

MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
MARCH 18, 2008
7:00 P.M.

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

CONSENT AGENDA ITEMS APPROVED Motion made by Member Swenson and seconded by Member Housh approving the Council Consent Agenda as presented with the exception of Item IV. B. Well House #20 - Contract #PW 08-3, Item V.F. Ratify School Board Appointment to Human Rights and Relations Commission and Item V.I. Traffic Safety Report of March 6, 2008.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***APPROVAL OF MINUTES - REGULAR MEETING OF MARCH 3, 2008** Motion made by Member Swenson and seconded by Member Housh approving the Minutes of the Regular Meeting of March 3, 2008.

Motion carried on rollcall vote - five ayes.

PUBLIC HEARING SCHEDULED FOR APRIL 21, 2008, COUNTRY CLUB AREA SEWER, WATER & STREET RECONSTRUCTION: IMPROVEMENT NOS. A-213, A-214, SS-413, STS-297, WM-436, L-43 & L-49 Mayor Hovland said that he would be moving an item out of order from the Council's Agenda. He said the Council would discuss whether to schedule a public hearing on the proposed Country Club Improvements, but noted that the item on the Council's agenda was the award of the bid for the improvement project. Mayor Hovland suggested the Council might wish to schedule a special public hearing of the improvement to be held while the bids were still valid. Following discussion, **motion was made by Member Swenson and seconded by Member Housh to call a public hearing on Monday, April 21, 2008, at 7:00 p.m. for the Country Club Area Sewer, Water & Street Reconstruction: Improvement Nos. A-213, A-214, SS-413, STS-297, WM-436, L-43 & L-49.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Motion by Member Housh, seconded by Member Masica directing that a notice of the public hearing and comment card be sent to the property owners in the affected area, a draft of which will be reviewed at the April 1, 2008 meeting.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

ORDINANCE NO. 2008-01 ADOPTED, AMENDING 850.14 SUBD. 8 MINIMUM TRACT AREA MDD-6; RESOLUTION NO. 2008-33, RESOLUTION 2008-34 AND ORDINANCE NO. 850A-31 ADOPTED GRANTING OVERALL DEVELOPMENT

PLAN, COMPREHENSIVE GUIDE PLAN AMENDMENT AND REZONING FOR WAYZATA PROPERTIES, PENTAGON OFFICE PARK, 77TH STREET Affidavits of Notice presented and ordered placed on file.

Mayor Hovland explained the City Council will consider the ordinance amendment to the minimum tract for the MDD-6 District at the same time as the Overall Development Plan, Guide Plan Amendment and Rezoning of the Gateway Redevelopment Area because if the amendment were not made to the minimum tract for the MDD-6 District, the Wayzata Properties request would not be possible.

Planning Director Teague reviewed the proposed amendment to the MDD-6 District. He explained Wayzata Properties was proposing to redevelop the 43 acre Pentagon Park area. They were proposing to tear down the buildings on the Pentagon Tower and Pentagon Quads site and build 634 senior housing units, an 80,000 square foot hotel, two office towers that would total 737,000 square feet, and two above ground parking structures. Mr. Teague noted to accommodate the request a rezoning of the property to MDD-6 has been requested.

Mr. Teague explained Section 850.14, Subdivision 8.A. of the Edina Zoning Ordinance required the minimum tract area for an MDD-6 development district be 50 acres. This zoning district was specifically created for Centennial Lakes. The intent was to encourage a mixture of uses over a large area. However, the 50 acre minimum effectively eliminated the possibility of any future MDD-6 zoning districts, given the minimum acreage requirement. Since the Wayzata Properties project was 43 acres in size; therefore, the applicant was proposing an amendment to the minimum lot area requirement to 40 acres.

Mr. Teague reported the Planning Commission unanimously recommended approval of the proposed ordinance amendment; however, they recommended a minimum acreage of 30 acres rather than 40 acres. Mr. Teague said they believed that 30 acres would allow a greater potential for other MDD-6 zoning opportunities.

Jim Nelson, 7790 Loch Moor Terrace, Wayzata Properties, introduced his development team: from Wayzata Properties were: Chris Hickok, Vice President of Development, Peter Fitzgerald, Vice President of Leasing, and Michelle Gabrysh, Special Projects and Leasing, from Miller Dunwiddie Architects, Craig Lau, Managing Principal, Paul May and Dan Green and from Kimley Horn Associates, Dan Coyle, civil engineer and Jonette Kuhnau, transportation engineer. Mr. Nelson said these team members were available for questions as necessary

Using a PowerPoint display Mr. Nelson reviewed the proposed Gateway Project outlining the proposed buildings and phases of the redevelopment. Mr. Green, Architect, reviewed the design specifics of the proposal. Following the PowerPoint presentation, staff and the development team answered questions of the City Council including: why were the elevation and height different from the preliminary plans viewed in December, what were the number and location of on-street parking spaces, what would each phase of the development contain and what was the timing of the phases, would the phasing allow the

sanitary sewer capacity to be increased, would the developer be willing to commit to adhering to LEED standards in building, pathway and bikeways locations, when to require bikeways and pathways, what will be covered by the Developers Agreement, would the unbroken façade of the building facing West 77th be relieved in the final design, at what height would the office towers satisfy the setback from R-1 residential parcels required by the current commercial and office zoning provisions.. The Council briefly discussed the proposal; then opened the hearing for public comment.

Public Comment

Joseph Hulbert, 7170 West Shore Drive, asked that four conditions from the Burgundy Place: 1) 50 foot setback; 2) 50 foot height; 3) no convenience gas; and 4) no drive throughs be included in any approvals granted to the project.

Arrie Larsen Manti, President, Edina Chamber of Commerce, 7701 Normandale Road, offered support for the proposal on behalf of the Edina Chamber of Commerce.

Alice Hulbert, 7221 Tara Road, representing the Bike Edina Task Force reviewed suggestions for bike connectivity through the Gateway Redevelopment Area. She pointed out a possible north south route on the west side of Lake Edina. Ms. Hulbert displayed photographs of the area where she was proposing a trail be developed.

Marie Thorpe, 4506 Edina Boulevard, supported non motorized transportation throughout the City and said the trail as proposed by Ms. Hulbert would be a nice amenity.

John Bohan, 800 Coventry Place asked about the number of housing units, how many units would be rental, how many would be owner occupied and the price points. He also asked if information was known on the projected traffic after the Gateway Redevelopment area was built. Mr. Nelson answered the questions on behalf of the developer. Traffic Engineer Sullivan answered questions regarding proposed traffic after development.

Motion of Member Masica, seconded by Member Swenson to close the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

The City Council continued their discussion of the redevelopment and had additional questions answered about the proposed senior housing, the phasing of the redevelopment and information about traffic and safety mitigation measures as outlined in the AUAR. **Member Swenson made a motion to adopt Ordinance No. 2008-01 amending Subsection 850.16 of Edina City Code Minimum Tract Area for MDD-6 District, including waiver of second reading.** Member Housh seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Member Housh made a motion to adopt Resolution No.2008-34 approving a Guide Plan Amendment from Office to Mixed Use for the Gateway Redevelopment Area. Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Masica, Swenson, Hovland

Nay: Bennett

Motion carried.

Member Swenson made a motion, seconded by member Housh to adopt Resolution No. 2008-33 and Ordinance No. 850A-31 granting the overall development plan and rezoning for the Gateway Redevelopment Area with conditions A through T as follows:

- A. Future developments must be consistent with the Overall Development Plan dated January 31, 2008. Any changes would require an amendment to the Overall Development Plan.**
- B. Sustainable design. The design and construction of the entire project must be done with the Sustainable Initiatives as outlined in the applicant's narrative.**
- C. Trail and sidewalk connections must be included as demonstrated and public easements must be established over all public sidewalks.**
- D. Dedication of a right-of-way to straighten out the curve at 77th Street and Parklawn. (This area of easement would be subject to approval of the City Engineer.)**
- E. The easternmost entrance off of 77th Street into the senior housing development must be designed as a shared entrance (with the golf course).**
- F. The four-story senior independent buildings that face 77th street must be designed so as not to appear as the back side of buildings.**
- G. All traffic mitigation measures and conditions as required by the Transportation Commission and traffic study must be followed.**
- H. The developer/applicant would be responsible to pay their fair share of any mitigation measures that would be required as part of an approval of the overall development plan for the site.**
- I. All buildings must be built with sprinkler systems, subject to review and approval of the Fire Marshal.**
- J. Buildings at 4930 West 77th Street shall be limited to four stories or 50 feet, whichever would be less, and must maintain a 50-foot setback from the rear lot line.**
- K. Convenience gasoline stations and drive-through windows shall be prohibited on the north side of 77th Street.**
- L. Compliance with all of the conditions outlined in the City Engineer's memo dated February 22, 2008.**
- M. With the exception of Burgundy Place, the housing within this development must be senior housing.**
- N. Following completion of the proposed hotel, a large percentage of senior housing must be built prior to or along with non-residential uses.**
- O. Bike and bus traffic circulation be carefully considered throughout the development.**
- P. With the exception of the buildings at 4930 77th Street West, future buildings North of West 77th Street development will be limited to four stories or 58 feet in height.**

- Q. A "master development agreement" for the overall project subject to review and approval by the city attorney and city council. Final site plan approval for each phase of the project would include subsequent agreements.**
- R. If a bike trail running north from 4930 77th Street West along the west side of Lake Edina is ever constructed, the developer shall contribute financially to a portion of the construction costs of that trail. The financial contribution shall be determined as part of the development agreement and trail if constructed shall be part of the first phase of development occurring north of West 77th Street.**
- S. There shall be maximum utilization of pathways and bikeways throughout the overall development plan.**
- T. To the extent possible, Leadership In Energy and Environmental Design (LEED) standards and principles shall be used for the hotel and housing phases of this project.**

Rollcall:

Ayes: Housh, Masica, Swenson, Hovland

Nay: Bennett

Motion carried.

PRELIMINARY DEVELOPMENT PLAN AND PRELIMINARY REZONING, OPUS LLC, 5146 EDEN AVENUE- CONTINUED TO MAY 6, 2008

Mayor Hovland noted that the proponent had requested a continuance of consideration of the preliminary development plan and preliminary rezoning for 5146 Eden Avenue. Following discussion, **Member Swenson made a motion to continue the hearing for consideration of the preliminary development plan and preliminary rezoning for 5146 Eden Avenue, Opus LLC until May 6, 2008.** Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

PUBLIC COMMENT

Kim Montgomery, 5300 Evanswood Lane, requested to speak regarding the Preliminary Development Plan and Preliminary Rezoning, Opus LLC, 5146 Eden Avenue. Mayor Hovland explained she could not address this issue due to the Council's rules, since a public hearing had been scheduled for May 6, 2008.

Earl Isensee Jr., 4617 Golf Terrace, attempted to speak about his appeal of Public Health and Housing Code violations. Mayor Hovland explained he could not address this issue due to the Council's rules, since a public hearing had been scheduled for April 1, 2008.

AWARD OF BID, WELL HOUSE #20 - CONTRACT # PW 08-3 Following discussion, **Motion made by Member Masica and seconded by Member Bennett to award the bid for Well House #20, Contract No. PW 08-3 to the recommended low bidder, EnComm Midwest, Inc. \$354,453.00.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

ORDINANCE NO. 2008-05 ADOPTED AMENDING SECTION 1225.03 ADDING A MEMBER TO THE EDINA TRANSPORTATION COMMISSION Manager Hughes reviewed the proposed changes to Edina Code Section 1225.03 adding a tenth member to the Edina Transportation Commission per Ordinance No. 2008-05. He suggested that some changes would be necessary prior to second reading. Following discussion, **motion made by Member Housh and seconded by Member Swenson to grant first reading to Ordinance No. 2008-05 amending Section 1225.03 adding a member to the Edina Transportation Commission.**

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

WINE & 3.2 BEER LICENSE RENEWALS APPROVED Mr. Hughes stated that Chapati's and Dino's Gyros of Edina have submitted all necessary documentation for renewal of their licenses, their fees have been collected, and the Administration and Police Department have recommended approval.

Member Masica made a motion approving the following ON-SALE WINE and ON-SALE 3.2 BEER license renewals as follows: Chapati's and Dyno's Gyros of Edina. Member Swenson seconded the motion.

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

KENNETH SORTEBERG APPOINTED TO BOARD OF APPEAL & EQUALIZATION Following a brief discussion, **Member Bennett made a motion, seconded by Member Masica appointing Kenneth W. Sorteberg to a term of one year on the Board of Appeal and Equalization.**

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

***HEARING DATE SET FOR APRIL 1, 2008, EARL ISENSEE, JR. APPEAL OF PUBLIC HEALTH & HOUSING CODE VIOLATIONS** Motion made by Member Swenson and seconded by Member Housh setting April 1, 2008, as the hearing date for Earl Isensee Jr., to appeal Public Health and Housing Code Violations.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2008-29 APPROVED 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 Bennett introduced Resolution No. 2008-29 accepting various donations. Member Housh seconded the motion.

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

SCHOOL BOARD APPOINTMENT TO HUMAN RIGHTS AND RELATIONS COMMISSION RATIFIED Following discussion, **Member Bennett made a motion,**

seconded by Member Housh to ratify the Edina School Board appointment of Peter Brauer for a three-year term to the Edina Human Rights and Relations Commission, effective immediately through January 31, 2010.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2008-30 ADOPTED CERTIFYING THAT NO FUNDS HAVE BEEN INVESTED IN A TARGETED LIST OF COMPANIES WHOSE OPERATIONS HAVE BEEN DEEMED TO BE COMPLICIT WITH THE GOVERNMENT OF SUDAN'S GENOCIDAL ACTIVITIES IN DARFUR, SUDAN, AND PROHIBITING THE PURCHASE OF SUCH SECURITIES IN THE FUTURE

HRRC Commissioner Mary Brindle requested the Council consider a proposed resolution certifying that no funds have been invested in a targeted list of companies whose operations have been deemed to be complicit with the Government of Sudan's genocidal activities in Darfur, Sudan, and prohibiting the purchase of such securities in the future. She noted that Edina resident Ellen Kennedy had brought the issue to the City's attention. Mr. Hughes noted after the Edina Human Rights and Relations Commission had reviewed and made their recommendation on the issue, staff had reviewed the companies involved and no City of Edina dollars were currently invested with any of the targeted companies. Staff would periodically review the list of companies to ensure no investments would be placed with them. Following a brief discussion, **Member Swenson made a motion to adopt Resolution No. 2008-30 certifying that no funds have been invested in a targeted list of companies whose operations have been deemed to be complicit with the Government of Sudan's genocidal activities in Darfur, Sudan, and prohibiting the purchase of such securities in the future.** Member Bennett seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2008-31 ADOPTED CALLING PUBLIC HEARING FOR APRIL 15, 2008, ON AN ISSUE OF REVENUE BONDS BY CITY OF MINNEAPOLIS ON BEHALF OF FAIRVIEW HEALTH SERVICES

Following discussion, **Member Bennett made a motion seconded by Member Housh adopting Resolution No. 2008-31 setting an April 15, 2008, Public Hearing for the consideration of issuance of revenue bonds issued by the City of Minneapolis on behalf of Fairview Health Services.** Council asked for a work session directed by the City's bond Council on April 1, 2008.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

TRAFFIC SAFETY REPORT OF MARCH 6, 2008 APPROVED

Following discussion a motion was made by Member Swenson and seconded by Member Masica adopting the Traffic Safety Report of March 6, 2008.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***HEARING DATE SET FOR APRIL 15, 2008-32 IMPROVEMENT NO. BA-342 - HIGHLANDS SEWER, WATER, AND STREET RECONSTRUCTION**

Motion made by Member Swenson and seconded by Member Housh adopting Resolution No. 2008-32

setting a hearing date of April 15, 2008, for Improvement No. BA-342, Highlands Neighborhood Area Sewer Water, and Street Reconstruction.

Motion carried on rollcall vote – five ayes.

***2008-2009 LABOR CONTRACT WITH LOCAL 1275 FIREFIGHTERS APPROVED**

Motion made by Member Swenson and seconded by Member Housh approving the 2008-2009 Labor Contract with Local 1275 Firefighters.

Motion carried on rollcall vote – five ayes.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Swenson and

seconded by Member Housh approving payment of the following claims as shown in detail on the Check Register dated March 6 2008, and consisting of 28 pages; General Fund \$115,109.31 Communications Fund \$1,084.00; General Debt Service Fund \$833.75; PIR Debt Service Fund \$777.50; Working Capital Fund \$177,897.57; Construction Fund \$3,000.00; Art Center Fund \$20,728.64; Golf Dome Fund \$2,274.00; Aquatic Center Fund \$6,283.11; Golf Course Fund \$5,271.65; Ice Arena Fund \$29,154.44; Edinborough/Centennial Lakes Fund \$20,125.72; Liquor Fund \$122,731.33; Utility Fund \$106,468.05; Storm Sewer Fund \$39,526.74; Recycling Fund \$20.00; PSTF Agency Fund \$4,003.83; TOTAL \$655,289.64; and for approval of payment of claims dated March 13, 2008, and consisting of 28 pages: General Fund \$183,602.53; Communications Fund \$3,934.36; Working Capital Fund \$37,580.00; Art Center Fund \$3,507.23; Golf Dome Fund \$2,370.76; Aquatic Center Fund \$1,796.66; Golf Course Fund \$18,788.95; Ice Arena Fund \$23,009.36; Edinborough/Centennial Lakes Fund \$4,041.42; Liquor Fund \$164,072.55; Utility Fund \$29,009.46; Storm Sewer \$1,399.96; PSTF Agency Fund \$7,136.53; TOTAL \$480,249.77.

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