

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
OCTOBER 2, 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 Bennett and seconded by Member Masica approving the Council Consent Agenda with the exception of Item IV. B Lot Division, 6201 Lochmoor Drive and 4120 Gleason Road, Item IV. C. Lot Division, 4925 and 4929 Sunnyslope Road, and Item VI. C. Pathway Renovation - Lewis Park.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

FIRE PREVENTION WEEK PROCLAIMED FOR OCTOBER 7 - 13, 2007 Mayor Hovland presented Fire Marshal Jenson with a proclamation, proclaiming October 7 - 13, 2007, as Fire Prevention Week in Edina and encouraged residents to participate in fire prevention activities in their homes to keep their families safe from fire.

Member Masica made a motion approving October 7 - 13, 2007, as Fire Prevention Week in the City of Edina. Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***MINUTES OF THE REGULAR MEETING OF SEPTEMBER 18, 2007, WORK SESSION OF SEPTEMBER 18, 2007, AND JOINT MEETING WITH EDINA SCHOOL BOARD OF SEPTEMBER 24, 2007, APPROVED** Motion made by Member Bennett and seconded by Member Masica approving the minutes of the Regular Meeting of September 18, 2007, Work session of September 18, 2007, and Joint meeting with Edina School Board of September 24, 2007.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2007-107 APPROVED, ADOPTING ALLEY IMPROVEMENT NO. A-223 CONTINUED FROM SEPTEMBER 18, 2007 Affidavits of Notice were presented, approved and ordered placed on file. Due notice having been given, public hearings were conducted and action taken as recorded on the following proposed special assessments.

Engineer Houle noted the final assessment for the project was continued from the September 18, 2007, City Council meeting. He stated the property owner of 5617 Beard Avenue objected to the special assessment because he had to pay approximately \$700.00 for a curb replacement in order to construct a new garage at the rear of his property. Mr. Houle said after checking the staff diary for the construction inspector no reference to the 5617 Beard Avenue curb was recorded. Mr. Houle also said that the property owner had rescinded his objection and the written notice of same was on the Council's desk. He recommended Council adopt the final assessment roll of \$1,486.89 per each of 14 assessable units over a ten-year term with interest at 5.99% for Improvement Project No. A-223 Alley Improvement - Beard Avenue to Abbott Avenue as presented.

Member Housh made a motion, seconded by Member Bennett closing the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Member Housh made a motion and Member Bennett seconded it to adopt Resolution No. 2007-107 adopting the final assessment roll for the Alley Improvement No. A-223 from Beard Avenue to Abbott Avenue.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***VACATION REQUEST OF A PORTION OF WEST 41ST STREET PUBLIC RIGHT-OF-WAY WITHDRAWN BY APPLICANT Motion made by Member Bennett and seconded by Member Masica accepting the applicant's letter to withdraw his request for the vacation of a portion of West 41st Street public right-of-way between Lynn and Monterey Avenues, noting action on the item had been continued from the September 18, 2007, Council meeting.**

Motion carried on rollcall vote - five ayes.

FINAL GATEWAY PROJECT ALTERNATIVE URBAN AREAWIDE REVIEW (AUAR) DISTRIBUTION AUTHORIZED Planner Teague introduced Andrea Moffatt of WSB & Associates who briefly presented the final Gateway AUAR. Ms Moffatt outlined the AUAR as follows:

- Gateway Area - 135 acres between TH100, the Fred Richards Golf Course, France Avenue and the border with Bloomington.
- Purpose of AUAR - identify environmental impacts associated with development within the study area
- Four scenarios:
 - Comprehensive Plan - reflective of existing zoning within current Comp Plan
 - Master Plan - developer's proposed redevelopment of the Pentagon Towers and Quads sites into hotel, senior townhomes, and office and retail space. Remaining parcels remain as per current Comp Plan
 - Maximum Commercial - Pentagon Towers and Quads sites redeveloped with mostly commercial and office uses. Remaining parcels remain as per current Comp Plan
 - Maximum Residential - Pentagon Towers and Quads sites redeveloped with mostly residential uses, including townhomes and condominiums. Remaining parcels remain as per current Comp Plan
- Met with Transportation Commission, Planning Commission, City Council and public through two public meetings
- Comment period opened for Draft AUAR July 11 through August 15
- Comments reviewed and revisions made
 - MnDOT, Met Council and Hennepin County had questions
 - Additional information provided
 - Public comments included
 - Waste water/sanitary sewer
 - Flooding/drainage
 - Traffic/Transit
 - Cost of mitigation
 - Noise

