commissions' application was used during the last two appointments.

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Member Housh indicated that elections were expensive. He asked serious consideration be given to appointing one of the candidates who were on the ballot in November.

Member Swenson concurred with the application process going forward.

Mayor Hovland asked for more information on the process and the timing. Mr. Hughes indicated the information could be placed on the website and in the Sun-Current. He suggested that a deadline be set of January 27th for receipt of applications.

Member Masica asked if there was a state statute regulating when a vacancy must be filled. Attorney Gilligan said state statute does not specify a deadline but states appointments must be completed in a reasonable time.

Member Housh said as the Council was seated at present, the appointment vote could be a deadlock. Mr. Hughes noted that if a deadlock were to happen the Mayor would make the appointment.

Mayor Hovland asked if a screening process of the applicants could be established. Mr. Hughes replied the Council could interview all applicants or a list of finalists. He noted a committee of the Council could be chosen to develop a list of finalists stating he believed all applicants were interviewed during the last appointment process.

Member Housh suggested since the election was recent, seeking the interest of the candidates who ran for election in filling the vacancy.

Member Masica said she felt the process should be open to everyone.

Member Swenson concurred with Member Masica that the process should be open to everyone.

Mayor Hovland indicated that flexibility at the front end of the process would be valuable.

Mr. Hughes said depending upon the number of applicants, the interview process could possibly be completed and a decision made by the February 15, 2005, Council Meeting.

Member Masica made a motion adopting Ordinance No. 2005-1, An Ordinance Adding New Subsection 130.04 - Filling Vacancies in Office with waiver of second reading and directing staff to prepare an application, to prepare a press release inviting applications to fill the vacancy and to notify the candidates who ran for the Council in the November General Election. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Masica, Swenson, Hovland

Motion carried.

BID AWARDED FOR WELL #4 AND #16 - CONTRACT NO. 04-4PW REPAIR, IMPROVEMENT NO. WM-447 AND 448 Mr. Hughes noted that the well repair for Well #4 and Well #16, Contract No. 04-4PW, Improvement No. WM-447 and 448, was not on the consent agenda as the low bid was approximately 10% over the Capital Improvement Plan allocated for the project. Staff would recommend approval of the project.

Member Swenson made a motion approving the award of bid for well repair on Well #4 and Well #16, Contract No. 04-4PW, Improvement No. WM-447 and 448, to recommended low bidder, Municipal Builders, at \$352,827.00.

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

***AWARD OF BID FOR 20 ELECTRIC GOLF CARS - BRAEMAR GOLF COURSE** Motion made by Member Housh and seconded by Member Masica approving the award of bid for twenty (20) electric golf cars at Braemar Golf Course to recommended low bidder, Versatile Vehicles, Inc., at \$37,500.00.

Motion carried on rollcall vote - four ayes.

BOARD OF APPEALS AND EQUALIZATION DATE SET - APRIL 11, 2005 Mr. Hughes explained a date must be set for the Board of Appeal and Equalization between April 1, 2005 and May 31, 2005. He suggested April 11, 2005, be set for the meeting with the date of the continuation meeting April 25, 2005.

Mr. Hughes informed the Council that state law now requires the Council to have two hours of training on the process of the Board of Appeals and Equalization. He indicated Assessor Wilson would be the trainer and suggested setting a date in March for the training.

Member Masica made a motion setting April 11, 2005, as the Board of Appeal and Equalization at 5:00 P.M. in the Council Chambers. Member Housh seconded the motion.

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

***RESOLUTION NO. 2005-01, APPROVED - DESIGNATION OF OFFICIAL NEWSPAPER** Motion made by Member Housh and seconded by Member Masica approving the following resolution:

**RESOLUTION NO. 2005-01
DESIGNATING
OFFICIAL NEWSPAPER**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that the Edina Sun-Current be and is hereby designated as the Official Newspaper for the City of Edina for the year 2005.
Passed and adopted this 4th day of January 2005.

Motion carried on rollcall vote - four ayes.

