

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

ROLLCALL Answering rollcall were Members Bennett, Masica, and Mayor Hovland. Member Swenson arrived at 8:00 p.m. Absent was Member Housh.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Bennett and seconded by Member Masica approving the Council Consent Agenda as presented with the exceptions of Item IV. A. Award of Bid, Citywide Telephone System; and, V. D. Set Hearing Date (October 21, 2008) Conditional Use Permit, Interlachen Country Club, 6200 Interlachen Boulevard.

Rollcall:

Ayes: Bennett, Masica, Hovland

Motion carried.

FIRE PREVENTION WEEK PROCLAIMED OCTOBER 5-11, 2008 – Mayor Hovland read a proclamation that declared October 5-11, 2008, as Fire Prevention Week in Edina. Fire Marshal Jenson thanked the Council for recognizing this important week, advised of preventative measures that can be taken, and invited all to their Open House on Sunday, October 12, 2008. **Member Masica made a motion adopting a proclamation proclaiming October 5-11, 2008, as Fire Prevention Week in Edina.** Member Bennett seconded the motion.

Ayes: Bennett, Masica, Hovland

Motion carried.

***MINUTES - REGULAR MEETING OF SEPTEMBER 16, 2008, WORK SESSION OF SEPTEMBER 16, 2008, AND STUDY SESSION OF SEPTEMBER 23, 2008 APPROVED** Motion made by Member Bennett and seconded by Member Masica approving the minutes of the Regular Meeting of September 16, 2008, Work Session Meeting of September 16, 2008, and Study Session Meeting of October 23, 2008.

Motion carried on rollcall vote – three ayes.

SPECIAL ASSESSMENT PUBLIC HEARINGS HELD – RESOLUTIONS NO. 2008-96, 2008-98, 2008-99, 2008-100, 2008-101, 2008-102, 2008-103 ADOPTED LEVYING SPECIAL ASSESSMENTS
Affidavits of Notice presented and ordered placed on file.

Concord Avenue Roadway Reconstruction – Imp. No. BA-331

Assistant Engineer Sullivan described the Concord Avenue Roadway Reconstruction Project area, displaying before and after pictures as he described the improvements. He presented the project costs: Street of \$1,131,091.77, Storm Water Fund of \$278,216.36; Water Fund of \$93,605.08; Sanitary Sewer Fund of \$78,877.06, totaling \$1,581,790.27, noting the City Utility Fund Costs were 29 percent of the overall project, or \$453,698.50. The assessment costs were \$248,340.67, equaling \$3,548.57 per Residential Equivalent Unit (REU) for residents along Concord Avenue, \$1,171.03 per 1/3 REU or about \$2,300 per 2/3 REU for residents that abut Concord Avenue from the sideyard. The school district would be assessed \$99,359.93. Staff recommended approval of the final assessment for Improvement No. BA-331 with a term of ten years at 5.9% interest. Council discussed the hardship assessment deferral option for persons 65 years who met the required qualifications and payment options.

Public Testimony

John Feddema, 5717 Concord Avenue, thanked all responsible for installation of the new infrastructure, stating they did a wonderful job and completed the project under budget.

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Marcia Coon, 4813 Wilford Way, asked Council to consider the impact to those in low income housing since rents would be increased to cover the cost of the improvements. Mayor Hovland asked her to submit comments in writing so they can be addressed at a Council Work Session.

Member Masica made a motion that was seconded by Member Bennett to close the public hearing.

Ayes: Bennett, Masica, Hovland
Motion carried.

Member Bennett introduced Resolution No. 2008-96 approving Concord Avenue Roadway Reconstruction – Imp. No. BA-331. Member Masica seconded the motion.