Ms. Moffatt said the next step would be for the Council to authorize the final AUAR be distributed to the agencies for a final ten-day review period. Upon completion of this comment period, if no agency objections have been received, the City Council may adopt the AUAR. She said it was anticipated consideration of the final adoption of the AUAR will be at the Council's November 5, 2007, meeting.

The Council asked that copies of the final AUAR be placed in the Edina libraries and whether acceptance of the AUAR obligated the Council to accept any specific development proposal. Staff

stated the libraries would receive copies of the AUAR and that acceptance of the AUAR by the Council would not constitute any approval of any development proposal.

Member Swenson made a motion to authorize the final distribution of the Gateway Project Alternative Urban Areawide Review (AUAR) for its final ten-day comment period. Member Bennett seconded the motion.

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

RESOLUTION NO. 2007-105 ADOPTED APPROVING LOT DIVISION 6201 LOCHMOOR DRIVE AND 7120 GLEASON ROAD Member Swenson made a motion to adopt Resolution No. 2007-105 approving the lot division at 6201 Lochmoor Drive and 7120 Gleason Road. Member Housh seconded the motion.

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

RESOLUTION NO. 2007-106 ADOPTED APPROVING LOT DIVISION 4925 AND 4929 SUNNYSLOPE ROAD The Council asked if the proposed lot division would be satisfactory for future homeowners. Staff stated they believed the proposed lot division brought both lots into compliance with code. **Member Swenson made a motion to adopt Resolution No. 2007-106 approving the lot division at 4925 and 4929 Sunnyslope Road.** Member Housh seconded the motion.

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

PUBLIC COMMENT

Sandy Carlson, 5304 Oaklawn Avenue, stated she and her neighbors had put together a video about large homes on smaller lots that they would like the Council to view. Mayor Hovland explained the Council would not allow people to give testimony on massing because the Council had previously held a public hearing on the issue. He said there had been no public notice given so testimony would not be allowed and that the Council would need to determine whether or not to view the video. Mayor Hovland explained the Council has a policy that if a subject was on the agenda they would not take public comment on the item at the same meeting. The question was asked if public comment would be allowed if an ordinance amendment dealing with the massing issue were considered by the Council. Staff stated that any amendment to the zoning regulations required review by the Planning Commission and a hearing by the City Council. Such an amendment is likely to be considered by the Council at its Nov. 20, 2007, meeting. The Council discussed the issue. Concerns raised included: whether the public would have an opportunity to speak, if the Council could obtain copies of the video and potential time frames when the issue would be heard as a public hearing.

Member Bennett made a motion to allow the video prepared by Ms. Carlson to be viewed.

Motion declared dead for lack of second.

Ms. Carlson expressed her displeasure at not being allowed to show the video. She stated she felt she had followed the procedures outlined to her. Communications and Marketing Director Bennerotte reviewed her conversation with Ms. Carlson and stated when she pre-viewed the video in preparation for the meeting she discovered the subject matter was more broad in nature and not specific to one address or location.

Mayor Hovland reiterated that when a properly noticed hearing was held residents would be allowed to testify and the video could be viewed.

Robert Larson, 5307 Oaklawn Avenue, indicated he was willing to wait until November 20th to speak.

***BID AWARDED FOR ROAD SALT USED TO CONTROL ICE** Motion made by Member Bennett and seconded by Member Masica awarding contract to the recommended low bidder, North American Salt Co. (State contract #437743) for the amount of \$46.02 per ton delivered.