***RESOLUTION NO. 2005-02, APPROVED - SIGNATORY RESOLUTION** Motion made by Member Housh and seconded by Member Masica approving the following resolution:

**RESOLUTION NO. 2005-02
SIGNATORY RESOLUTION**

BE IT RESOLVED that persons holding office as Mayor, Manager and Treasurer of the City of Edina, be, and they hereby are authorized to act for this municipality in the transaction of any banking business with Bremer Bank, Crown Bank, Excel Bank, Fidelity Bank, Marshall & Ilsley Bank (M & I), North American, TCF National Bank, U.S. Bank, Wells Fargo Bank, and Western Bank, (hereinafter referred to as the "Bank") from time to time and until written notice to any Bank to the contrary, to sign checks against said accounts, which checks will be signed by the Mayor, Manager and City Treasurer. Each Bank is hereby authorized and directed to honor and pay any checks against such account if signed as above described, whether or not said check is payable to the order of, or deposited to the credit of, any officer or officers of the City, including the signers of the check.

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ADOPTED this 4th day of January, 2005.

Motion carried on rollcall vote - four ayes.

***RESOLUTION NO. 2005-03, APPROVED - DESIGNATION OF DIRECTOR/ ALTERNATE DIRECTOR OF SUBURBAN RATE AUTHORITY** Motion made by Member Housh and seconded by Member Masica approving the following resolution:

RESOLUTION NO. 2005-03
DESIGNATING DIRECTOR
AND ALTERNATE DIRECTOR TO
SUBURBAN RATE AUTHORITY

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, as follows: John C. Wallin is hereby designated to serve as a Director of the Suburban Rate Authority, and Margaret (Peggy) Gibbs is hereby designated to serve as Alternate Director of the Suburban Rate Authority for the year 2005 and until their successors are appointed.

Motion carried on rollcall vote - four ayes.

***RESOLUTION NO. 2005-04, APPROVED - DESIGNATION OF DIRECTOR/ ALTERNATE DIRECTOR OF LOGIS** Motion made by Member Housh and seconded by Member Masica approving the following resolution:

RESOLUTION NO. 2005-04
DESIGNATING DIRECTOR
AND ALTERNATE DIRECTOR
TO LOGIS

BE IT RESOLVED by the City Council of the City of Edina Minnesota, as follows: John C. Wallin is hereby designated as a Director of LOGIS and Eric R. Anderson is hereby designated as Alternate Director of LOGIS for the year 2005, and until their successors are appointed.

Motion carried on rollcall vote - four ayes.

***RESOLUTION NO. 2005-05, APPROVED - FACSIMILE SIGNATURES** Motion made by Member Housh and seconded by Member Masica approving the following resolution:

RESOLUTION NO. 2005-05
AUTHORIZING USE OF
FACSIMILE SIGNATURES BY PUBLIC OFFICIALS

RESOLVED that the use of facsimile signatures by the following named persons:

JAMES B. HOVLAND	- Mayor
GORDON L. HUGHES	- City Manager
JOHN WALLIN	- Treasurer

on checks, drafts, warrants, warrant-checks, vouchers or other orders of public funds deposited in Bremer Bank, Crown Bank, Excel Bank, Fidelity Bank, Marshall & Ilsley Bank, North American, TCF National Bank, U.S. Bank, Wells Fargo Bank and Western Bank, be and hereby are approved, and that each of said persons may authorize said depository banks to honor any such instrument bearing his facsimile signature in such form as he may designate and to charge the same to the account in said depository bank upon which drawn as fully as though it bore his manually written signature and that instruments so honored shall be wholly operative and binding in favor of said depository bank although such facsimile signature shall have been affixed without his authority.

ADOPTED this 4th day of January, 2005.

Motion carried on rollcall vote - four ayes.

***RESOLUTION NO. 2005-06, APPROVED DESIGNATING OFFICIAL DEPOSITORIES** Motion made by Member Housh and seconded by Member Masica approving the following resolution as presented:

**RESOLUTION NO. 2005-06
DESIGNATING DEPOSITORIES**

BE IT RESOLVED that the Crown Bank, Excel Bank, Fidelity Bank, Bremer Bank, Marshall & Ilsley (M & I), North American, TCF National Bank, U.S. Bank, Wells Fargo Bank and Western Bank, are authorized to do banking business in Minnesota, be and are hereby designated as Official Depositories for the Public Funds of the City of Edina, County of Hennepin, Minnesota, until January 1, 2006.

ADOPTED this 4th day of January, 2005.

Motion carried on rollcall vote – four ayes.

VOLUNTEER RECOGNITION RECEPTION DATE SET – APRIL 14, 2005 Mr. Hughes requested the Council choose a date of either April 14, 2005 or April 21, 2005, for the Volunteer Recognition Reception.

Following a brief Council discussion, **Member Swenson made a motion approving April 14, 2005, as the date for the Volunteer Recognition Reception at Edinborough Park at 5:00 P.M.** Member Housh seconded the motion.