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

Woodhill Neighborhood Street Reconstruction – Imp. No. BA-337

Mr. Houle described the Woodhill Neighborhood Street Reconstruction Project area, displaying before and after pictures as he described the improvement. He presented the project costs: Street of \$1,480,508.45, Storm Water Fund of \$743,198.79; Water Fund of \$123,343.57; Sanitary Sewer Fund of \$55,894.40, totaling \$2,402,945.21, noting the City Utility Fund costs were 43 percent of the overall project, or \$992,436.76. The assessment costs were \$1,480,508.45, equaling \$8,315.59 per Residential Equivalent Unit (REU), \$5,571.45 per 2/3 REU, \$2,744.24 per 1/3 REU, and \$30,767.98 for 3.7 REU for the CPC Church. Staff recommended approval of the final assessment for Improvement No. BA-337 with a term of ten years at 5.9% interest. The Council discussed use of City Utility Funds to install improvements to address Inflow/Infiltration (I/I) that eliminated storm water from getting into the City's sanitary sewer system.

Public Testimony

David Sand, 4713 Wilford Way, speaking on behalf of his late mother's property, complimented staff for their work on this project and asked when the City's General Fund was used for projects.

Member Masica made a motion that was seconded by Member Bennett to close the public hearing.

Ayes: Bennett, Masica, Hovland
Motion carried.

The Council noted a past discussion regarding payment by the General Fund for traffic safety improvements, including speed humps, in northeast Edina. The plan was not implemented, and City policy requires that installation of any traffic calming devices paid for by assessment of benefitted property owners. Staff described the methodology used when calculating assessments based on the City's Assessment Policy and explained Municipal State Aid road classifications.

Member Masica introduced Resolution No. 2008-98 approving Woodhill Neighborhood Street Reconstruction – Imp. No. BA-337. Member Bennett seconded the motion.

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

Southdale First Addition Street Reconstruction – Imp. No. BA-338

Mr. Houle described the Southdale First Addition street Reconstruction Project area, displaying before and after pictures as he described the improvements. He presented the project costs: Street of \$1,334,629.77, Storm Water Fund of \$668,637.95; Water Fund of \$210,269.08; Sanitary Sewer Fund of \$113,310.39, totaling \$2,326,847.19, noting the City Utility Fund Costs were 42 percent of the overall project, or \$922,217.42. The assessment costs were \$1,334,629.77, equaling \$8,465.24 per Residential Equivalent Unit (REU), \$5,671.71 per 2/3 REU, and \$2,793.54 per 1/3 REU. Staff

recommended approval of the final assessment for Improvement No. BA-338 with a term of ten years at 5.9% interest.

Public Testimony

No one appeared to comment.

Member Bennett made a motion that was seconded by Member Masica to close the public hearing.

Ayes: Bennett, Masica, Hovland
Motion carried.

Member Bennett introduced Resolution No. 2008-99 approving Southdale First Addition Street Reconstruction – Imp. No. BA-338. Member Masica seconded the motion.

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

Todd Park Neighborhood Roadway Reconstruction – Imp. No. BA-340

Mr. Sullivan described the Todd Park Neighborhood Roadway Reconstruction Project area, displaying before and after pictures as he described the improvements. He presented the project costs: Street of \$1,056,933.67, Storm Water Fund of \$689,664.37; Water Fund of \$125,052.95; Sanitary Sewer Fund of \$199,848.63, totaling \$2,071,499.62, noting the City Utility Fund costs were 49 percent of the overall project, or \$1,014,565.95. The assessment costs were \$1,056,933.67, equaling \$6,355.20 per Residential Equivalent Unit (REU), and \$2,097.22 per 1/3 REU. The City of Edina would be assessed \$146,169.65 for Todd Park. Staff recommended approval of the final assessment for Improvement No. BA-340 with a term of ten years at 5.9% interest.

Public Testimony

No one appeared to comment.

Member Masica made a motion that was seconded by Member Bennett to close the public hearing.

Ayes: Bennett, Masica, Hovland
Motion carried.

Member Masica introduced Resolution No. 2008-100 Approving Todd Park Neighborhood Roadway Reconstruction – Imp. No. BA-340. Member Bennett seconded the motion.

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

West 70th Street Roadway Improvements – Imp. No. BA-336

Mr. Sullivan described the West 70th Street Roadway Improvement Project area, displaying before and after pictures as he described the improvements. He presented the project costs: Street of \$1,240,059.50; Landscaping of \$303,514.95; Storm Water Fund of \$182,277.83; Water Fund of \$29,297.40, totaling \$1,755,149.68, noting the City Utility Fund costs were 12 percent of the overall project, or \$211,575.23. The MSA assessment costs were \$215,938.53, equaling \$822.72 per Residential Equivalent Unit (REU). The MSA assessment cost was based on the City's adopted MSA special assessment policy for a 20/80 split. Staff recommended approval of the final assessment for Improvement No. BA-336 with a term of ten years at 5.9% interest. In response to Council, Mr. Sullivan explained the methodology used in determining the assessment formula using the gross building area and number of access points onto West 70th Street. The Council discussed how traffic was utilizing the three roundabouts created by this project.

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Public Testimony

No one appeared to comment.

Member Bennett made a motion that was seconded by Member Masica to close the public hearing.

Ayes: Bennett, Masica, Hovland
Motion carried.

Member Masica introduced Resolution No. 2008-101 approving West 70th Street Roadway Improvements – Imp. No. BA-336. Member Bennett seconded the motion.

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

50th & France Business District – Imp. No. M-08

Mr. Houle described the 50th and France Business District project area and presented the project costs: Assessable Cost of \$203,504.44 and 355,953 assessable square feet. The proposed assessment was \$0.5717 per square foot and the payback period was one year. He explained these costs were incurred in 2007 and included brick replacement. Mr. Houle displayed a chart identifying the assessment history since 2002, noting it had increased substantially due to additional maintenance because of aging infrastructure. Staff recommended approval of the final assessment for Improvement No. M-08.

Member Swenson arrived at 8:00 p.m.

Public Testimony

No one appeared to comment.

Member Bennett made a motion that was seconded by Member Swenson to close the public hearing.

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

Member Masica introduced Resolution No. 2008-102 approving 50th and France Business District – Imp. No. M-08. Member Swenson seconded the motion.

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

Grandview Business District – Imp. No. G-08

Mr. Houle described the Grandview Business District project area and presented the project costs: Assessable Cost of \$12,670.05 and 461,701 assessable square feet. The proposed assessment was \$0.0274 per square foot and the payback period was one year. He explained these costs were substantially lower because of on-going maintenance. Mr. Houle displayed a chart identifying the assessment history since 2002 and recommended approval of the final special assessment for Improvement No. G-08.

Public Testimony

No one appeared to comment.

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

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

Member Swenson introduced Resolution No. 2008-103 approving Grandview Business District – Imp. No. G-08. Member Masica seconded the motion.

Rollcall:

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

Mayor Hovland thanked the Engineering Department and all involved with these improvement projects and their work with Edina's residents and business owners.

PUBLIC HEARING HELD – APPEAL OF DANGEROUS DOG DESIGNATION, 6621 GALWAY DRIVE Affidavits of Notice presented and ordered placed on file.

Police Chief Siitari reported the Police Department's response to call on August 4, 2008, at 6621 Galway Drive when an 84 year-old-woman was invited into the house to drop off some mail and sustained multiple bites on the knee, buttocks and underarm from a German Shepherd dog at that address named Frieda. Chief Siitari read the legal definition of provocation under State Statute 347.50, Subd. 8, noting the definition does not differentiate between public and private property, the bites met the legal definition of "substantial bodily harm" and the dog acted "without provocation" since the victim was with the dog's owner and invited into the house. Chief Siitari stated he discussed the incident with the Animal Control Officer and declared Frieda, the German Shepard, to be a Dangerous Dog. The animal owner was notified of this declaration and the owners appealed that decision. It was noted this appeal was originally scheduled for Council consideration on September 16 but continued at the dog owner's request to try and reach an alternate resolution. Chief Siitari stated there was a proposal to move the dog to St. Paul and a request made to declare Frieda to be a Potentially Dangerous Dog. However, given the severity of the injuries inflicted and after consulting with the victim, he determined it would only move the problem elsewhere. Chief Siitari advised that the owner had asked for a second chance but on a prior occasion, May 25, 2007, there had been another bite of a five year-old neighbor boy who was in the Deshler's yard when Frieda charged out of the house and bit him. Chief Siitari stated he did not consider that bite a provocation, so he believed this dog had already received a second chance and was clearly a public safety issue meeting the definition of Dangerous Dog.

Proponent Presentation

Barbara Gislason, Attorney, 3112 Irving Avenue S., Minneapolis, stated she was speaking on behalf of the dog's owner. She distributed pictures to the Council and stated one of the issues was whether Helen Deshler, an 88 year-old who had sustained a head injury, had the mental capacity to invite someone into her house. Ms. Gislason indicated she did not have medical documentation to substantiate that claim, so Mayor Hovland asked her to move to her next point.

Helen Deshler, 6621 Galway Drive, stated her sincere and heartfelt apology to the victim, Connie Strachan for the incident and the hope that they can renew their 50 year friendship.

Ann Deshler, 6621 Galway Drive, part-owner of Frieda, stated their heartfelt sorrow that Ms. Strachan was bitten and for the suffering it had caused. Because they wanted to understand why Frieda acted out of the ordinary that day, they consulted an Animal Behavior Specialist, read materials, and researched alternatives. Ms. Deshler stated they believed Ms. Strachan was bitten as a result of Helen Deshler being home alone, her closeness with Frieda, the location occurring at the door where Helen Deshler had fallen a year before this bite incident. Ms. Deshler advised that Frieda was now muzzled, they use a three-foot leash when she was outside, their back yard was gated, Frieda was not let outdoors when neighbors were out, and they no longer walk Frieda in the neighborhood. In addition, Helen Deshler was no longer allowed to open perimeter doors, Frieda and another German Shepherd dog were both kept in a separate part of the house when Helen was home alone, and the older dog (13 years) was sleeping most of the day. Frieda was put in a kennel and muzzled whenever strangers were in the house except when working with the trainer. Ms. Deshler stated they

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understood the concern it would cause their neighbors to keep Frieda and were willing to let Frieda go to a new home. However, they are concerned about the mental and physical impact on Helen Deshler in losing her only two living friends, Connie Strachan and Frieda. They believed that Frieda, if placed in the right location and with the right training, would not be a danger.

Kevin Deshler, 6621 Galway Drive, stated the things important to his mother Helen, were her 50-year friendship with Connie Strachan, her relationship with Frieda, her independence, mental and physical capacity, and love and care for her family. He explained the tripping accident in May 2007, injured his mother physically and mentally. When that incident occurred, Frieda ran into the yard and bit Charlie Williams, a neighbor boy, and then went back to Helen Deshler's side. He stated that his mother's health continued to decline, including difficulty getting into and out of her home. Mr. Deshler stated his deep sorry and regret about the injury to Connie Strachan and for her pain and suffering. He stated they now realize they should not have left his mother in charge of Frieda and asked the Council to consider a designation of Potentially Dangerous Dog, which would allow them to find a new home for Frieda. Mr. Deshler urged the Council to not sentence Frieda to death.

Connie Wasley, 6700 Galway Drive, commented on her close relationship to the Deshlers and that when they moved into this neighborhood, Helen Deshler told her how friendly the neighbors were. She described her friendly association with Frieda since she was a puppy, sadness at hearing of the bite incidents, and asked the Council to allow Frieda to live with another family.

Maureen Haggerty, owner and head coach of The Canine Coach, described her specialty in working with aggressive dogs, and stated she was hired by the Deshlers after the August 2008 bite incident to evaluate whether Frieda was dangerous. Ms. Haggerty stated that given what occurred, it was obvious Frieda was dangerous under certain circumstances. However, whether Frieda continued to be dangerous was determined by who would be responsible for Frieda and what changes were made in Frieda's management. Ms. Haggerty described Frieda as being an anxious, fearful, and timid dog but obedient when given direction by a strong person. She stated that Frieda would be dangerous if supervised by someone not 100 percent in control and she would never suggest anyone with physical limitations or over the age of 65 in control of Frieda. Ms. Haggerty indicated she would consider Frieda safe in her neighborhood of Mendota Heights and under her supervision. She stated Frieda's trigger of aggression was sudden environmental contrasts, which would startle her to the point she would bark. She added she believed Helen Deshler was not aware of the triggers or how to respond. Ms. Haggerty stated she had worked with the family who volunteered to take Frieda and found they have a lot of experience with dogs. Ms. Haggerty stated she had no vested interest in Frieda other than to say that in her professional opinion this dog would not bite someone again if managed as she described. A video was played showing Ms. Haggerty working with Frieda on behavioral issues.

Evonne Jonk and Steve Brielmaier, 1941 Selby Avenue, St. Paul, introduced themselves as the family interested in adopting Frieda. Ms. Jonk stated their own dogs were trained and they as dog owners, have also been trained by Ms. Haggerty in how to keep dogs under control. She stated their 14 year old daughter had already said Frieda could stay in her room. Mr. Brielmaier stated they were not taking this lightly and understood Frieda was a large dog with a history. They have created dog-free areas, have a privacy fence, and would use crates inside the house to separate the dog from the family, if necessary. He stated their children were excited to have Frieda live with their family.

Ms. Gislason stated the question was whether or not Frieda, without provocation, was involved in the incident. She stated her belief that Connie Strachan did not intend to provoke Frieda but had never before been inside the house. She noted the Statute may make no differentiation between public and private property but there was a difference for Frieda, the house being her territory plus there was the factor of a stranger who was carrying mail. Ms. Gislason stated her belief that all dog owners know of the risk to mail carriers unannounced entering the door and her opinion that Frieda did not know the difference between Ms. Strachan and a mail carrier. She stated she could not know the combination of factors that went through Frieda's mind but to say she acted without provocation was not reasonable. She stated that Connie Strachan knew Frieda was in the house, and a reasonable adult

would have taken into consideration before opening a door knowing the German Shepherd was always sleeping during the day and highly protective. She stated that the life of Frieda, a family dog that was loved, depended on the determination of the Council.

Mayor Hovland clarified that the Dangerous Dog designation does not determine whether Frieda would live or die but means the dog had to be kept muzzled when outside and insured in the event of a biting incident. Ms. Gislason stated that was correct as well as the use of a three-foot leash, but it can be assumed that the adoptive family was willing to take Frieda if she was declared a Potentially Dangerous Dog but not willing to assume ownership if declared a Dangerous Dog.

Public Testimony

Jeff Oistad, Meshbesh & Spence Law Firm, 1616 Park Avenue South, Minneapolis, representing Connie Strachan, pointed out that Deshler's expert had indicated that under certain circumstances Frieda was a dangerous dog. He stated that everyone agreed substantial bodily harm was sustained, so the only consideration was whether the actions of Ms. Strachan provoked the dog. Mr. Oistad stated a lot of testimony had been given about saving Frieda, and he understood it was an emotional issue, noting Ms. Strachan also missed her friendship with Helen Deshler. Mr. Oistad stated that to suggest Ms. Strachan's actions were what provoked Frieda was a mischaracterization. He relayed the events on the day of the attack that resulted in Ms. Strachan visiting Helen Deshler on her front steps, Ms. Deshler dropping her mail, and asking Ms. Strachan to pick it up and place it where she was told to set it in the house. In the midst of that, Connie Strachan was viciously attacked by Frieda. He stated in his opinion there was no provocation, pointing out that while Ms. Strachan knew Deshlers had dogs she had never been in the house before. Mr. Oistad stated Ms. Strachan's primary concern was the dog biting again so despite her long friendship with Helen Deshler she was asking the Council to uphold the Dangerous Dog declaration by the Chief of Police.

Morley Werness, 13213 James Avenue South, Burnsville, daughter of Ms. Strachan, relayed the events of the morning before the attack during which her mother had cancer surgery and that she was then called by her mother in the afternoon describing the dog bites after Ms. Deshler had dropped the mail and asked her mother to pick it up and place it on the ledge. She advised that every doctor and nurse they have seen have indicated these were dangerous dogs and must be put down. She stated her mother's main concern was the children in this neighborhood because they cannot defend themselves against that dog. She stated there was no guarantee that this dog, even if trained, won't kill someone next time.

Doug Williams, 6701 Galway Drive, stated it was terribly uncomfortable for him to speak about this issue. He relayed the events of May 25, 2007, when his five-year-old son, in an unprovoked attack, was bitten by Frieda and his impression that the Deshlers were uncaring. At that time, he had urged Kevin Deshler to remove the dogs from the neighborhood before something tragic occurred. Mr. Williams later found out that Jeff Carpenter of 6705 Galway Drive, Al Peterson of 6616 Galway Drive, Steve Niren of 6701 Limerick Lane, Terry Wersell and an unknown snow removal person were all bite victims of Amber, the older dog, but no police reports had been filed at the time of those bites. Mr. Williams stated that rather than the "minor abrasion and bruising" as indicated in the Deshler report, his son sustained a two-inch scar on his lower back, plus two puncture wounds on his left leg, and would have these scars for the rest of his life. Mr. Williams stated he previously had not sued the Deshlers for the incident involving his son; however, with the current events he planned to pursue this option to the fullest. He relayed the events surrounding his decision to put down his ten-year-old dog that had acted aggressively and bitten one of his children, stating that was how responsible pet owners behaved. He questioned why, just minutes after the attack, Ms. Deshler called Ms. Strachan and asked her to tell the authorities she was attacked by other neighborhood dogs farther down the street because Ms. Deshler was afraid her dogs would be taken away, but showed no immediate concern for Ms. Strachan's injuries. Mr. Williams suggested that Ms. Deshler did not accidentally fall in the doorway but, rather, her dangerous dog knocked her down while trying to get to Mr. William's son and Mr. Peterson's dog. Mr. Williams stated that he believed Mr. Peterson was the only other adult witness to that attack. He stated another example of the lack of concern about the

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neighborhood occurred on August 10, 2008, when he received a telephone call alerting him that Shannon Deshler was allowing his seven-year-old daughter to pet Frieda, just three days after he had made himself perfectly clear that he feared for his family and their safety. Mr. Williams stated that when he questioned what she was doing, Shannon Deshler responded that his daughter had asked to pet the dog and he was overreacting. He stated for over eight years these dogs have been a menace to their neighborhood, and after each attack there had only been a half-hearted apology and promise it would not happen again. Mr. Williams advised of the positive response to the neighborhood petition supporting the Dangerous Dog declaration and disbelief that the dogs could be successfully trained or reprogrammed. He stated his hope the Council would uphold the decision of the Police Chief that Frieda was a Dangerous Dog.

An unidentified audience member stated she would like to speak to the first bite incident, saying she had also witnessed the bite of Mr. Williams' son. Mayor Hovland stated the decision would be made based on the second incident so this testimony was unnecessary.

Spencer Werness, 13213 James Avenue South, Burnsville, stated he was Connie Strachan's son-in-law, noting she loved dogs and been a dog owner for over 50 years, owning multiple dogs. He suggested that his mother-in-law would not have been attacked if the Deshlers had been responsible dog owners who had the common sense to do the right thing for the safety of the neighborhood and surrounding area. Mr. Werness indicated that since this brutal attack without provocation, he and his wife have witnessed two dog attack stories on the local news. In those cases, both dogs had never bitten before but the action of the dog's owners was swift and immediate; they put the dogs down to protect themselves and neighbors from it ever happening again. Mr. Werness suggested that responsible people take responsible action when their dogs bite someone unprovoked; they do not defend the animal as in the case of the Deshlers. He stated the Deshler's position that his mother-in-law got attacked because she was on their property, or in their home, or somehow a stranger to their dogs, shows a complete lack of concern for their neighbor and common sense. Mr. Werness stated his mother-in-law had lived next door to the Deshlers for 50 years and visited Ms. Deshler outside of her home on a regular basis. He suggested it was apparent the Deshlers cannot predict when or who their dogs may attack yet they choose to defend their dogs, who are not typical family pets, and place the blame on the dog's victims. He stated the Council had the opportunity to serve justice to the victims on record, as well as those who did not submit a report, before a 911 call was received that a child had been killed. He asked the Council to put an end to this madness on Galway Drive and restore peace and safety to the Galway neighborhood and surrounding area.

Jan Holman, 6620 Galway Drive, stated she had lived there for six years and not heard of the incidents being mentioned tonight. She stated her daughter, Chandler, witnessed the first bite and wanted to give testimony because she had a good explanation.

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

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

Following the public testimony, the Council discussed the consequences of the Dangerous Dog designation should the Council uphold that declaration. It was further clarified that after six months the dog can be reevaluated. It was noted the Statutes did not require the dog to be put down; that was a choice left to the owners. The Council discussed that while they had empathy for all involved, that after consideration of all the information provided, photographs, testimony, and statutory research, the Council found no reason to overturn the Police Chief's declaration of Dangerous Dog.

Member Masica introduced Resolution No. 2008-93 denying the appeal and affirming the dangerous dog declaration of the German Shepherd, Frieda, at 6621 Galway Drive. Member Swenson seconded the motion.

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

PUBLIC COMMENT

Alice Hulbert, 7221 Tara Road, Edina, reported on the activity of the Bike Edina Task Force to address early planning for the Three Rivers Park trail and requested the Council assign an Engineering representative to attend an upcoming meeting. Following discussion, the Council requested Park Director Keprios contact Three Rivers Park District to determine when they could meet without impacting current project work.

Ted Volk, 6201 Belmore Lane, requested the Council resolve issues with the broadcast and webcast of Council meetings. He noted when the building was constructed it was promised each meeting would be broadcast live, which was still not being done. He stated another issue was that the broadcast viewing audience does not always see what was displayed on the screen.

AWARD OF BID – CITYWIDE TELEPHONE SYSTEM Mr. Hughes advised that the low bid for this purchase was \$201,227.94, slightly over the budgeted amount of \$200,000. City Consultant Daniels, Ellert and Associates, described the voice over internet telephone system, noting the toll fraud system would prevent someone from gaining access externally to the City's phone system and making unauthorized long distance and/or international calls. Assistant City Manager Worthington explained the abbreviated timeline addressed the need to have the phone system installed and running 24/7, with no downtime. The CIP funds were available through the end of the year, and staff would like to accomplish this prior to the higher call time experienced during the spring months. She explained the new system would use the City's existing fibernet and allow the City to eliminate all toll and land based lines.

The Council discussed the following issues: the need to assure telephone service during power outages, which would occur since the City Hall had a natural gas powered generator; the \$200,000 phone system would be installed according to the City's schedule; and the purpose of paying an additional \$10,000, in consulting fees to oversee installation of the system. Assistant City Manager Worthington explained it was recommended by the consultant to set aside an additional \$10,000 to assist with installation. The \$10,000 was not part of the contract being approved this evening and would not be spent without prior Council authorization. **Member Swenson made a motion to award the bid for the Citywide Telephone System to the recommended low bidder Matrix at \$201,227.92.** Mayor Hovland seconded the motion. The Council further discussed the purpose of the additional \$10,000 to expedite installation. Consultant Daniels stated Matrix had been the City's service provider for many years, was familiar with the City's system and upgrades, and could proceed to install in a timely fashion without input from Ellert & Associates. Mr. Sisterman stated City Hall was designed to assure this type of technology could be used, if desired. He explained the annual maintenance service contract of \$15,500/year would include the maintenance for software and hardware. Cost savings would be realized because each satellite site (other than City Hall) would need only one external phone line instead of the six to nine phone lines currently used. Additional savings would be realized through voicemail and on T1 charges.

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

***AWARD OF BID – CITY HALL CONTROL ROOM HVAC** Motion made by Member Bennett and seconded by Member Masica awarding contract for City Hall Control Room HVAC to the recommended low bidder, Corporate Mechanical at \$14,865.

Motion carried on rollcall vote – three ayes.

Member Swenson left the Chambers at 9:47 p.m.

RESOLUTION NO. 2008-95 APPROVED 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**

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Bennett introduced Resolution No. 2008-95 accepting various donations. Member Masica seconded the motion.

Rollcall:

Ayes: Bennett, Masica, Hovland (Swenson was not present)

Motion carried.

SECOND READING GRANTED: ORDINANCE NO. 2008-8 AMENDING EDINA CITY CODE CONCERNING GAMBLING Mr. Hughes presented the ordinance amendment noting no changes had been made since First Reading had been granted. City Attorney Knutson stated he was comfortable with the Council granting second reading because the City's ordinance remains very restrictive.

Member Swenson returned to the Chambers at 9:50 p.m.

Member Swenson made a motion to grant second reading to Ordinance No. 2008-8 amending Edina City Code concerning gambling. Member Masica seconded the motion.

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2008-97 APPROVED APPOINTING ELECTION JUDGES FOR NOVEMBER 4, 2008, GENERAL ELECTION City Clerk Mangen reported there were 14 to 16 judges in each voting precinct, including 48 student judges who would receive training. **Member Swenson introduced Resolution No. 2008-97 approving appointing Election Judges for November 4, 2008 General Election.** Member Masica seconded the motion.

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

SET HEARING DATE (OCTOBER 21, 2008) – CONDITIONAL USE PERMIT, INTERLACHEN COUNTRY CLUB, 6200 INTERLACHEN BOULEVARD AND CONTINUE UNTIL NOVEMBER 3, 2008, THE BELMORE LANE VACATION HEARING The Council discussed the request of a neighbor to delay the public hearing to allow additional time to address fencing issues. City Manager Hughes advised the determination would remain within the 120 day period, so this delay could be considered. Planner Teague stated he was unable to reach the Country Club about this request to postpone the hearing. **Member Swenson made a motion to set hearing date (November 3, 2008) Conditional Use Permit, Interlachen Country Club, 6200 Interlachen Boulevard.** Member Bennett seconded the motion.

Ayes: Bennett, Masica, Swenson, Hovland

Motion carried.

City Manager Hughes noted the vacation hearing was set for October 21, 2008, and recommended that hearing also be postponed. **Member Swenson made a motion to continue the hearing date for the vacation of easement from October 21, 2008, to November 3, 2008, Interlachen Country Club, 6200 Interlachen Boulevard.** Member Bennett seconded the motion.

Ayes: Bennett, 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 18, 2008, and consisting of 36 pages; General Fund \$328,444.81; Communications Fund \$7,287.73; Working Capital Fund \$14,229.38; Art Center Fund \$13,721.53; Golf Dome Fund \$53.24; Aquatic Center Fund \$883.40; Golf Course Fund \$47,117.78; Ice Arena Fund \$18,801.03; Edinborough/Centennial Lakes Fund \$8,971.25; Liquor Fund \$142,607.69; Utility Fund \$87,841.75; Storm Sewer Fund \$3,041.18; Recycling Fund \$35,380.00; PSTF Agency Fund \$4,673.23; **TOTAL \$713,054.00** and for approval of payment of claims dated September 25, 2008, and consisting of 27 pages: General Fund \$287,761.62;

Communications Fund \$5,448.30; Working Capital Fund \$807,873.29; Construction Fund \$125,988.11; Art Center Fund \$3,550.48; Golf Dome Fund \$188.13; Aquatic Center Fund \$11,307.78; Golf Course Fund \$14,128.04; Ice Arena Fund \$6,146.46; Edinborough/Centennial Lakes Fund \$16,681.33; Liquor Fund \$161,212.73; Utility Fund \$1,213,102.88; Storm Sewer Fund \$76,687.37; PSTF Agency Fund \$1,966.22; TOTAL \$2,732,042.74 and for approval of payment of claims dated October 2, 2008, and consisting of 52 pages; General Fund \$153,786.58; Communications Fund \$14,666.86; Working Capital Fund \$296,262.56; Art Center Fund \$17,751.95; Golf Dome Fund \$1,401.04; Aquatic Center Fund \$152.14; Golf Course Fund \$17,132.23; Ice Arena Fund \$6,214.24; Edinborough/Centennial Lakes Fund \$94,815.99; Liquor Fund \$150,213.10; Utility Fund \$79,446.56; Storm Sewer Fund \$133,342.12; PSTF Agency Fund \$803.98; TOTAL \$965,989.35 and Credit Card Transactions dated July 26, 2008 to August 25, 2008 TOTAL \$6,571.83.

Motion carried on rollcall vote – three ayes.

***SET DATE FOR BUDGET HEARING OCTOBER 21, 2008 AT 5:00 P.M.** Motion made by Member Bennett and seconded by Member Masica to set budget hearing date, October 21, 2008, at 5:00 p.m.

Motion carried on rollcall vote – three ayes.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:26 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk