

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
AUGUST 4, 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 to approve the Council Consent Agenda as revised with the exceptions of Agenda Item IV.C. Imp. No. S-048, Contract Eng No. 08-11 Sidewalk Highway 100 West Frontage Road, and Agenda Item V.G.3. Set Hearing Date (08/19/08), Preliminary Plat, 3510 Galleria, Westin Galleria.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

ICMA "NEXT BIG GIG" VIDEO CONTEST AWARD PRESENTED Communications Director Bennerotte explained the ICMA contest to highlight a career in local government. She reported that first place was awarded to Patrick Smith for his "A Job That Makes A Difference" video. Third place was awarded to Brian Smith for his "Why Local Government Management Is Right For You" video. Both videos were played, and Mayor Hovland presented Patrick Smith with his award.

2008 IMAGES OF EDINA PHOTO CONTEST PRESENTED Communications Coordinator Doll explained the Images of Edina photo contest and named the 200 winners for each category as follows: "Claude Sigmund and Students" by Jolene Goldade, which won the "Learning" Category; "Flight of the Egret" by Denis Plaster, which won the "Living" category; "Family Fun" by Arlene Green, which won the "Raising Families" category; "Ice Cream Store Delight," by Frannie Kuhs, which won the "Doing Business" category; "Spiral at the Park," by Jenna Klein, which was awarded the "Judges Choice" award; "Speed Racer," by Marni Kirchmaier, which was awarded the "Staff Choice" award; and, "Ice Cream Store Delight," by Frannie Kuhs, "Best of Show" award. Mayor Hovland presented the contest winners with their awards.

2008 STATE CHAMPION BOYS TENNIS TEAM COMMENDED Mayor Hovland congratulated the 2008 Edina Boys Tennis Team on their winning season and State Championship. **Member Masica made a motion, seconded by Member Housh adopting Resolution No. 2008-67 commending the 2008 Edina Boys Tennis Team on their 2008 Classic Lake Conference, Section and State Championships.**

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

2008 STATE CHAMPION BOYS SWIMMING & DIVING TEAM COMMENDED Mayor Hovland congratulated the 2008 Edina Boys Swimming & Diving Team on their winning season and State Championship. **Member Masica made a motion, seconded by Member Housh adopting Resolution No. 2008-68 commending the 2008 Edina Boys Swimming & Diving Team on their State Championship.**

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

***APPROVED MINUTES - REGULAR MEETING OF JULY 15, 2008, AND WORK SESSION OF JULY 15, 2008, AND STUDY SESSION OF JULY 22, 2008** Motion made by Member Swenson and seconded by Member Housh to approve the minutes of the Regular Meeting of July 15, 2008, Work Session of July 15, 2008, and Study Session of July 22, 2008.

Motion carried on rollcall vote – five ayes.

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***PUBLIC HEARING CONTINUED TO SEPTEMBER 2, 2008, REVISED FINAL DEVELOPMENT PLAN 7300 BUSH LAKE ROAD, MIKE PALM, RINK PROPERTIES, LLC** Motion made by Member Swenson and seconded by Member Housh to continue action on revised final development plan for 7300 Bush Lake Road, Mike Palm, Rink Properties LLC to September 2, 2008.

Motion carried on rollcall vote – five ayes.

PUBLIC HEARING – APPROVED NEW ON-SALE INTOXICATING LIQUOR LICENSE MCCORMICK & SCHMICK SEAFOOD RESTAURANT Affidavits of Notice presented and ordered placed on file.

Manager Hughes explained that McCormick & Schmick Seafood Restaurant, to be located at 3203 Galleria in the new Westin Hotel, applied for new on-sale intoxicating and Sunday Sale liquor licenses. McCormick & Schmick have filed all necessary paperwork and paid the applicable fees for the licenses. Mr. Hughes said the licenses have been reviewed by the City's Administration, Health, Planning and Police Departments and have been found to be in order. He reported the Police background check indicated no negative findings. It was noted the grand opening was August 21, 2008.

Public Testimony

Edward Munson, representing McCormick & Schmick Seafood Restaurant, introduced himself as well as General Manager of the Edina location Mike Herstine and Regional Manager Kevin Finegold. Mr. Herstine commented on the restaurant's operations, size, and features, noting this restaurant and Westin Hotel would bring approximately 350 jobs to Edina.

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

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

Member Masica made a motion, seconded by Member Swenson, to approve New On-Sale Intoxicating Liquor License and Sunday On-Sale Liquor License to McCormick & Schmick Restaurant Corp dba McCormick & Schmick Seafood Restaurant, for the period beginning August 4, 2008 and ending March 31, 2009.

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

PUBLIC COMMENT

No one appeared.

AWARD OF BID EDINBOROUGH PARK POOL VENTILATION UPGRADE Edinborough Park Assistant Manager Miller reviewed the scope of the upgrade to replace the current 21-year-old system that was in danger of failing with a new ventilation system for the swimming pool at Edinborough Park. Staff had researched this upgrade for over a year and found an energy saving unit. It was staff's recommendation to award the low base bid of \$312,000 to Master Mechanical Incorporated with the understanding that the City would implement a \$25,000 deduct change order to eliminate the 3-year warranty from the equipment manufacturer. Professional engineering fees would be \$18,000 for this project, which brings the total project cost to a total of \$305,000.00. Ms. Miller advised that if this upgrade was approved, the project would be \$28,000 over budget. The budget overage would be covered by the Edinborough/Centennial Lakes Park Trust Fund balance that currently had a balance of just over \$4 million.

Kyle Simonson, Hallberg Engineering, responded to the Council's questions about the operation of the new equipment that used 20 to 30-year old energy recovery technology. He also advised of

other projects that used this system, estimating it would be a 25 to 35-year system for Edina and result in lower electric costs and humidity levels at the pool.

Member Masica requested staff provide the specific amount to be saved on electric costs.

The Council discussed the impact to pool ticket admissions during the two-week shutdown, noting it will be minimal. It was also noted that rebidding this project would result in bids that would be about the same because the higher cost was for a state-of-the-art system.

Following discussion, **Member Masica made a motion, seconded by Member Housh, to award the bid for Edinborough Park Pool ventilation upgrade to the recommended low bidder, Master Mechanical, Inc. at \$312,000.**

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

***AWARD OF BID CONTRACT NO. PW08-6 SEWER TELEVISION INSPECTION SYSTEM**
Motion made by Member Swenson and seconded by Member Housh to award Contract No. PW08-6, Sewer Television Inspection System to the recommended low bidder, Aries Industries, Inc., at \$124,978.

Motion carried on rollcall vote – five ayes.

AWARD OF BID IMP. NO. S-048, CONTRACT ENG NO. 08-11 SIDEWALK HIGHWAY 100 WEST FRONTAGE ROAD Engineer/Public Works Director Wayne Houle reviewed the cost of the bituminous trailway and funding that was within the Capital Improvement Plan. Mr. Houle noted State Aid Funds would partially fund this six-foot wide walkway project. It was anticipated this first phase of construction would be completed in the fall of 2008.

Member Masica made a motion, seconded by Member Housh, to award the Bid for Improvement No. S-048, Contract Eng. No. 08-11, Sidewalk Highway 100 West Frontage Road to the recommended low bidder, DMJ Corporation, at \$145,157.

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

***AWARD OF BID PAMELA PARK SOCCER/FOOTBALL FIELD LIGHTING PROJECT** Motion made by Member Swenson and seconded by Member Housh to award the bid for Pamela Park soccer/football field lighting project to the recommended low bidder, Gunnar Electric Company, Inc., at \$71,900.

Motion carried on rollcall vote – five ayes.

***AWARD OF BID 50TH & FRANCE SURFACE PARKING LOT MILL & OVERLAY** Motion made by Member Swenson and seconded by Member Housh to award the bid for 50th and France surface parking lot mill and overlay to the recommended low bidder, Ace Blacktop Inc., at \$25,200. Motion carried on rollcall vote – five ayes.

RECEIVED HENNEPIN COUNTY 4TH JUDICIAL DISTRICT COURT UPDATE Chief Judge Jim Swenson updated the Council on the court's recent activities and tremendous impact of budget cuts since over 90 percent of their budget was staff. He also advised of innovative initiatives for DWI repeat offenders, mental health court, and modifications to the drug court that have been successful. Chief Judge Swenson answered questions of the Council and complimented the City's Prosecutor, Patrick Leach, for his work on behalf of Edina.

***RESOLUTION NO. 2008-70 APPROVED APPOINTING PRIMARY ELECTION JUDGES** Motion made by Member Swenson and seconded by Member Housh to adopt Resolution No. 2008-70 appointing primary election judges.

Motion carried on rollcall vote – five ayes.

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***SET DATE FOR CANVASS OF GENERAL ELECTION RETURNS ON NOVEMBER 6, 2008**
Motion made by Member Swenson and seconded by Member Housh to set November 6, 2008, for canvass of general election returns.

Motion carried on rollcall vote – five ayes.

APPOINTMENT TO TRANSPORTATION COMMISSION FROM BIKE EDINA TASK FORCE

Mr. Hughes presented the recommendation from the Bike Edina Task Force to appoint Jennifer Janovy to serve on the Transportation Commission. **Member Masica made a motion, seconded by Member Bennett, to appoint Jennifer Janovy to serve on the Transportation Commission.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2008-69 ACCEPTING VARIOUS DONATIONS Mayor Hovland explained that 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. 2008-69 accepting various donations. Member Bennett seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***APPROVAL OF VARIOUS DOCUMENTS – GRANDVIEW SQUARE** Motion made by Member Swenson and seconded by Member Housh to authorize execution of documents submitted by Opus Corporation to complete final documentation of the Grandview Square project.

Motion carried on rollcall vote – five ayes.

***SET HEARING DATE OF AUGUST 19, 2008 FOR PLANNING ITEMS** Motion made by Member Swenson and seconded by Member Housh to set August 19, 2008, as the hearing date for: 1) Final Development Plan, 5415 70th Street West, Murphy Automotive; and, 2) Final Development Plan And Final Rezoning, 4010 65th Street West, Crosstown Medical.

Motion carried on rollcall vote – five ayes.

SET HEARING DATE OF AUGUST 19, 2008 FOR PLANNING ITEM Planning Director Teague explained the Westin Galleria plat would establish lot lines on the existing Westin project for the restaurant and individual condos. **Member Masica made a motion, seconded by Member Housh to set August 19, 2008, as the hearing date for Preliminary Plat, 3510 Galleria, Westin Galleria.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***APPROVED ALLIED WASTE RECYCLING CONTRACT – ONE-YEAR EXTENSION** Motion made by Member Swenson and seconded by Member Housh to approve a one-year extension of the Allied Waste Recycling contract.

Motion carried on rollcall vote – five ayes.

***RESOLUTION NO. 2008-74 APPROVING SAFE & SOBER GRANT** Motion made by Member Swenson and seconded by Member Housh to adopt Resolution No. 2008-74 approving Safe and Sober Grant.

Motion carried on rollcall vote – five ayes.

***APPROVED CONSENT TO ENCROACHMENT – 4924 FRANCE AVENUE SOUTH** Motion made by Member Swenson and seconded by Member Housh to authorize execution of Consent to Encroachment at 4924 France Avenue South.

Motion carried on rollcall vote – five ayes.

APPROVED LETTER OF INTENT / SET HEARING DATE OF AUGUST 19, 2008 FOR 7450 METRO BOULEVARD

Mr. Hughes explained this was a follow up to direction from the July 15, 2008, meeting for staff to commence negotiations with ConAgra with respect to the City's potential acquisition of 7450 Metro Boulevard for a new Public Works facility. He reported that he and Jack Rice held discussions with ConAgra representatives resulting in the non-binding letter of intent before the Council. Mr. Hughes suggested if the Council were amenable that authorization be granted to sign the letter of intent and a public hearing be scheduled on August 19, 2008. The letter of intent would serve as the basis for a formal purchase agreement that the Council would consider at a later date.

Mr. Hughes presented the anticipated schedule that could be followed through preparation and approval of a purchase agreement, calling for a bond sale, selling \$14 million general obligation capital improvement bonds, and closing on the purchase from ConAgra on November 1 or earlier. If approved, the concept was to issue \$14 million in general obligation CIP bonds to finance the acquisition of the property (\$8 million) and fund the initial renovation costs of the ConAgra building. There would be a supplementary issue of lease revenue bonds (similar to those issued for the gyms and City Hall) to fund the balance of the renovation costs that would be issued at a later date when these costs were better defined. Mr. Hughes presented details of the letter of intent and purchase agreement.

The Council discussion included: the length of time available to perform due diligence, the assessed valuation, and difficulty of determining value on the property; potential for new negotiations to be opened should mitigation costs go beyond \$100,000, noting the desire for closing costs to be negotiated in the City's favor, and question whether the environmental assessments had been completed.

Jack Rice, 4801 Hilltop Lane, stated the environmental issues would be the same with any buyer so he believed ConAgra would resolve the issue. He stated real estate transactions were rarely negotiated at the assessed value but the assessed was always considered as one piece of the information in the negotiation. Mr. Rice stated he believed both parties have a unique interest in the property. Attorney Knutson commented on the need to comply with the confidentiality aspects required by the Government Data Practices Act, which may limit the scope of any confidentiality agreement entered into by the City by requiring that certain data be public. The Council indicated their desire to move forward with the letter of intent and to schedule a public hearing.

Member Swenson made a motion, seconded by Member Housh, to authorize execution of the letter of intent as revised, for the acquisition of 7450 Metro Boulevard and setting August 19, 2008, as the hearing date for consideration of this acquisition.

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

APPROVED CONSIDERATION OF A CHANGE TO THE BUILDING ELEVATION FOR THE APARTMENT BUILDING AT 3101 69TH STREET WEST

Mr. Teague explained that Robb Miller, on behalf of TE Miller Development was requesting consideration of an amended building elevation for their recently approved apartment building at the corner of 69th Street and Xerxes. He displayed the exterior elevation of the building as approved, noting that a second stairwell had now been added to the roof to comply with a building code requirement that two entrance/exits must exist on the roof. Additionally, window locations have been slightly altered. Mr. Teague asked whether these changes were significant enough to require an additional public hearing. If so, staff would recommend that the Council set a public hearing for August 19, 2008.

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The City Council confirmed that the building materials must remain the same. Council reviewed Zoning Code language defining review thresholds that can be approved by the City Planner or require another public hearing and review by the Council.

Rob Miller, TE Miller Development, LLC, 7760 France Avenue, applicant, indicated there had been minor adjustments with window placement to coordinate with the unit play layouts, a stairwell access point to the roof was added to meet the Building Code requirement, and windows adjacent to the patio doors were added to allow more light into the units. Mr. Miller stated there were no materials changed and requested approval be made conditioned on the same materials being used as previously approved by the Council. It was clarified that all previous conditions still applied to the project and if the building materials have changed, the project must come back for Council consideration.

Member Masica made a motion, seconded by Member Swenson, to approve an amended building elevation for the apartment building at 3101 69th Street West, as requested.

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

APPROVAL STANDARDS – FINAL DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT

Mr. Teague presented and explained the recommended changes to applications for conditional use permits and final development plans. He explained that applicants would be put on notice that changes to plans would require public hearings before the Planning Commission and City Council. It was noted that such a public hearing requirement before the Planning Commission and City Council could be an eight-week process.

The Council discussion included the need for flexibility in the planning process, while maintaining integrity of the approvals. Staff pointed out the revised applications were an attempt to amplify the notice to applicants that they should have their projects much further along the design development process before gaining approvals without necessitating a second round of hearings and reviews. Council consensus was reached to authorize staff to modify the application forms for final development plans and conditional use permits, as requested, to support a larger degree of scrutiny of plans and changes made between approval and the building permit issuance, and to place the onus on the developer to provide a list of any changes between schematic design and design development, with staff feedback on this process provided to the Council in four to six months.

***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 July 17, 2008, and consisting of 36 pages; General Fund \$286,596.52; Communications Fund \$9,131.51; Working Capital Fund \$98,901.26; Construction Fund \$11,589.51; Art Center Fund \$6,915.36; Golf Dome Fund \$2,520.21; Aquatic Center Fund \$5,606.71; Golf Course Fund \$55,881.63; Ice Arena Fund \$7,897.31; Edinborough/Centennial Lakes Fund \$11,043.13; Liquor Fund \$192,464.93; Utility Fund \$143,105.87; Storm Sewer Fund \$12,412.81; Recycling Fund \$35,380.00; PSTF Agency Fund \$150.93; **TOTAL \$879,597.69**, and for approval of payment of claims dated July 24, 2008, and consisting of 34 pages: General Fund \$391,891.05; CDBG Fund \$23,831.36; Communications Fund \$1,322.95; Working Capital Fund \$699,562.72; Construction Fund \$13,228.43; Art Center Fund \$1,861.70; Golf Dome Fund \$1,845.80; Aquatic Center Fund \$29,109.83; Golf Course Fund \$42,175.11; Ice Arena Fund \$6,087.69; Edinborough/Centennial Lakes Fund \$25,327.11; Liquor Fund \$144,510.23; Utility Fund \$1,152,232.83; Storm Sewer Fund \$395,529.91; PSTF Agency Fund; \$4,021.07; **TOTAL \$2,932,537.79**, and for approval of payment of claims dated July 31, 2008, and consisting of 36 pages: General Fund \$500,244.42; Communications Fund \$12,878.52;

Working Capital Fund \$16,018.73; Art Center Fund \$21,859.11; Golf Dome Fund \$125.83; Aquatic Center Fund \$6,139.41; Golf Course Fund \$33,390.50; Ice Arena Fund \$347.25; Edinborough/Centennial Lakes Fund \$26,811.50; Liquor Fund \$239,050.15; Utility Fund \$81,067.46; Storm Sewer Fund \$5,258.05; PSTF Agency Fund \$2,692.29; TOTAL \$945,883.22.

Motion carried on rollcall vote – five ayes.

ADOPTED RESOLUTION NO. 2008-72 SERIES 2008A SELLING \$13,985,000 G.O. UTILITY REVENUE BONDS AND RESOLUTION NO. 2008-73 SERIES 2008B SELLING \$7,755,000 G.O. PERMANENT IMPROVEMENT REVOLVING FUND BONDS

Finance Director, Wallin introduced Jonathan North, Ehlers & Associates, the City's Bond Counsel. Mr. North explained the impact to the municipal bond market caused by the downturn in the subprime and housing markets. He congratulated Edina for having a firm AAA rating from Moody's and S & P, which positioned the City favorably in the market. He presented the results of the four Series 2008A bids received, advising the winning bid was very favorable and received from Piper Jaffrey for 3.6115 percent. Six bids were received for the Series 2008B bonds, with the winning bid from Piper Jaffrey for 3.74+ percent, again very favorable. Mr. North referenced the summary of updated debt service schedules, updated amortization schedules for the 2008A and 2008B bond series, and 25-year history of the bond buyer.

The Council discussed that S&P had previously rated Edina's financial management system as "good" and had recently upgraded the rating to "strong." Edina was also one of fewer than 20 cities of its size with an AAA bond rating. Because of the lower than expected interest rates received, the special assessment interest rate would be lowered to 5.74 percent. The lower borrowing costs could also impact utility rates.

Member Swenson introduced Resolution No. 2008-72 relating to Series 2008A \$13,985,000 G.O. Utility Revenue Bonds.

Member Bennett seconded the motion.

Roll call vote:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Member Masica introduced Resolution No. 2008-73 relating to Series 2008B \$7,755,000 G.O. Permanent Improvement Revolving Fund Bonds.

Member Housh seconded the motion.

Roll call vote:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

SCHEDULE AUGUST 26, 2008 COMMITTEE OF THE WHOLE EXECUTIVE SESSION Following discussion, Council consensus was reached to schedule a Committee of the Whole Executive Session on August 26, 2008, at 11:00 a.m., in the Community Room for the purpose of evaluating City Manager, Gordon Hughes.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:05 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk