

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JUNE 5, 2007
7:00 P.M.**

ROLLCALL Answering rollcall were Members Bennett, 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 with the exception of V.B. Park Department Bredesen Park Bridge Replacement.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

EDINA PUBLIC SCHOOLS CONTINUOUS PROGRESS DAY PROCLAIMED Mayor Hovland acknowledged Edina Elementary School principals Peter Hodne from Highland School and Julie Hatzung from Countryside School. Mr. Hodne and Ms. Hatzung explained the history of the Edina Continuous Progress Program and its growth in the past twenty-five years.

Member Masica made a motion proclaiming June 15, 2007, as Celebrate Continuous Progress Day Edina. Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***MINUTES OF THE REGULAR MEETING OF MAY 15, 2007, AND WORK SESSION OF MAY 29, 2007, APPROVED** Motion made by Member Housh and seconded by Member Masica approving as presented the Minutes of the Regular Meeting of May 15, 2007, and Work Session of May 29, 2007.

Motion carried on rollcall vote - five ayes.

***HEARING DATE SET OF JUNE 19, 2007, FOR PLANNING MATTERS** Motion made by Member Housh and seconded by Member Masica setting June 19, 2007, as hearing date for planning matters:

1. Ordinance No. 2007-12 Amending Section 850 Of The Code To Require Public Hearings For Certain Matters By The Planning Commission
2. Ordinance No. 2007-13 Amending Subsection 850.16 On-Site Sewerage Retention System

Motion carried on rollcall vote - five ayes.

ORDINANCE NO. 2007-09 AMENDING SECTION 850 OF THE CITY CODE REGARDING NON-RESIDENTIAL FLOOR AREA IN THE MDD-6 DISTRICT Affidavits of publication were presented and placed on file.

Planning Director Teague outlined the boundaries of the MDD-6 zoning district. He explained that Edina Code Section 850.14 subd. 5 required a mixture of uses in the MDD-6 district when it was originally approved. Mr. Teague said for every 1,750 square feet of non-residential development, one dwelling unit must be built, noting over time the district had not been developed with the originally intended number of dwelling units.

Mr. Teague noted the original master development plan called for 1,085 dwelling units and 1,506,550 square feet of non-residential uses. The zoning ordinance was drafted to fit the original master plan; however, actual development includes 348 dwelling units and 1,217,935 square feet of non-residential

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uses. He noted that strict interpretation of the ordinance would require any redevelopment to be strictly residential in order to comply with the original master plan and zoning. Mr. Teague explained the applicant requested the requested ordinance amendment to bring the site into compliance. He added staff recommended approval of the proposed amendment; however, he noted the Planning Commission recommended denial of the amendment.

The Council asked questions gathering further understanding of the issue including the following: noting without the amendment no additional non-residential uses may be built; areas within the MDD-6 District likely to be redeveloped; look at as two issues; short term fix with amendment; long-term as part of Comp Plan Update; concern expressed considering an ordinance change and final development plan at the same meeting; and the need for looking at more than the MDD-6 District during the Comp Plan update.

Public Comment

Laurie Miller, representing Cypress Equities spoke in favor of the proposed amendment.

Sharon Ming, 1103 Coventry Place, stated she supported the Planning Commission's recommendation to deny the ordinance amendment.

John Bohan, 800 Coventry Place, supported the proposed amendment.

Gene Persha, 6917 Cornelia Drive, supported the proposed amendment.

Member Swenson made a motion, seconded by Member Masica closing the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

The Council discussed the proposed amendment. The issues discussed included: concern over considering an ordinance amendment at the same meeting as a redevelopment proposal; realization the issue must be addressed; fairness to developers; applauding Planning Commission's concern for housing, and development of a vision for Southdale area.

Following the public comment, the Council discussed the matter. **Member Masica made a motion granting first reading and waiving second reading to Ordinance No. 2007-09 amending Section 850 of Edina City Code regarding non-residential floor area in the MDD-6 District.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Masica, Hovland

Nay: Swenson

Motion carried.

RESOLUTION NO. 2007-63 ADOPTED GRANTING FINAL DEVELOPMENT PLAN - CYPRESS EQUITIES - OLD AMC THEATER SITE Affidavits of publication were presented and placed on file.

Mr. Teague explained Cypress Equities proposed to tear down the old 40,000 square foot AMC Movie Theater and build a 31,000 square foot single level retail building along France Avenue and a 22,000 square foot retail building with a five-level parking ramp above. Attached to the south would be a 32,960 square foot two-level retail/restaurant. Mr. Teague said the total square footage would 86,000 square feet. He noted this was a revision without the residential tower of the project proposed for the site in 2006.

Mr. Teague stated the redevelopment request would require the following actions: an amendment of the overall Master Plan and a Final Development Plan. He continued stating the staff felt the proposal

was reasonable because: the proposed uses would be permitted in the MDD-6 District; the project would encourage pedestrian movement; the project met zoning ordinance regulations; and the proposed retail use was generally consistent with the original master development plan.

Mr. Teague reported the Planning Commission recommended denial of the amendment to the master development plan and final development plan for the site at 7311 France Avenue with the following Findings:

- The proposed development is not in conformance with current ordinance.
- The proposed development is not mixed-use.
- The proposed development does not take advantage of the public park.
- The location of the ramp adjacent to the lake.
- The commission was not satisfied with the materials used on the parking ramp.
- Public safety concern regarding on-site circulation.
- Concern signage and lighting.

Mr. Teague stated staff recommended approval of the amendment to the master development plan and final development plan at 7311 France Avenue for Cypress Equities because the proposal would meet the required standards and ordinances for a final development plan. He stated the following conditions of the approval:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped April 4, 2007- **date changed to June 5, 2007 plan submitted to Council**
 - Grading plan date stamped April 4, 2007.
 - Building elevations date stamped April 4, 2007 - **date change to June 5, 2007 plan submitted to Council.**
2. Final grading, drainage and utility plans, submitted with the building permit, are subject to review and approval of the city engineer.
3. Providing storm water best management practices on site and submission of plans and specifications to Nine Mile Creek Watershed District for approval. The city may require revisions to the approved plans to meet the district's requirements.
4. Execution of a developer's agreement.
5. Dedication of a transit easement across the property.
6. A cross access easement is required to allow access to 7373 France Avenue, property to the south.
7. Submission of proof of permission (easements) to City Engineer from the owner of 7235 France Avenue to access 7311 France Avenue across their property; or
8. Submission of plans and specifications to Hennepin County Engineer for work completed with County right-of-way;
9. Agreement to provide a signal agreement and roadway modification permits with Hennepin County prior to the issuance of a building permit.
10. The property owner is responsible for replacing any required landscaping that dies.
11. Receipt of executed amendment to existing covenants agreement addressing park maintenance assessment if trees are allowed to be removed in the park. Submission of plans and specifications to Park Director for any proposed work to City park property for approval.
12. The Centennial Lakes paths must remain open and usable throughout the construction of the project.
13. The bituminous pathway must be milled and overlaid.
14. Developer must prepare plans for covering and reducing sound of the outdoor delivery area and regulate delivery time to reduce nuisance effects to adjoining properties.

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15. No amplification is allowed for outdoor restaurants.
16. Approvals do not include any signage. Separate sign permits would be required for any signage. Signs that do not meet the sign ordinance would require variances.

Developer Presentation

David Farrell, 9444 Sherwood Glen, Dallas, Texas, Good Fulton and Farrell, Architects for the project presented the revised project using a graphic power point and description. He walked through the site plan, the elevations from north, east, south and west, the shadow studies and the proposed landscaping plans. Mr. Farrell responded to Council's specific questions and also introduced Kirk Williams, Vice President of Cypress Development, who also responded to specific questions regarding the proposed redevelopment.

Council questions included the location of valet parking, the location of the loading area in the parking structure, which plan was the one that would actually be built, why there was no parking under the retail structure, potential tenants of the project, whether the retail would be one or two stories, and why the parking was proposed at the current level.

Public Comment

John Bohan, 800 Coventry Place, supported the redevelopment project as proposed.

Gene Persha, 800 Coventry Place, supported the redevelopment project as proposed.

JoEllen Deever, 7405 Oaklawn Avenue, supported the project as proposed.

Wayne Carlson, 523 Coventry Place, asked what type of retail was proposed.

Wanda Frazier, 7340 York Avenue, asked if the restaurants would be locally owned or large franchises.

Member Masica made a motion, seconded by Member Swenson, closing the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Following the public comment, the Council discussed the matter. **Member Masica introduced Resolution No. 2006-63 and moved its adoption, seconded by Member Bennett, granting Final Development Plan to Cypress Equities for the old AMC Theater Site on France Avenue with the sixteen conditions noted earlier by Mr. Teague, plus: noting the site and elevation plans shall be dated June 5, 2007, the project shall be built with materials as shown on the plans and specs, and the parking structure shall have louvers on all four sides with the north side elevation architectural details and augmented landscaping acceptable to Edina city staff .**

Rollcall:

Ayes: Bennett, Housh, Masica, Hovland

Nay: Swenson

Motion carried.

***RESOLUTION NO. 2007-65 ADOPTED GRANTING FINAL PLAT - SENIOR ADDITION**
Motion made by Member Housh and seconded by Member Masica adopting Resolution No. 2007-65 approving the Final Plat for the Senior Addition, 5901 France Avenue.

Motion carried on rollcall vote - five ayes.

ORDINANCE NO. 2007-10 ADOPTED AMENDING SECTION 1040 OF EDINA CITY CODE REGARDING CONSTRUCTION NOISE Sanitarian Engelman noted there were no revisions to the proposed amendment to Section 1040 of the Code regarding construction noise. The Council briefly

discussed the amendment. It was requested that the lawn maintenance portion of this section be reviewed. Staff will look at this and report back at a later date.

Motion made by Member Swenson and seconded by Member Housh to adopt Ordinance No. 2007-10 amending Section 1040 of Edina City Code regarding construction noise.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

FIRST READING GRANTED TO ORDINANCE NO. 2007-11 AMENDING SECTION 1221 REGARDING THE EDINA ART CENTER BOARD Member Masica explained the Art Center Board has requested that Section 1221 of the Code be amended so that the Chair of the Public Art Committee may be someone who was not a member of the Art Center Board. She requested that the Council adopt the proposed amendment and waive second reading.

Member Swenson moved and Member Housh seconded a motion to adopt Ordinance No. 2007-11 amending Section 1220 of the Edina City Code regarding the Edina Art Center Board. The motion also included the waiver of second reading of the ordinance.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

PUBLIC COMMENT – Jim Scipioni of Eagan thanked the Council for the opportunity afforded to his daughter Christina Scipioni who recently completed an internship with the City of Edina Communications Department.

***BID AWARDED EASTERN FIBER PROJECT CONTRACT NO. IT-07-1** Motion made by Member Housh and seconded by Member Masica awarding the bid for Contract No. IT-07-1 Eastern Fiber Project to Access Communications in the amount of \$65,890.25.

Motion carried on rollcall vote – five ayes.

BID AWARDED FOR THE PEDESTRIAN BRIDGE REPLACEMENT BREDESEN PARK Following a brief discussion, Mayor Hovland made a motion to award the bid for the replacement of the pedestrian bridge in Bredesen Park to the recommended low bidder Wheeler Lumber, LLC, in the amount of \$17,279.62.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***BID AWARDED WEST 66TH STREET SIDEWALK PROJECT, IMPROVEMENT NO. S-098** Motion made by Member Housh and seconded by Member Masica awarding the bid for West 66th Street Sidewalk Project, Improvement No. S-098 in the amount of \$33, 021.30.

Motion carried on rollcall vote – five ayes.

TODD PARK HOCKEY RINK TEMPORARY BOARDS AUTHORIZED Affidavits of publication were presented and placed on file.

Park Director Keprios using a power-point presentation outlined the process followed since the temporary boards were installed two years ago. He reviewed the results of the February 22, 2007, survey of 608 residents of the Todd Park neighborhood, noting that residents agree the City should continue to provide hockey at Todd Park, but prefer the hockey board be removed in the summer. He said the Todd Park Hockey Rink scheduled users were surveyed also with respondents agreeing that the City should continue to provide hockey at Todd Park, but there was not a clear majority opinion on the temporary vs. permanent boards.

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Mr. Keprios said staff studied alternate locations at Countryside Park, Pamela Park, Lewis Park, Garden Park and all other city parks. Staff determined the best location for a rink was Todd Park.

Before the April 10, 2007 Park Board meeting 608 notices were sent to residents inviting them to the Board's meeting and noting they would be allowed an opportunity to speak. At the meeting the Park Board recommended the City continue to provide an outdoor hockey rink at Todd Park and that they install permanent wooden boards that would remain in place year round. Mr. Keprios reported the decision was not unanimous with one member abstaining and one member opposed.

The Council gathered more detail including whether the portable boards included a warranty and their expected life. Staff responded that the boards did not contain a warranty and had an approximate ten-year life span.

Public Comment

Pat Cronin, 11 Cooper Avenue, stated he supported permanent boards at Todd Park.

Fred Haberman, 3 Circle East, supported permanent boards at Todd Park.

Allen Carlson, 4424 Vandervork, supported permanent boards.

Nancy Haley, 4525 Parkside Lane, supported temporary boards.

Katie Meehan, 5229 Hollywood Road, supported temporary boards.

Tim Meehan, 5229 Hollywood Road, supported temporary boards.

Brad Case, 4500 Rutledge, supported temporary boards.

Nancy Hall, 4501 Parkside Lane, supported temporary boards.

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

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

Motion made by Member Swenson and seconded by Member Housh directing staff to continue a permanent hockey rink with temporary boards due to the unusual configuration of Todd Park.

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

RESOLUTION NO. 2007-62 - ACCEPTING VARIOUS DONATIONS Mayor Hovland explained in order to comply with State Statutes, all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations.

Member Swenson introduced Resolution No. 2007-62, accepting various donations, and moved approval. Member Bennett seconded the motion.

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

***WATER BILLING JOINT POWERS AGREEMENT WITH ST. LOUIS PARK AUTHORIZED**
Motion made by Member Housh and seconded by Member Masica authorizing the Joint Powers

Agreement with the City of St. Louis Park allowing the sale of water by St. Louis Park to customers in the City of Edina.

Motion carried on rollcall vote - five ayes.

***VERIZON ANTENNA LEASE AMENDMENT - VAN VALKENBURG WATER TANK AUTHORIZED** Motion made by Member Housh and seconded by Member Masica authorizing the amendment to the existing cell antenna lease on Van Valkenburg Water Tank for Verizon Wireless.

Motion carried on rollcall vote - five ayes.

APPOINTMENTS MADE TO COMMUNITY EDUCATION SERVICES BOARD Mayor Hovland stated his intention to reappoint Ann Swenson, Linda Presthus and Cheryl Gunness to the Community Education Services Board for a one-year term ending June 30, 2008. **Motion made by Member Masica to reappoint Ann Swenson, Linda Presthus and Cheryl Gunness to the Community Education Services Board for a term to June 30, 2008.** Member Bennett seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***RESOLUTION NO. 2007-64 ADOPTED NO PARKING RESTRICTIONS ON VARIOUS STATE AID STREETS WITHIN EDINA** Motion made by Member Housh and seconded by Member Masica adopting Resolution No. 2007-64 banning parking of motor vehicle of MSAS 158, MSAS 137 and MSAS 141 within the City of Edina.

Motion carried on rollcall vote - five ayes.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Housh and seconded by Member Masica approving payment of the following claims as shown in detail on the Check Register dated May 17, 2007, and consisting of 31 pages: General Fund \$356,504.65; CDBG Fund \$17,923.00; Communications Fund \$1,328.60; Working Capital Fund \$214,751.72; Art Center Fund \$2,217.76; Golf Dome Fund \$2,257.73; Aquatic Center Fund \$1,443.48; Golf Course Fund \$29,989.31; Ice Arena Fund \$34,170.04; Edinborough/Centennial Lakes Fund \$24,883.50; Liquor Fund \$166,661.44; Utility Fund \$151,924.74; Storm Sewer Fund \$159,787.77; Recycling Fund \$33,958.00; PSTF Agency Fund \$1,119.60; **TOTAL \$1,198,921.34;** and for approval of payment of claims dated May 24, 2007, and consisting of 32 pages: General Fund \$232,794.07; Communications Fund \$4,545.25; City Hall Debt Service \$4,000.00; Working Capital Fund \$192,652.46; Art Center Fund \$1,610.95; Golf Dome Fund \$12,603.01; Aquatic Center Fund \$4,119.51; Golf Course Fund \$13,029.84; Ice Arena Fund \$11,106.16; Edinborough/Centennial Lakes Fund \$20,114.07; Liquor Fund \$156,927.93; Utility Fund \$62,126.18; Storm Sewer Fund \$591.98; PSTF Agency Fund \$1,185.09; **TOTAL \$717,406.50;** and for approval of payment of claims dated May 31, 2007 and consisting of 36 pages General Fund \$73,120.00; Working Capital Fund \$81,826.57; Art Center Fund \$20,376.66; Golf Dome Fund \$128.28; Aquatic Center Fund \$27,921.01; Golf Course Fund \$43,981.96; Edinborough/Centennial Lakes Fund \$18,982.50; Liquor Fund \$118,975.07; Utility Fund \$53,273.33; Storm Sewer Fund \$84.95; Recycling Fund \$20.00; PSTF Agency Fund \$1,006.60; **TOTAL \$439,696.93.**

Motion carried on rollcall vote - five ayes.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:40 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk