

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

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

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Housh and seconded by Member Swenson approving the Council Consent Agenda as presented with the exception of Agenda Item III.A. Resolution No. 2005-40 - Authorizing Joint Powers Agreement Participation in 2005-2006 Community Development Block Grant Program.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF MAY 17, 2005, APPROVED** Motion made by Member Housh and seconded by Member Swenson, approving the Minutes of the Regular Meeting of the Edina City Council for May 17, 2005.

Motion carried on rollcall vote - five ayes.

**TROOP 123 OF THE BOY SCOUTS WELCOMED** Mayor Hovland welcomed members of Boy Scout Troop 123 from Shepherd of the Hills Church who were attending the Council Meeting in preparation of attaining their Communications Merit Badge.

**RESOLUTION NO. 2005-47 ADOPTED ORDERING ROADWAY IMPROVEMENT PROJECT IMPROVEMENT NO. BA-312 - BRIDGE LANE AND TOWNES ROAD** Affidavits of Notice were presented, approved and ordered placed on file.

**Presentation by Engineer**

Engineer Houle stated the proposed project had been initiated by staff after a resident requested that an on-going drainage problem along the roadway be addressed. Mr. Houle said staff expanded the project to include the reconstruction of the roadway after reviewing the pavement condition. A neighborhood meeting was held December 2004.

Mr. Houle noted that the roadway had been constructed in the 1930's with the sanitary sewer installed in 1937 and the water in 1973. He stated the pavement and sidewalks were in very poor condition. Mr. Houle said the scope of the project would include reconstructing the roads to their existing widths of 25 feet for Bridge Lane and 31 feet for Townes Road. He said the utilities updates would include: 1) extending storm sewer to the westerly end of Bridge Lane; 2) providing sanitary sewer repairs where needed; and 3) providing new watermain from Townes Road to Arden Avenue to the west.

Mr. Houle noted the roadway project cost was estimated to be approximately \$107,000 which would amount to an assessment of about \$9,800 per residential equivalent unit since this project would be a neighborhood assessment. The proposed assessment would run for ten years with the City's current interest rate of 6.5%. He added that the Council would be reviewing the assessment policy later this summer. Mr. Houle stated the utility portion of the improvement project would be funded by their

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respective utility fund. He stated that while the Council was hearing this project in 2005 it was his plan to complete the construction of the improvements during the 2006 construction season.

Member Housh expressed concern about the amount of work planned with the Bridge Lane and Country Club area improvements occurring in the same construction season. Mr. Houle said he would be managing the construction in the area very carefully and he was very aware of the need to not close too many north south streets at the same time.

Member Swenson asked how often homes got specially assessments piggybacked such as 5 Bridge Lane would experience with this project. Mr. Houle said this was the first time during his nine year tenure this had happened.

Public Comment

Brooks O'Neil, 8 Bridge Lane, stated he favored the project. He asked if the proposed assessment was similar to those in other neighborhoods. Mr. Houle said that it was comparable to those in South Harriet Park or the Sunnyslope area which were about \$8,000, but noted that no curb and gutter was installed with these projects.

**Member Masica made a motion to close the public hearing seconded by Member Hulbert.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Mayor Hovland reiterated that the Council would be looking at the City's assessment policies in the near future and the current construction projects would be included in any discussions.

Member Masica stated her support of the project adding that it was important to keep Edina's roads in good condition.

Member Swenson agreed with Member Masica and added her concern over the management of the construction projects.

Member Housh agreed with his colleagues on the Council.

**Member Masica introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2005-47  
ROADWAY RECONSTRUCTION  
BRIDGE LANE AND TOWNES ROAD  
IMPROVEMENT NO. BA-312**

**WHEREAS, the Edina City Council on the 5<sup>th</sup> day of April, 2005, fixed a date for a Council hearing on the proposed street reconstruction, Improvement No. BA-312; and**

**WHEREAS, ten days' mailed notice and two weeks' published notice of the hearing was given, and the hearing was held thereon on the 7th day of June 2005, for Improvement No. BA-312 reconstructing the existing bituminous pavement and base, replace fire hydrants, installing new watermain, repairing/replacing the sanitary sewer where needed and updating and extending storm sewer on Bridge Lane and Townes Road at which time all persons desiring to be heard were given an opportunity to be heard thereon.**

**NOW, THEREFORE, BE IT RESOLVED that the Council has duly considered the views of all persons interested, and being fully advised of the pertinent facts, does hereby determine to proceed with the construction of said improvement, including all proceedings which may be necessary in eminent domain for the acquisition of necessary easements and rights hereby**

designated and shall be referred to in all subsequent proceedings as Improvement Project No. BA-312 reconstructing the existing bituminous pavement and base, replace fire hydrants, installing new watermain, repairing/replacing the sanitary sewer where needed and updating and extending storm sewer on Bridge Lane and Townes Road.

BE IT FURTHER RESOLVED that Improvement No. BA-312 reconstructing the existing bituminous pavement and base, replace fire hydrants, installing new watermain, repairing/replacing the sanitary sewer where needed and updating and extending storm sewer on Bridge Lane and Townes Road is hereby ordered as proposed with construction of the improvement to be completed during the 2006 construction season.

BE IT FURTHER RESOLVED that the City Engineer is hereby designated as the engineer for this improvement. The engineer shall cause plans and specifications to be prepared for the making of such improvement.

Adopted this 7<sup>th</sup> day of June 2005. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**RESOLUTION NO. 2005 - 48 ADOPTED ORDERING ROADWAY IMPROVEMENT PROJECT IMPROVEMENT NO. BA-329 and SS-240 - SHANNON DRIVE** Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Houle explained the project was staff initiated because of a planned sanitary sewer repair along Shannon Drive. He noted that concrete curb and gutter did not exist along Shannon between Dewey Hill Road and Kemrich Drive, Fleetwood Drive, and Lanham Lane. Mr. Houle reported that six homes out of eight responded to a survey. Of the respondents 67% were in favor of curb and gutter. He said that staff was recommending surmountable curb and gutter in the area.

Mr. Houle said that while the pavement on Shannon Drive was not at the end of its useful life the entire width of the roadway would be impacted due to the deep sanitary sewer repair and will need to be fully replaced. He added that the project proposed to reconstruct the roadway with a 31-foot width with surmountable concrete curb and gutter.

Mr. Houle reported the estimated project cost for the curb and gutter was \$18,000 which would be the only portion of the project costs assessed against the benefited properties. Based upon a neighborhood residential equivalent unit the estimated special assessment would be \$2,700 per residential equivalent unit for a term of ten years at 6.5% interest. Side or rear yard lots would be assessed at one third of the residential unit rate or \$900. The utility fund would pay for the sanitary sewer and roadway reconstruction.

Public Comment

Ellen Mundt, 7308 Shannon Drive, asked when the assessment would occur and made comments about the cut-through traffic in her neighborhood. Mr. Houle said her assessment would happen this fall with the first payment on the 2006 tax statements. Member Housh suggested Ms. Mundt get her neighbors together and send in a request for a neighborhood traffic management study to the Transportation Commission.

**Member Swenson made a motion closing the public hearing seconded by Member Housh.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

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Member Masica commented that it was good to get the needed repairs done and she believed the curb and gutter would be a good amenity for the neighborhood.

**Member Hulbert introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2005-48  
ROADWAY RECONSTRUCTION  
SHANNON DRIVE**

**IMPROVEMENT NO. BA-329 AND SS-240**

**WHEREAS, the Edina City Council on the 5<sup>th</sup> day of April, 2005, fixed a date for a Council hearing on the proposed street reconstruction, Improvement No. BA-329 and SS-240; and**

**WHEREAS, ten days' mailed notice and two weeks' published notice of the hearing was given, and the hearing was held thereon on the 7<sup>th</sup> day of June 2005, for Improvement Nos. BA-329 and SS-240 reconstructing the existing bituminous pavement and base, replacing the sanitary sewer line, installing concrete curb and gutter on Shannon Drive between Dewey Hill Road and Kemrich Drive, at which time all persons desiring to be heard were given an opportunity to be heard thereon.**

**NOW, THEREFORE, BE IT RESOLVED that the Council has duly considered the views of all persons interested, and being fully advised of the pertinent facts, does hereby determine to proceed with the construction of said improvement, including all proceedings which may be necessary in eminent domain for the acquisition of necessary easements and rights hereby designated and shall be referred to in all subsequent proceedings as Improvement Nos. BA-329 and SS-240 reconstructing the existing bituminous pavement and base, replacing the sanitary sewer line, installing concrete curb and gutter on Shannon Drive between Dewey Hill Road and Kemrich Drive.**

**BE IT FURTHER RESOLVED that Improvement Nos. BA-329 and SS-240 reconstructing the existing bituminous pavement and base, replacing the sanitary sewer line, installing concrete curb and gutter on Shannon Drive between Dewey Hill Road and Kemrich Drive is hereby ordered as proposed.**

**BE IT FURTHER RESOLVED that the City Engineer is hereby designated as the engineer for this improvement. The engineer shall cause plans and specifications to be prepared for the making of such improvement.**

**Adopted this 7<sup>th</sup> day of June 2005.** Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**RESOLUTION NO. 2005-40 - APPROVED, AUTHORIZING JOINT POWERS AGREEMENT PARTICIPATION IN 2005-2006 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Member Masica removed the Joint Powers Agreement for 2005 - 2006 Community Development Block Grant Program from the Consent Agenda for further information.

Member Masica asked for clarification of some terms and conditions in the agreement with Hennepin County. Attorney Gilligan explained the items in question were required by the Federal Housing and Urban Development Agency (HUD).

Following a brief discussion, **Member Masica introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2005-40  
AUTHORIZING THE EXECUTION OF A JOINT  
COOPERATION AGREEMENT BETWEEN THE  
CITY OF EDINA AND HENNEPIN COUNTY FOR  
PARTICIPATION IN THE URBAN HENNEPIN COUNTY**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
IN FISCAL YEAR 2006 - 2008.**

**WHEREAS, the City of Edina, Minnesota and the County of Hennepin have in effect a Joint Cooperation Agreement for purposes of qualifying as an Urban County under the United States Department of Housing and Urban Development Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs; and**

**WHEREAS, the City and County wish to execute a new Joint Cooperation Agreement in order to continue to qualify as an Urban County for purposes of the Community Development Block Grant and HOME Programs.**

**BE IT THEREFORE RESOLVED that a new Joint Cooperation Agreement between the City and County be executed effective October 1, 2005 and that the Mayor and the City (title, e.g., Manager/Administrator/Clerk) be authorized and directed to sign the Agreement on behalf of the City.**

**Adopted this 7<sup>th</sup> day of June 2005.** Member Housh seconded the motion

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**RESOLUTION NO. 2005-46 APPROVED - CONDITIONAL USE PERMIT FOR GOOD SAMARITAN CHURCH EXPANSION - 5730 GROVE STREET** Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Larsen said that Good Samaritan Church located at 5730 Grove Street, north of Grove Street and east of Wycliffe Road had requested a Conditional Use Permit to allow adding to their existing church building. He stated the Council had originally heard the request at their April 19, 2005, meeting, but had continued action at that time to allow the church time to modify their design and to work with their neighbors.

Mr. Larsen said the addition would extend north from the westerly end of the existing building. The single story addition would house a multi-purpose room, changing rooms, and two resource rooms. Mr. Larsen said the plans also include a new entry and lobby area adjacent to the east parking lot.

Mr. Larsen explained that both additions comply with the required setbacks. Proposed exterior materials also comply with code standards. There would be no need for any variances. He said he would defer to the church representatives to speak to the changes in their proposed addition since the April 19, 2005, meeting.

Member Swenson asked if a proof of parking agreement was needed for this conditional use permit request. Mr. Larsen replied that it was not required.

Mayor Hovland asked if the church met all zoning regulations with the requested expansion including parking with no variances necessary. Mr. Larsen replied that was correct.

Rev. Dan Johnson, 310 Dearborn Court, stated he was also the senior pastor of Good Samaritan Church, located at 5730 Grove Street. Rev. Johnson, using a power point slide show presented the mission statement of Good Samaritan Church. He pointed out that the church last Sunday celebrated its 45<sup>th</sup> anniversary. Rev. Johnson said the membership has been delighted to see their church grow over the past 45 years and he highlighted the original building in 1962, the first addition in 1980, the present sanctuary built in 1990 and the request for the addition currently before the Council. Rev. Johnson said that when the church came before the Council in April, a 60-day extension from action was granted, then the Church asked for a continuance from the May meeting to allow themselves time to meet and work with their neighbors.

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Rev. Johnson noted the Council's questions and neighborhood concerns seemed to fall into four broad areas which they intend to address this evening. The categories included: 1) church programs and activities; 2) screening appropriate to a residential neighborhood; 3) building aesthetics; and 4) traffic flow and safety concerns. He said that during their presentation the members of Good Samaritan would attempt to address the concerns.

Rev. Johnson noted that an unsigned memorandum suggesting possible uses had raised concerns about the potential commercial use of the facility at the April meeting. He stated the churches response was in the Council's preparation packet and had been sent to 89 neighbor house holds.

Margie Soren, 9501 Ainsberry Lane, Chair of the Good Samaritan Church Council reviewed the programs in existence at Good Samaritan. She said the church had 1000 confirmed members, 200 children, 350 active contributing households. Of these members seventy percent were Edina residents, twenty percent were from Eden Prairie, and the remaining ten percent from various communities. Ms. Soren said when last year the church ran a building campaign 90 percent of their congregation contributed, and the congregation has over the past two years had four positive votes in support of the project. She gave examples of their worship noting the average attendance for the two Sunday services was 450; adding that Sunday school was also offered Sunday mornings. Ms. Soren said many musical opportunities were offered to the congregation with children, youth and adult choirs, a hand bell program, and contemporary instrumentalists. Ms. Soren explained that Wednesday evening was the biggest rehearsal night. The church provides an evening meal to people to facilitate their participation. Ms. Sorenson said the education programs included: weekly bible studies, small group involvements at various homes and at church in both day and evening hours. She said confirmation was offered to the ninth graders on Wednesday evenings. Ms. Sorenson explained that outreach and services was a high tradition of the congregation. She said they supported over fifty organizations nationally, in the Edina community and globally through financial support as well as hands-on volunteering time. Ms. Soren stated the church believed it was a good use of their resource to make use of their building and offer it to non profits and community organizations to use. Currently they have a Kiwanis group, Boy and Girl Scout Troops, AA Groups, and an employment support group all meeting at the church. Ms. Soren noted that Good Samaritan also offered weddings and funerals to non-members of the church and other musical organizations use their space to rehearse and perform. She added that fellowship was another important aspect of their community and the church offered various opportunities for adults, children and youth. They offer movie nights, dinners, excursions, performances, special speakers and events. The youth have planned fellowship activities every Wednesday night. She stated youth group meetings require large spaces and room to do large movements. Ms. Soren said this was lacking at the church presently. She explained the church has for the past seven years rented space from Countryside School located about a block away. This has presented some logistic problems, was a financial drain, and presented some safety issues. This was one of the main regions for the proposed addition. Ms. Soren said that of the twenty-two churches in Edina half have some sort of gym like space such as proposed at Good Samaritan. Ms. Soren said Good Samaritan not only wanted to meet the needs of their congregation, but also believed that the addition would strengthen the community of Edina.

David Knutson, 5215 Benton Avenue, Lay and Building Program Leader, stated the proposed addition met all Edina zoning requirements, needed no variance, and at present the church only used five percent of their property. He said that after the addition, the church would occupy eight percent of the property and that parking presently represented twenty-one percent. Mr. Knutson said that for forty-five years they have been good neighbors to the community stating: children learn to ride their bicycle in their parking lot, youth learn to drive cars and also learn to drive on ice in the parking lot, children use the playground, the entire neighborhood used the north words, Countryside School used

the church as an emergency evacuation site and for overflow parking, and the congregation has taken part in the Annual Bredesen Park Clean Up. He said that last year the church took the City's challenge and removed buckthorn from the park and they intend to keep doing these activities. Mr. Knutson said that the Kiwanis, Boy Scouts and Girl Scouts were so excited about the addition that they had voluntarily contributed to the building campaign. He reported on the churches participation in some outreach service projects: Hearts & Hammers in 2004 in St. Paul and their Appalachian Service Project. Mr. Knutson reviewed the five following areas the proposed addition would focus upon: 1) neglected maintenance; 2) kitchen; 3) nursery; 4) Office and 5) Family Life Center. Mr. Knutson said for the church's own programming needs they need the Family Life Center, because currently they only have one large room Samaritan Hall that was in constant use and inadequate for some needs. He said the church was not now and had no intention of doing any commercial ventures; however, they need a commercial kitchen which he explained was a short of architectural term for the type of kitchen needed to meet the requirements of their congregation.

Mr. Knutson said there were mailings sent to the neighbors on: January 25, 2004, November 16, 2004, April 26, 2005, April 27, 2005, and May 5, 2005. He said the May 5<sup>th</sup> letter was the one included in the Council's packets. The church held neighborhood meetings on November 30, 2004, May 5, 2005 and May 10, 2005.

Mr. Knutson said he would like to address aesthetics, screenings and traffic, noting that it was difficult to speak to aesthetics since beauty was in the eye of the beholder. He said he felt the building that Station 19 designed was wonderful and would be very unobtrusive in the neighborhood.

Mr. Knutson reviewed the routes to the churches two parking lots, commenting that he believed two parking lots were pretty well screened from the neighborhood. He pointed out the area on the west side where the addition would be built. Mr. Knutson said that the church as a result of the dialogue with the Council and neighbors have decided to remove the proposed sidewalk from the west side of the building to Wycliffe, to remove the west side door on the addition, to increase the western plantings to afford additional screening, add 15 windows to the west side of the Family Life Center, add a door on the south side of the new addition, add sidewalk from that southerly door to the parking lot, install a ramp from the parking lot to the south door, and add sidewalk along Wycliffe Road from Grove Street to the church's property line. Mr. Knutson used an animated graphic slide to demonstrate these revisions to the proposed plans. He said he believed that these revisions answered the questions raised regarding safety and screening. Mr. Knutson stated they believed that using an architect, good landscaping and good signage could have a great impact on changing the behavior of people. He stated that they want to be good neighbors and pointed out that the revisions represented a significant increase in cost to the congregation that they were willing to do.

Rev. Johnson noted that the neighbors had expressed concern over the balance of parking between the two lots. He noted this happened at times of peak use. Rev. Johnson said with the high level of parking lot screening, non-members don't know to go to the lower level lots. After a discussion with the Council and staff it was determined that increased signage would be investigated to attempt to mitigate parking on streets and keep attendees in the parking lots.

Rev. Johnson said that he also checked with the Edina Police Department for records of any traffic related fatality and any injury between 1960 and 2005 on Grove, Wycliffe or Merold. He said that staff checked both computer and manual records going back to 1960 and there was no record of any fatality occurring and even no serious injury accidents.

Mayor Hovland asked Mr. Knutson to expand on the proposed use of the Family Life Center and what percent of the use would be internal to the church if the addition were approved. Mr. Knutson

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said plans would include large congregational dinners, youth events each Wednesday, perhaps for congregational presentations of plays, congregational athletic programs with both youth and adults. Mr. Knutson said that the church would consider the groups currently using the church such as the Kiwanis, Scouts, AA, etc, as internal to the church and for that reason he would answer the facility would be used 100% by internal users or those sponsored by the church.

Mayor Hovland asked for more detail about proposed landscaping and about the possibility of a berm along Wycliffe. Mr. Knutson said the Planning Commission had requested that two swamp oaks be planted, but the evergreens had been offered since they offered more year round screening. He said there was not sufficient property on Wycliffe to consider a berm, plus the neighborhood uses the property on a regular basis.

Mayor Hovland asked for clarification on whether permanent or temporary signs were being considered. Mr. Knutson said the church would be happy to work with the City's staff to find whatever would meet with regulations and would increase use of the lower lot.

Member Masica asked if the brick façade on the west elevation would match original building. Mr. Knutson said the Family Life Center was not going to have a brick façade, but the entry way addition would match the original brick.

Member Housh stated that he felt he would like a point of clarification from Attorney Gilligan. Member Housh said from the late 80's until the late 90's he had been a member of Good Samaritan Church, but he did not think this would be cause for his to not take part in the discussion or vote on the proposed addition. Mr. Gilligan responded that Member Housh would not have any conflict.

### Public Comment

Gary Lee, 5621 Wycliffe Road, stated his opposition to the church's proposed addition. Mr. Lee stated in his opinion the church had not been a good neighbor. He added his concern over safety with the numerous cars parked on local streets. Mr. Lee displayed pictures of times when church attendees were parked throughout the neighborhood. He urged the Council deny the requested conditional use permit.

Kevin Lawless, 5809 Grove Street, noted he had sent a letter to Council outlining his concerns with the proposed expansion. Mr. Lawless acknowledged the efforts made by the church to modify their proposed addition. However, he said he felt the proposal of Good Samaritan was different because the church was totally surrounded by residential streets.

Cathy Reed, 5901 Grove, requested the Council to modify or deny the request for a conditional use permit by Good Samaritan Church. Ms. Reed asked the Council to require a traffic study and that the church bear the cost of the sidewalk. She objected to the aesthetics of the proposed addition. Ms. Reed stated she felt the proposed addition was in effect a community center and slated for non church uses. She expressed concern about safety in the neighborhood.

Molly Urbanski, 5800 Stuart Avenue, stated that she felt the windows on the Wycliffe side of the addition should match those on the east side. Ms. Urbanski asked the Council to require the exterior material be brick. She expressed her concern about safety pointing the STOP sign by her home was frequently run. Ms. Urbanski related an incident when she had to call the police because of the loudness of the teens at the church. She urged denial of the permit.

Tom Shaughnessy, 5705 Wycliffe Avenue, said he was pleased with the adjustments to the plans made by the church. However, Mr. Shaughnessy expressed concern with the size of the Family Life

Center being too large to just serve the needs of the immediate church. He feared the building will be opened up to the community bringing traffic and safety issues to the neighborhood.

Jacob Mirman, 5620 Wycliffe Avenue, displayed photos of parking problems that occurred on June 5, 2005, when both parking lots were full and cars were all over the neighborhood. Mr. Mirman said he believed that City Code required the requested conditional use permit be denied.

Jeff Kalgreen, 5711 Grove Street, stated he lived across from the south driveway of the church. He said he was a new member of the church with two small children. Mr. Kalgreen said he favored the proposal and added he believed the addition would be serving existing church members. Mr. Kalgreen said that the ECFE classes were being discontinued at the church which should improve the parking and safety concerns of the neighbors. He added he also had concerns with people running the STOP sign mentioned by Ms. Urbanski.

Ann Sheely, 5905 Grove Street, stated she did not believe that all the neighborhood traffic was due to Good Samaritan. She said that she was looking at the new Family Life Center as a wonderful opportunity for families.

Steve Timmer, 5348 Oaklawn Avenue, said that parking on the neighborhood streets does happen from time to time. He suggested perhaps an ordinance should be enacted that would be directed at the parking issue. He reiterated that the church currently only uses five percent of their property and with the addition would increase to an eight percent use. He stated his support of the requested conditional use permit.

Larry Hause, 4500 Oxford Avenue, said he was the leader of Boy Scout Troop 123 meeting at Shepherd of the Hill Church pointed out that Good Samaritan supported two Cub Scout packs and one Boy Scout Troop. Mr. Hause voiced his support of the church's request.

Nancy Mathison, 5908 Arbor Lane, stated she was a member of Good Samaritan and a committee member of Cub Scout Pak 68. Ms. Mathison stated that when the Family Life Center was built it would be a tremendous opportunity for youth in the neighborhood.

Kathy Zuspan, 6513 Navaho Trail, stated she was a member of the church. She stated she believed that parking should not be considered a problem adding that streets were public places to be used by the public. Ms. Zuspan stated she lived in a residential neighborhood by St. Patrick's church and believed that churches were good neighbors.

Lynn Gallup, 5932 Grove Street, stated she was a 32-year resident and stated she believed traffic would increase with the addition to the church. Ms. Gallup suggested the Council take this opportunity to stop and deal with the traffic issue before approving any addition that would aggravate the situation.

**Member Housh made a motion, seconded by Member Swenson to close the public hearing.**

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

Member Masica stated that in reflecting upon the request before the Council she had to think about the fact that the church after the expansion would only be using eight per cent of their property. She added that she was satisfied there would be no commercial ventures from the church. Member Masica said there were no legal grounds for denial of the request. She said she believed the proponents had gone the extra mile and responded to issues raised by neighbors by adding windows,

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moving the door, adding screening and she appreciated that effort. Member Masica indicated her intention to support the project.

Member Hulbert suggested that the neighbors and church strive to keep an open line of communication so that if the concerns brought up by neighbors arose they can be sorted out with the church. She said she believed that church had done a good job of planning the requested expansion and the conditional use permit should be granted.

Mayor Hovland said he had heard concerns expressed about landscaping, signage, entrances to the parking lots, traffic in general, safety concerns, and on-street parking issues. If the Council wished to make some of the concerns conditions to the approval he asked how to go about accomplishing that. Mr. Larsen suggested that the approval could be subject to: revised plans presented June 7, 2005, plus the additional enhancements outlined during the church's presentation, additional landscaping along the Wycliffe side by the new addition, the new sidewalk for the length of the church on the Wycliffe frontage, staff review of signage to promote additional use of the lower parking lot on the east side of the church and a review of the curb cuts into the church relative City ordinances and function.

Mayor Hovland said he felt it had been a terrific meeting. He applauded the members of the community for taking part in articulating their points of view on both sides of the issue. Mayor Hovland acknowledged that in this situation there would be no consensus, but the Council could make a decision that was in their view the best one for the situation. In the present case he stated he believed that would be to issue a conditional use permit with conditions. Mayor Hovland noted the expansion request met every single zoning requirement including parking and no variance would be required. He said that in looking at the law surrounding the issuance of a conditional use permit, he said it was mandatory to issue the permit unless there were reasons related to public health, safety, and general welfare or an incompatibility with the city's land use plan. Mayor Hovland said that he had not heard any compelling evidence on those issues that would persuade him not to grant the requested permit. He said he felt the church had given fair and appropriate notice to the neighbors and anyone interested in participating in the process has had an opportunity to be heard. Mayor Hovland stated he might agree with the neighbors in choosing brick over pre-cast, but that was a cost issue and not regulated. Mayor Hovland voice his support of the conditional use permit with the conditions previously set forth by staff.

**Member Swenson made a motion introducing the following resolution to grant a conditional use permit to Good Samaritan with the following conditions: 1) revised plan submitted to Council June 7, 2005; 2) revisions as shown during power point presentation at June 7, 2005 Council meeting, 3) additional landscaping plans shown June 7, 2005; 4) sidewalk on Wycliffe Avenue; 5) signage as reviewed by staff to promote use of lower entrance to parking lot; and 6) staff review of curb cuts, and moved its adoption:**

**RESOLUTION NO. 2005-46  
GRANTING A  
CONDITIONAL USE PERMIT TO  
GOOD SAMARITAN CHURCH ALLOWING  
AN ADDITION TO THE CHURCH**

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

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

**NOW, THEREFORE, BE IT RESOLVED that the Edina City Council hereby grants a Conditional Use Permit to the Good Samaritan Church for the purpose of purpose of building an addition to the church located at 5730 Grove street with the following conditions: 1) revised plan**

submitted to Council June 7, 2005; 2) revisions as shown during power point presentation at June 7, 2005, Council meeting, 3) additional landscaping plans shown June 7, 2005, 4) sidewalk on Wycliffe Avenue; 5) signage as reviewed by staff to promote use of lower entrance to parking lot; and 6) staff review of curb cuts.

Passed and adopted this 7<sup>th</sup> day of June, 2005. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**FIRST READING GRANTED TO ORDINANCE NO. 2005-5 - AMENDING SECTION 900 TO ALLOW THE ISSUANCE OF ON-SALE INTOXICATING LIQUOR LICENSES TO RESTAURANTS WITH 200 OR FEWER SEATS IN THE PCD-2 SUBDISTRICT** Affidavits of Notice were presented, approved and ordered placed on file.

Assistant Manager Anderson noted that the owner of 5034 France Avenue, Richard Curtin, and Parasole came forward with a request for an amendment to the City's Code Section 900 regarding on-sale intoxicating liquor licenses in a PCD-2 District. Mr. Anderson explained the current code limits the size of an intoxicating on-sale restaurant to 150 or fewer seats unless the restaurant was in existence prior to 1998. Mr. Anderson stressed the limitation applied only to intoxicating on-sale licenses. If a license were required for beer and wine no limit was placed on the number of seats by Code Section 900. The requestors have asked for more seats.

Mayor Hovland asked how the seating limits would be determined for a building if not done by Code section 900. Mr. Gilligan explained the determination would not be under the liquor regulations, that it would be either fire or building code regulations, based upon the size of the building.

Member Housh clarified that a beer and wine license would not have a restriction place upon the number of seats they housed. Mr. Anderson replied that was correct.

Mr. Anderson noted that no seating limitation was imposed upon the PCD-3 District which would be Southdale. He reported that a review of the Council minutes when the intoxicating liquor regulations were enacted, the seating limit was imposed respective to parking concerns. Continuing, Mr. Anderson said the proposed amendment would increase the seating allowed from 150 to 200 indoor seats with an additional twenty percent outdoor seasonal seats allowed. The outdoor seats would not be part of the maximum allowed. Mr. Anderson said the proposed amendment was not exactly as requested by Parasole, stating they wanted 213 internal and 28 external, but staff felt the amendment as written was more manageable.

Mr. Anderson presented a graph showing the seating at various restaurants in the City as follows:

	<b>INDOOR</b>	<b>OUTDOOR</b>	<b>BANQUET</b>
Tejas	152	26	80
Sidney's	247		N/A
Louis XIII	124	N/A	N/A
Edina Grill	78	N/A	N/A
Davannis	140	N/A	N/A
Eden Avenue Grill	94	26	N/A
Cheesecake Factory	382	80	N/A
Big Bowl	182	20	N/A
D'Amico	70	16	N/A

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Mr. Anderson pointed out that a clause had been included in the code grandfathering any restaurants with a wine license in existence with more than 150 seats when the code was enacted in 1999. He noted that Tejas had been grandfathered with 152 indoor seats, 26 outdoor seats and 80 banquet seats in the downstairs area. Mr. Anderson noted that the PCD-3 area with restaurants such as Cheesecake Factory and Big Bowl had much larger seating capacities.

Speaking to the parking demand, Mr. Anderson stated that the demand occurred on the week days between nine a.m. and five p.m. He added parking was more than adequate after 5 p.m. except when an event such as the Art Fair was running. Mr. Anderson reported that staff had conducted traffic counts over the last week excluding the Friday of the Art Fair. He said they were specifically looking at the noon hour capacity of the south ramp the one most likely to be used by patrons of the Parasole restaurant. Results showed 82 and 125 vacant spaces. He noted that June 6 and 7 there were 107 and 114 vacant space. During the review of the ordinance it was also found that on-sale licenses were prohibited from occupying buildings containing residential units. Mr. Anderson advised that this should be amended at a minimum. He said that staff would advise only granting first reading if the Council wished to proceed after their discussion and hearing to allow a meeting to take place between the 50th & France Business Association and Parasole.

Member Housh noted that within a year or so there would be a different makeup of retail and residential tenants within the 50th & France District, and asked if Staff thought the parking vacancy count would remain similar. He added that parking was the concern and also how many additional restaurants would try to come into the area. Member Housh suggested that was the issue Council needed to consider. Mr. Anderson said that was very difficult to answer, adding he believed that was the reason the size limit had been incorporated into the original enactment of the liquor license regulations. Mr. Anderson pointed out that Mr. Curtin had a right to develop his property and that will impact parking. The Haugland Development bringing in successful retailers will impact parking. There was a potential for development on the Minneapolis side of France which could impact parking.

Member Housh asked for the first floor increase in square footage that the Haugland development would hold. Mr. Larsen replied that he believed the square footage was being increased from 16,000 to 22,000. Mr. Anderson agreed, but pointed out that the Arby's Restaurant was also being removed. He pointed out that many factors were going to be involved in the subject block in the upcoming redevelopment, noting that was the concern expressed by the 50th & France Business Association.

Mayor Hovland asked if Mr. Curtin would be able to divide his 9,000 square foot building into two restaurants if he desired with 100 seats in each restaurant. Mr. Larsen said yes that could happen. Mayor Hovland continued stating that Mr. Curtin could put a real estate company or a multitude of other uses permitted by our Code for that site. Mr. Larsen replied affirmatively.

Member Swenson commented that if the requested ordinance was granted every establishment in the PCD-2 Districts would have the ability to develop using the expanded seating. Mr. Gilligan confirmed this was correct.

Member Housh asked if staff could require that only certain parcels be allowed a large number of seats or a specific parcel could be excluded from the larger seating capacity. Mr. Gilligan replied that the number of seats would need to be uniform through the entire district, but suggested he would research whether or not the Council could limit the number of 200 seat restaurants within a specific district.

Mayor Hovland asked Mr. Larsen what regulated the occupancy of buildings. Mr. Larsen said that it would be either the building or fire code or a combination of both that regulated the occupancy. Mr. Kirchman said that if the building was divided into two, the proponents would need to manage their egress and there would be no problem. If the building were to stay as one 8,100 square foot building, it would be conceivable to have one occupant per fifteen square feet. Mr. Anderson roughly calculated this to be an occupancy load of 541 if it were a big open building.

Greg Gadle, President of Parasole Restaurant Holdings, said that he was going to turn the presentation over to Phil Roberts, but commented that when staff conducted traffic counts they checked the south ramp only and he said he believed there were many vacancies in the north ramp indicated that in their opinion adequate parking existed.

Philip Roberts, 4600 Bruce Avenue, stated Parasole has a long history in the restaurant business and said this new venture would have a French bistro influence and be named Odeon. He reviewed the concepts of restaurants that Parasole has developed and either sold or still operated including Muffuletta, Figlio, Manny's, Good Earth, Chino Latino, Buca de Beppo, The Oceanaire, and Stella's Fish Café. Mr. Roberts ended with a pictorial display of the plans and the proposed menu for the new restaurant. He reiterated requesting the amendment to the Ordinance to increase seating would make the proposed new restaurant an economically viable enterprise.

Greg Gadle reviewed some information on the lunch impact of the proposed Odeon restaurant. Mr. Gadle said lunches amount to about 23% of restaurant business so if the projected sales were \$2,500,000 annually, 20% of the lunch trade would be \$500,000 with the average check being \$10.00. He said the annual guest count would be 50,000 which would break down to 1,000 weekly luncheon guests or 142 daily guests. Mr. Gadle said according to their estimate this would amount to 71 new lunch guest or 35 cars per day.

Member Masica asked if the restaurant would be viable with 150 seats. Mr. Roberts said the restaurant would not be viable at 150 seats. He said they would not risk the investment for that size. Mayor Hovland asked if there were a number fewer than 200 at which they would still open. Mr. Roberts said 200 was their lower limit.

The Council discussed with Mr. Roberts how many seatings they expected during each lunch. Mr. Roberts and Mr. Gadle indicated that based on their numbers they expected only one and one half turn of each table during their lunch time business. Mr. Roberts stressed that he expected to do the majority of his business in the evening and on weekends. He explained that when he talked about seating turns, what the industry describes as the "vacancy factor" must be factored in. Mr. Roberts explained the vacancy factor as two or three people sitting at a four-top table or four people sitting at a six-top table. He said the net effect was that while you had 200 seats only 150 were occupied.

Member Housh asked if beer and wine would suffice for the lunch time business. Mr. Roberts acknowledged that there really was not much if any alcohol consumption during lunch time. But, he needed the license to cater to his dinner patrons needs.

Dick Curtin, 6310 McIntyre Court, stated he was a long term investor. He said he still owned the first building he bought in 1966. He said he owned buildings on both sides of France Avenue in Minneapolis and Edina. When he purchased the building he talked to his leasing agent and attempted to keep the current tenant Ampersand, but that was not successful. He has looked at several different potential tenants, but none seemed the right fit for Edina. Mr. Curtin said he is not a developer with short term goals, but a lifelong resident of Edina and wanted the kind of tenant that would be of the quality he felt was needed and would be a long term tenant. Mr. Curtin said he had

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raised his family in Edina and three of his children live in Edina. His wife owns a business in the 50th & France Business Area. He stated he was bringing the request forward because he believed that the Parasole Restaurant would be good for the city and good for the 50th & France Business District. Mr. Curtin said that in his conversations with Parasole they had discussed a lease that would be ten years with four additional five year options. This makes a substantial contribution to the community.

Mr. Curtin said he felt the parking issue was somewhat of a red herring. He said that he has a building that he could rent to a restaurant, a bar, a retail store. Mr. Curtin said the parking lot on the Minneapolis side has been closed because it was being worked upon. He also said that he believed the 90 minute and perhaps the five hour rule has not been enforced in the Edina ramps at the request of the 50th & France Business Association. Mr. Curtin suggested that enforcement perhaps would make parking less of a problem.

### Public Comment

JoEllen Dever, 7405 Oaklawn Avenue, voiced her support for the proposed amendment.

David Bonello, 4504 Drexel Avenue, stated he supported the proposed amendment. Mr. Bonello stated he wanted neighborhood restaurants that he could walk to with his family.

Tim Alvezizos, stated he grew up in Edina and now lived in the Uptown area. He suggested that the Council look at the overall dining scene in Edina. He supported the proposed amendment and added that Odeon would be an excellent addition to Edina.

Tom Broder, 4841 Russell Avenue, Minneapolis, stated he was the owner of Broder's Pasta Bar. Mr. Broder said he felt the ordinance should be granted because the proposed Odeon restaurant would have no relationship between the number of seats and their liquor license. He added the restaurant would be locally owned and operated and urged approval of the requested amendment. Mr. Broder said he felt it was important to support independently owned restaurants in the area.

Ann Farnke, grew up in Edina and has for most of her life been going to Parasole restaurants. She stated that as a child when she went to the 50th & France area she walked. Ms. Farnke said she believed all Parasole restaurants appeal to a sophisticated crowd and she believed that they would be urbanites who walk to their destinations.

Eric Grouper, also grew up in Edina, now live in the Tangle Town area. He voiced his support of the Parasole restaurants. Mr. Grouper stated he has been patronizing the restaurants for years and each one was unique to the neighborhood it was in. He urged the Council to favorably consider the amendment.

Member Swenson said she struggled a bit with the larger size restaurant at the 50th & France area. She stated she liked the concept of the Parasole Restaurant, but wanted to exercise caution reminding everyone that the issue was amending the ordinance to allow any restaurant to be of a larger size.

Member Housh agreed with Member Swenson suggested some trepidation with granting an ordinance amendment. Parasole has not as of yet signed a lease with Mr. Curtin. Plus he stated it must be remembered that granting the ordinance amendment changes the ordinance for all restaurants desiring liquor licenses in a PCD-2 District, not just Parasole. Member Housh stated that Edina moved very slowly into allowing intoxicating licenses and he said they must be prudent in their actions, noting that decisions had already been made that will change the 50<sup>th</sup> & France area. He urged that the parking issue be looked at before the final decision was made.

Mayor Hovland asked Mr. Curtin to respond to the concerns voiced by the members. Mr. Curtin said he did not think it would unreasonable to ask the concerned parties to reach an agreement before the next reading of the ordinance. Mr. Gadle agreed with Mr. Curtin stating it was not a question of if; it was a question of when the lease would be signed. Mr. Roberts added that intoxicating liquor was not going to be the top seller for their restaurant; it was the "veto" factor. If parties of four were deciding where to eat and one wanted to have a cocktail, they would choose somewhere else, if the Odeon could not sell intoxicating liquor.

**Member Masica made a motion to close the public hearing, seconded by Member Housh.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Member Hulbert suggested that it felt like reviewing the Odeon concept was splitting hairs, it seemed a given that Parasole ran good restaurants. Member Hulbert stated she believed the issue was whether or not the amendment should be approved which would allow any restaurant with intoxicating liquor to have 200 seats. The Council should be looking at whether or not a limit can be placed on the number of restaurants and they should be looking at parking.

Member Housh agreed with Member Hulbert, but he stated he also felt the Council should let a free market regulate itself with respect to limiting the number of restaurants. However, he expressed his concern about the parking issue.

**Member Swenson re-opened the public hearing, seconded by Member Hulbert.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Grethe Langeland Dillon, stated she was the president of the 50<sup>th</sup> & France Business Association, the owner of the Calhoun Insurance Agency and a resident of the County Club area. Ms. Dillon said she felt the 50<sup>th</sup> & France Association needed an opportunity to meet with Parasole. She added the Association needed more than trust, they need to see a substantial effort to work with the Association. Ms. Dillon said the parking issue in the 50<sup>th</sup> & France area was not a red herring. While she said the new restaurant sounds like a wonderful concept, the Association wanted an opportunity to meet with the group and review several details before the next meeting.

The Council briefly discussed that they could grant first reading and then either amend the ordinance or decide that they did not wish to proceed with the final reading. Mr. Gilligan confirmed this was correct.

Mayor Hovland suggested that the current issue was whether or not to amend the existing regulations to allow up to 200 seats in a restaurant serving intoxicating liquor in the PCD-2 District. He suggested that making a further amendment limiting the number of such restaurants could be done immediately following adoption of this amendment if the Council so desired.

Member Housh stated that if the information shared tonight that most restaurant business occurs in the evening with only 20-23% happening during lunch, then he believed this would be a good occupancy for parking. He said he thought the restaurant would possibly draw trade from business from even the 494 area.

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Member Masica said that she believed that most of the lunch traffic would be walking trade. She asked how many spaces existed in the 50<sup>th</sup> & France area that could accommodate a 200 seat restaurant.

Member Housh pointed out that there could be a larger restaurant in the Haugland development and Ampersand building. Mr. Anderson pointed out the Lunds' ownership to the north could possibly house a restaurant of that size.

Member Masica asked if there were built in safeguards such as a variance if a proponent were to approach the City with a request for a large restaurant. Mr. Gilligan answered that if the building was not being altered there would be no variance request.

Mayor Hovland reiterated that it took the City a number of years to allow on-sale intoxicating liquor. He said that when the regulations were drafted in 1998, an arbitrary level was selected for 150 seats; he said that Member Housh's suggestion made sense that if the amendment to increase the number of seats was passed, then the Council consider limiting the number of larger restaurants in each PCD-2 District. Mayor Hovland said that when on-sale intoxicating liquor was allowed, Minnesota Statutes allowed Edina 19 licenses, which they feared would go quickly. Time has proven that did not happen. So following that same thinking setting a limit and then letting the market adjust itself would be a prudent course of action.

Member Housh said that they need to either grant first reading or deny the entire concept. Then the proponents could come back in two weeks and report that they have a lease agreement subject to the final passage of the ordinance. He suggested that the 50<sup>th</sup> & France Association communicate to the City whether limiting the number of restaurants would be helpful or a hindrance.

Mayor Hovland agreed with Member Housh stating he would also want the proponents to report at the next meeting the results of their discussions with the 50<sup>th</sup> & France Association. Further, he would consider another amendment setting a limit on the number of larger restaurants in the area.

Member Swenson suggested that instead of limiting the number of restaurants, the Council let the market dictate what commercial venues exist within the 50<sup>th</sup> & France District. She commented that there were many other uses that could go into the subject site, many of which could have a larger impact upon parking than a 200 seat restaurant.

The Council directed staff to research whether the Council may limit the number of on-sale liquor licenses in a PCD-2 District with more than 150 seats.

Member Housh said he would be comfortable in granting first reading to the requested amendment, then seeing in two weeks the results of meetings between Parasole and the 50<sup>th</sup> and France Association, and also seeing the results of the requested research relative to placing limits on the number of restaurants within a PCD-2 District.

Member Masica said she would welcome another upscale restaurant in the neighborhood. She commended the reputation of the Parasole group and stated she could see other uses for the buildings that would not enhance the community as strongly. However, her only nagging doubt was the atmosphere of the restaurant that was purveyed by the proponents. She stated she would take Parasole at their word that this would be a community oriented restaurant.

Mayor Hovland added that he also appreciated that Edina residents, Mr. Roberts and Mr. Curtin, for bringing new business into the community where they lived.

**Member Swenson made a motion to close the public hearing, seconded by Member Housh.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**Member Masica made a motion granting First Reading to Ordinance No. 2005-5, Amending Section 900 to Allow Issuance of On-Sale Intoxicating Liquor Licenses to Restaurants with 200 or Fewer Seats in the PCD-2 Subdistrict.** Member Hulbert seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**\*BID AWARDED - MICROSOFT ENTERPRISE AGREEMENT - YEAR TWO** Motion made by Member Housh and seconded by Member Swenson for award of bid for year two of the Microsoft Enterprise Agreement, to sole bidder, Software House International at \$42,000.00 under State Contract #425551.

Motion carried on rollcall vote - five ayes.

**\*BID AWARDED - SUNNYSLOPE AREA ROADWAY AND UTILITY IMPROVEMENTS: CONTRACT NO. ENG. 05-5, IMPROVEMENTS NOS. BA-326, SS-417, STS-320, AND WM-441** Motion made by Member Housh and seconded by Member Swenson for award of bid for Sunnyslope Roadway and Utility Improvements, Contract No. ENG 05-5, Improvement No. BA-326, SS-417, STS-320, and WM-441 to recommended low bidder, Carl Bolander and Sons, at \$940,800.10.

Motion carried on rollcall vote - five ayes.

**\*AWARD OF BID FOR A 2005 FIRE PUMPER TRUCK CONTINUED TO JUNE 21, 2005** Motion made by Member Housh and seconded by Member Swenson approving the continuation of the award of bid for the 2005 Fire Pumper Truck to June 21, 2005.

Motion carried on rollcall vote - five ayes.

**APPEAL OF CONSTRUCTION BOARD OF APPEAL DECISION WAIVED - BRAD COLEHOUR (5516-5520 FRANCE AVENUE SOUTH)** Affidavits of Notice were presented, approved and ordered placed on file.

Building Coordinator Kirchman explained that Brad Colehour appealed the denial of the waiver by the Construction Board of Appeals. The subject property was a duplex at 5516/5520 France Avenue South and was currently a single dwelling unit that the owner wished to subdivide. Mr. Kirchman said current City Code requires each dwelling have separate sewer/water connections. The current Code also set the Construction Board of Appeals (CBA) as the appropriate City body to approve a waiver to those requirements. At its meeting May 2, 2005, the CBA denied the waiver. Mr. Kirchman noted that the owner of the property, Mr. Colehour, was present to appeal that denial.

Mr. Kirchman stated Staff believed the Ordinance was adopted in 1976 allowing the City to deny water service for non-payment if necessary. He added that under current City policy any delinquent water bill would be assessed to the property. Mr. Kirchman noted the current Code had also been adopted before there were any condominiums. He said that the Code only applied to double unit dwellings. Attorney Gilligan suggested the Code could be amended.

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Assistant Manager Anderson suggested it would be possible for the Council to overrule the denial of the Construction Board of Appeals decision and direct staff to draft an Ordinance amendment for the next Council meeting.

Member Masica said the Code demands a hardship for this to move forward and asked what would be considered the hardship. Mr. Kirchman said the current appeal was not the same as a variance appeal. Mr. Gilligan noted that in this case the hardship would be the cost of compliance. Mr. Kirchman said the cost could be substantial. Ms. Masica voiced concern that the housing stock of Edina will be degraded with this Code Amendment.

**Member Swenson made a motion to close the public hearing, seconded by Member Hulbert.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**Member Swenson made a motion granting a waiver from the City Code requirements of separate sewer and water connections for double dwelling units for the owner of 5516 and 5520 France Avenue South.** Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**NEW INTOXICATING LIQUOR LICENSE APPROVED - KOZY'S STEAKS AND SEAFOOD**

Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Anderson indicated the WK Holdings, LLC, has applied for a new on-sale intoxicating and special Sunday liquor licenses to operate a new restaurant, Kozy's Steaks and Seafood, located at 3320 Galleria Shopping Center from June 7, 2005, ending March 31, 2006. He stated Edina Code requires a public hearing before a new intoxicating liquor license could be granted. Mr. Anderson stated the applicant has submitted all required paperwork and paid all applicable fees. He added the Planning, Health and Police Department's have reviewed the application with no negative findings.

Bill Kozlak, 140 Interlachen Road, Hopkins, explained his family has been in the restaurant business for many years and will open their Edina location in August.

**Member Housh made a motion closing the public hearing seconded by Member Swenson.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**Member Hulbert made a motion approving the On-Sale Intoxicating and Special Sunday Sale Liquor Licenses to WK Holdings, LLC dba/Kozy's Steaks and Seafood at 3320 Galleria Shopping Center for the period beginning June 7, 2005 and ending March 31, 2006.**

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

**\*RESOLUTION NO. 2005-45 SETTING JULY 19, 2005, AS HEARING DATE FOR COUNTRY CLUB AREA UTILITY AND ROADWAY IMPROVEMENTS NOS. A-213, A-214, SS-413 AND SS-414** Motion made by Member Housh and seconded by Member Swenson introducing Resolution No. 2005-45 and moving its approval:

**RESOLUTION NO. 2005-45  
CALLING PUBLIC HEARING AND  
RECEIVING FEASIBILITY STUDY FOR  
COUNTRY CLUB AREA SEWER, WATER AND  
STREET RECONSTRUCTION IMPROVEMENT  
NOS. A-213, A-214, SS-413, AND SS-414**

WHEREAS, it is proposed to improve the Country Club Area Sewer, Water and to reconstruction the streets, and to assess the benefited property for all or a portion of the cost of said improvements No. A-213, A-214, SS-413, SS-414, pursuant to Minnesota Statutes, Chapter 429; and

WHEREAS, the Edina City Engineer has prepared a feasibility report for the County Club Area Water, Sewer and Roadway Improvement No. A-213, A-214, SS-413 and SS-414; and

WHEREAS, the reports provide information regarding whether the proposed projects are cost effective and feasible.

NOW, THEREFORE BE IT RESOLVED that the Edina City Council hereby receives the feasibility reports for Improvement Nos. A-213, A-214, SS-413 and SS-414.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF EDINA, MINNESOTA, that a public hearing shall be held on the 21<sup>st</sup> day of June, 2005, in the Council Chambers at City Hall at 7:00 P.M. to consider Improvement Nos. A-213, A-214, SS-413 and SS-414 for the Country Club area sewer, water, and street reconstruction improvements.

BE IT FURTHER RESOLVED that the City Clerk shall give mailed and published notice of such hearing and improvements as required by law.

Adopted this 7<sup>th</sup> day of June, 2005.

Motion carried on rollcall vote – five ayes.

\*CONFIRMATION OF CLAIMS PAID Member Housh made a motion and Member Swenson seconded the motion approving payment of the following claims as shown in detail on the Check Register dated May 18, 2005, and consisting of 35 pages: General Fund \$115,883.16; Communications Fund \$13,480.05; Working Capital Fund \$2,723.04; Construction Fund \$58,236.70; Art Center Fund \$1,400.29; Aquatic Center Fund \$2,393.11; Golf Course Fund \$44,849.46; Ice Arena Fund \$24,412.18; Edinborough/Centennial Lakes Fund \$23,659.74; Liquor Fund \$110,744.57; Utility Fund \$414,607.66; Storm Sewer Fund \$2,909.41; PSTF Fund \$1,805.17; TOTAL \$817,104.54; and for approval of payment of claims dated May 25, 2005, and consisting of 34 pages: General Fund \$254,936.87; CDBG Fund \$5,390.00; Communications Fund \$3,072.33; Working Capital Fund \$15,913.30; Art Center Fund \$19,129.65; Golf Dome Fund \$2,753.72; Aquatic Center Fund \$3,690.35; Golf Course Fund \$56,047.19; Ice Arena Fund \$239.29; Edinborough/Centennial Lakes Fund \$8,610.00; Liquor Fund \$166,195.08; Utility Fund \$55,764.04; Storm Sewer Fund \$5,149.64; Recycling Fund \$33,874.00; PSTF Fund \$1,225.37; TOTAL \$631,990.83; and for approval of payment of claims dated June 1, 2005, and consisting of 28 pages: General Fund \$296,010.93; Communications Fund \$16,888.99; Working Capital Fund \$10,963.05; Art Center Fund \$275.97; Golf Dome Fund \$74.90; Aquatic Center Fund \$3,572.84; Golf Course Fund \$33,917.17; Ice Arena Fund \$1,320.60; Edinborough/Centennial Lakes Fund \$14,946.55; Liquor Fund \$122,327.07; Utility Fund \$18,942.36; PSTF Agency Fund \$5,390.59; TOTAL \$524,631.02.

Motion carried on rollcall vote – five ayes.

RESOLUTION NO. 2005-41 GENERAL OBLIGATION PARK AND RECREATION BONDS SERIES 2005A; RESOLUTION NO. 2005-42 GENERAL OBLIGATION TAX INCREMENT REFUNDING BONDS SERIES 2005B; RESOLUTION NO. 2005-43 GENERAL TAX INCREMENT REFUNDING BONDS 2005D; RESOLUTION NO. 2005-44 TAXABLE GENERAL TAX INCREMENT REFUNDING SERIES 2005C CALLING FOR BOND SALE FOR JUNE 21, 2005, APPROVED Mr. Anderson indicated that the following refundings relate to the 1995 Park and

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Recreation Referendum Bonds plus three tax increment bond issues. Timing on the refunding was excellent with significant savings anticipated. Savings on the three tax increment bonds could be used to decertify the Centennial Lakes two of our tax increment districts early or be used for a number of other options. Savings on the Park and Recreation Bonds will be used to reduce the tax levy to Edina taxpayers. In addition to these bond issues, Mr. Anderson said the City anticipates two additional bond issues for street improvements and gymnasiums. The sale would be called the first meeting in August and be before the Council the second meeting in August.

Member Swenson introduced the following Resolution and moved its adoption:

**RESOLUTION NO. 2005-41  
RESOLUTION PROVIDING FOR THE SALE OF  
\$5,485,000 GENERAL OBLIGATION  
PARK AND RECREATION REFUNDING BONDS  
SERIES 2005A**

WHEREAS, the City Council of the City of Edina, Minnesota, has heretofore determined that it is necessary and expedient to issue the City's \$5,485,000 General Obligation Park and Recreation Refunding Bonds, Series 2005A (the "Bonds") to refund in advance of the 2/1/2006 call date, the \$8,090,000 G.O. Park and Recreation Bonds, Series 1996B; and

WHEREAS, the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent financial advisor for the Bonds and is therefore authorized to solicit proposals in accordance with Minnesota Statutes 475.60, Subdivision 2(9);

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

Authorization: Findings. The City Council hereby authorizes Ehlers to solicit proposals for the sale of the Bonds.

Meeting: Proposal Opening. The City Council shall meet at 7:00 P.M. on June 21, 2005, for the purpose of considering sealed proposals for and awarding the sale of the Bonds.

Official Statement. In connection with said sale. The officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the Bonds and to execute and deliver it on behalf of the City upon its completion.

Whereupon said resolution was declared duly passed and adopted this 7th day of June, 2005. Member Hulbert seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Member Swenson introduced the following Resolution and moved its adoption:

**RESOLUTION NO. 2005-42  
RESOLUTION PROVIDING FOR THE SALE OF  
\$10,585,000 GENERAL OBLIGATION  
TAX INCREMENT REFUNDING BONDS  
SERIES 2005B**

WHEREAS, the City Council of the City of Edina, Minnesota, has heretofore determined that it is necessary and expedient to issue the City's \$10,585,000 General Obligation Tax Increment Refunding Bonds, Series 2005B (the "Bonds") to currently refund the remaining principal of the \$15,820,000 G.O. Tax Increment Refunding Bonds, Series 2000C; and

WHEREAS, the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent financial advisor for the Bonds and is therefore authorized to solicit proposals in accordance with Minnesota Statutes 475.60, Subdivision 2(9);

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

**Authorization: Findings.** The City Council hereby authorizes Ehlers to solicit proposals for the sale of the Bonds.

**Meeting: Proposal Opening.** The City Council shall meet at 7:00 P.M. on June 21, 2005, for the purpose of considering sealed proposals for and awarding the sale of the Bonds.

**Official Statement.** In connection with said sale. The officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the Bonds and to execute and deliver it on behalf of the City upon its completion.

Whereupon said resolution was declared duly passed and adopted this 7th day of June, 2005. Member Hulbert seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Member Swenson introduced the following Resolution and moved its adoption:

**RESOLUTION NO. 2005-43  
RESOLUTION PROVIDING FOR THE SALE OF  
\$3,535,000 GENERAL OBLIGATION  
TAX INCREMENT REFUNDING BONDS  
SERIES 2005D**

WHEREAS, the City Council of the City of Edina, Minnesota, has heretofore determined that it is necessary and expedient to issue the City's \$3,535,000 General Obligation Tax Increment Refunding Bonds, Series 2005D (the "Bonds") to refund in advance of the 2/1/2006 call date, the \$5,090,000 G.O. Tax Increment Bonds, Series 1997B; and

WHEREAS, the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent financial advisor for the Bonds and is therefore authorized to solicit proposals in accordance with Minnesota Statutes 475.60, Subdivision 2(9);

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

**Authorization: Findings.** The City Council hereby authorizes Ehlers to solicit proposals for the sale of the Bonds.

**Meeting: Proposal Opening.** The City Council shall meet at 7:00 P.M. on June 21, 2005, for the purpose of considering sealed proposals for and awarding the sale of the Bonds.

**Official Statement.** In connection with said sale. The officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the Bonds and to execute and deliver it on behalf of the City upon its completion.

Whereupon said resolution was declared duly passed and adopted this 7th day of June, 2005. Member Hulbert seconded the motion.

Rollcall:

Ayes: Housh, Hulbert, Masica, Swenson, Hovland

Motion carried.

Member Swenson introduced the following Resolution and moved its adoption:

**RESOLUTION NO. 2005-44  
RESOLUTION PROVIDING FOR THE SALE OF  
\$6,290,000 TAXABLE GENERAL OBLIGATION  
TAX INCREMENT REFUNDING BONDS  
SERIES 2005C**

WHEREAS, the City Council of the City of Edina, Minnesota, has heretofore determined that it is necessary and expedient to issue the City's \$6,290,000 Taxable General Obligation Tax Increment Refunding Bonds, Series 2005C (the "Bonds") to currently refund the remaining principal of the \$11,250,000 Taxable G.O. Tax Increment Bonds, Series 1996A; and

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WHEREAS, the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota (“Ehlers”), as its independent financial advisor for the Bonds and is therefore authorized to solicit proposals in accordance with Minnesota Statutes 475.60, Subdivision 2(9);

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

Authorization: Findings. The City Council hereby authorizes Ehlers to solicit proposals for the sale of the Bonds.

Meeting: Proposal Opening. The City Council shall meet at 7:00 P.M. on June 21, 2005, for the purpose of considering sealed proposals for and awarding the sale of the Bonds.

Official Statement. In connection with said sale. The officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the Bonds and to execute and deliver it on behalf of the City upon its completion.

Whereupon said resolution was declared duly passed and adopted this 7th day of June, 2005. Motion seconded by Member Hulbert

Rollcall:

Ayes: Housh, Hovland, Masica, Swenson, Hovland

Motion carried.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 12:35 A.M.

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City Clerk