Ayes: Housh, Masica, Swenson, Hovland

Motion carried.

JOINT POWERS AGREEMENT AND FACILITY USE AGREEMENT WITH EDINA PUBLIC SCHOOLS FOR GYMNASIUMS APPROVED

Mr. Hughes indicated that City staff and School District staff have prepared and agreed upon a Joint Powers Agreement and a Facility Use Agreement with respect to the gymnasiums proposed to be constructed on the Edina Community Center campus. He explained the agreements had been prepared and reviewed by the City Attorney, the Attorney for the District, the City Council committee of Mayor Hovland and Member Housh. Mr. Hughes said that following approval of the Agreements by the Council and the Board of Education, the City would proceed to retain project architects and a construction manager who will then prepare schematic plans for the improvements. He explained after plans were prepared, an application for a Conditional Use Permit will be submitted and considered by the City's Planning Commission and the City Council at a public hearing which could occur in approximately six weeks.

Mr. Hughes added the Joint Powers Agreement provided a mechanism for how the gymnasiums will be constructed and the process that would be followed. A joint powers oversight committee will be formed of two members from the City Council and two members from the Board of Education plus staff persons.

Mr. Hughes explained the Facility Use Agreement dealt with how the facility would be scheduled and how operating costs would be paid. He said the proposed Agreement mimicked the concept that was in place during the referendum of 2001 was never implemented. Mr. Hughes said hours of use as well as maintenance of the facility would be detailed in the Facility Use Agreement. He said the City would have priority times for use and would pay the full cost for the operation of the facility noting that user fees would be needed and earmarked to defray the operational costs borne by the City.

Member Housh expounded regarding the spirit of good feeling existing between the elected officials from the City and the School District allowing the approval of an agreement serving all Edina's youth.

Member Masica inquired whether a negotiation clause needed to be included at the end of the 30-year ground lease; what responsibility the City would have if major maintenance of the facility became necessary; and also questions Article III 3.01 how the fee is determined for Kid's club participants and

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priority users. Mr. Gilligan explained the ground lease was in place as a financing mechanism. Mr. Hughes said maintenance costs incurred would be billed back to the City and noted that under Article II, Section 2.02 of the Facilities Use Agreement states that the School District is responsible for, "HVAC System, internal roadway systems, parking areas, etc." Mr. Hughes explained that regarding Article III 3.01 fee was an hourly rental charge. Mayor Hovland added that the City must approve any maintenance over \$5,000.

Member Masica made a motion approving the Joint Powers Agreement and the Facility Use Agreement with the Edina Public Schools. Member Swenson seconded the motion.

Ayes: Housh, Masica, Swenson, Hovland

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Member Housh made a motion and Member Masica seconded the motion approving payment of the following claims as shown in detail on the Check Register dated December 22, 2004, and consisting of 30 pages: General Fund \$278,695.16; Communications Fund \$3,439.61; Working Capital Fund \$46,408.96; Construction Fund \$98,684.91; Art Center Fund \$18,360.45; Golf Dome Fund \$2,023.03; Aquatic Center Fund \$61,679.02; Golf Course Fund \$7,450.74; Ice Arena Fund \$4,420.73; Edinborough/Centennial Lakes Fund \$11,537.73; Liquor Fund \$47,260.57; Utility Fund \$450,735.67; Storm Sewer Fund \$6,402.15; PSTF Fund \$3,045.64; TOTAL \$1,040,144.37; and for approval of payment of claims dated December 29, 2004; and consisting of 25 pages: General Fund \$356,224.72; Communications Fund \$12,463.52; Working Capital Fund \$22,570.67; Art Center Fund \$1,663.81; Golf Dome Fund \$4,555.97; Aquatic Center Fund \$254.79; Golf Course Fund \$6,504.43; Ice Arena Fund \$9,572.29; Edinborough/Centennial Lakes Fund \$5,428.20; Liquor Fund \$262,311.92; Utility Fund \$45,984.36; Storm Sewer Fund \$6,387.18; PSTF Agency Fund \$259.85; TOTAL \$734,181.71.

Motion carried on rollcall vote -four ayes.

CONCERN OF RESIDENT Robert Webb, 4516 Drexel Avenue, commented on the Vision 20/20 plan saying the number one objective of the plan is to maintain strong residential neighborhoods. He said the Council would have a big job to maintain the plan as written and satisfy both residents and drivers cutting through neighborhoods.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 8:15 P.M.

City Clerk