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

***BID AWARDED FOR CHAISE LOUNGES - EDINA AQUATIC CENTER** Motion made by Member Bennett and seconded by Member Masica awarding contract for 100 replacement chaise lounge chairs for the Edina Aquatic Center to the recommended low bidder, Taylor and Associates, Inc. at \$17,662.55.

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

BID AWARDED FOR PATHWAY RENOVATION - LEWIS PARK Following a brief discussion, where Council asked when the Lewis Park path was installed and by whom, **Member Masica made a motion awarding the contract to the recommended low bidder, Bituminous Roadways, Inc. in the amount of \$19,050.00.** Member Swenson seconded the motion.

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

RESOLUTION NO. 2007-104 ESTABLISHING TEMPORARY DISPENSARY FOR NOVEMBER 3, 2007, AT EDINBOROUGH PARK - EDINA COMMUNITY FOUNDATION 30TH ANNIVERSARY GALA Manager Hughes stated that on November 3, 2007, the Edina Community Foundation will hold its 30th anniversary gala. The City will be hosting this event at Edinborough Park. The event will include the service of beer and wine, the cost of which will be included in the ticket price for the event. Beverages will be served by a caterer, Complete Beverage, under a contract with the City. In order to facilitate this service, Staff recommended that the Council adopt a resolution which would establish a temporary on-sale city dispensary for the evening of November 3, 2007, at Edinborough.

Following a brief discussion, **Member Masica made a motion to adopt Resolution 2007-104 establishing a temporary dispensary at Edinborough Park for November 3, 2007, for the 30th Anniversary Edina Community Foundation Gala.** Member Housh seconded the motion.

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

TEMPORARY 3.2 BEER LICENSE GRANTED TO OUR LADY OF GRACE CHURCH FOR FALL FESTIVAL ON OCTOBER 6, 2007 Mr. Hughes explained Our Lady of Grace Church has applied for a temporary beer license for their annual Fall Festival to be held October 6, 2007. Edina Code Section 900 allows non-profit organizations to obtain a temporary beer license to sell 3.2 beer On-sale for this type of event. Our Lady of Grace has filed the necessary application and insurance as well as paid their fee. He reported they have held similar events the last several years and obtained a temporary license each time and their previous festivals were held without any incident. **Member Swenson made a motion, seconded by Member Housh granting a temporary 3.2 Beer License to Our Lady of Grace Church for their Fall Festival, October 6, 2007.**

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

MASSING TASK FORCE REPORT ACCEPTED Planner Teague said the Massing Task Force was re-convened by the City Council and asked to consider and make a recommendation on an amendment to the City's zoning ordinance regarding height. He reported the Task Force met twice and examined all of the information considered by the Planning Commission and City Council:

- Current and proposed height regulations

- Survey of adjacent cities' regulations on height
- How the recently amended and proposed ordinance would impact recently built homes.

Mr. Teague said the massing task force recommended two changes to the zoning ordinance regarding height as follows:

1. The definition of building height should be amended as follows:

Building Height or Structure Height. The distance measured from the average ~~proposed~~ **existing** ground elevation adjoining the building at the front building line to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the average distance of the highest gable on a pitched or hip roof. References in this Section to building height shall include and mean structure height, and if the structure is other than a building, the height shall be measured from said average ~~proposed~~ **existing** ground elevation to the highest point of the structure.

The task force took out the recommendation for measuring height from the average elevation from around the home. They did not believe that change should be made for the following reasons:

- Lots that contain slopes would be penalized by the proposed amendment. The height requirement would be more restrictive for a sloping lot than a flat lot.
 - The massing issue is more about the street elevation and building separation between houses from side to side; and not about the rear yard elevation. The separation between homes in the rear yards is greater given rear yard setbacks.
 - Edina's current height regulations are in keeping with other similar sized cities in the Metro area.
 - The two zoning ordinance changes regarding increased side yard setbacks for narrow lots, and low floor elevation for new homes may result in reducing the height of new homes.
 - The new ordinance should be monitored over the next year to determine if it is effective. If it is not working to reduce height, additional changes could be considered then.
2. The task force further recommended the following change to the previously amended ordinance regarding a rebuilt home:

Rebuilt home. On a home that is to be rebuilt after a tear down, the ~~lowest~~ **first** floor elevation of the new home may not be more than one-foot above the ~~lowest~~ **first** floor elevation of the home that was torn down.

The task force believes that holding the first floor elevation at the same level as the previous home would ensure that new homes would be more in character with adjacent homes. If a new home wanted taller ceilings in the basement than the previous home, to do so, they would have to dig down deeper in order to meet a similar first floor elevation with the previous home.

Under the current regulation the low floor of a new home could be elevated by one foot. If a new home builder wanted to increase the basement ceiling by 2-3 feet, and they added one foot to the elevation, the result would be a in a first floor elevation increase of 3-4 feet from the previous home, which the task force believed would not be in character with the adjacent homes.

John Wheaton, 5109 Arden Avenue, said that he agreed to act as Chair of the re-convened Massing Task Force. He stressed the Task Force's concern that relative to the measurement of height, it was more important to control the lowest level of a home than necessarily control the first floor.

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The Council discussed with staff and Mr. Wheaton various aspects of the Task Force's Report and timing for consideration of suggested ordinance amendments. Following the discussion, **Member Masica made a motion receiving the Massing Task Force's Report and authorizing the Planning Commission to move forward on an amendment to the zoning regulations with the potential hearing before the City Council at their November 20, 2007, meeting.** Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2007-103 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 a majority of favorable votes of the Council accepting the donations.

Member Swenson introduced Resolution No. 2007-103, accepting various donations, and moved approval. Member Bennett seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2007-108 TERMINATING DEVELOPER'S AGREEMENT AND RELEASING CERTAIN EASEMENTS-HAUGLAND COMPANIES, 5000 FRANCE AVENUE Mr. Hughes explained the 5000 France Avenue developer, Gene Haugland, needed to have some former easements and a developer's agreement released in order to record his RLS that was approved at the last City Council meeting. Mr. Hughes explained that the easements have been rededicated on the RLS and that the City has a new developer's agreement with Mr. Haugland. **Member Housh made a motion, seconded by Member Swenson adopting Resolution No. 2007-108 terminating the developer's agreement and releasing certain easements for Haugland Companies, 5000 France Avenue.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Bennett and seconded by Member Masica approving payment of the following claims as shown in detail on the check register dated September 20, 2007, and consisting of 35 pages: General Fund \$180,848.93; CDBG Fund \$4,040.00; Communications Fund \$18,975.71; Working Capital Fund \$624,092.37; Construction Fund \$173,595.48; Art Center Fund \$10,447.96; Golf Dome Fund \$53.25; Aquatic Center Fund \$490.16-; Golf Course Fund \$25,801.05; Ice Arena Fund \$5,600.73; Edinborough/Centennial Lakes Fund \$14,658.80; Liquor Fund \$199,035.23; Utility Fund \$166,107.25; Storm Sewer Fund \$188,058.55; PSTF Fund \$2,127.27; Total \$1,612,952.42 and for approval of payment of claims dated September 27, 2007, and consisting of 30 pages: General Fund \$382,051.28; Communications Fund \$10,565.92; Working Capital Fund \$494,867.66; Art Center Fund \$2,574.66; Golf Dome Fund \$1,780.26; Aquatic Center Fund \$9,468.37; Golf Course Fund \$10,799.70; Ice Arena Fund \$901.47; Edinborough/Centennial Lakes Fund \$4,378.90; Liquor Fund \$113,465.52; Utility Fund \$106,046.68; Storm Sewer Fund \$210,702.84; PSTF Agency Fund \$5,063.45; Total \$1,352,666.71.

Motion carried on rollcall vote - five ayes.

There being no further business on the Council agenda, Mayor Hovland declared the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk