

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 18, 2008
7:10 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 Masica approving the Council Consent Agenda with the exceptions of Item IV.D., Resolution No. 2008-119, MnDOT Safe Routes to School.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

TIGER CUB DEN #5 – CUB SCOUT PACK 123 – GOVERNANCE BADGE RECOGNIZED

Mayor Hovland recognized Jennifer Livingston, Scout Leader of Tiger Cub Den #5, and Cub Scout Pack 123 who were in attendance to work on their Governance Badge. Jennifer Livingston, 4445 Parkside Lane, introduced the Tiger Cub Scouts from Highlands Elementary.

POLICE DEPARTMENT COMMENDATION AWARDS PRESENTED

Police Chief Siitari described two life-saving incidents and presented Awards of Commendation to Police Officers Brian Hubbard, Jim Rygg, Phil Larsen, Joy Fragodt, Eric Carlson, Nicole Pesek and Lisa Kapala. The Council and audience showed their appreciation with a round of applause.

REQUEST TO REVISE AGENDA APPROVED

Mayor Hovland requested, and Council agreed, to next consider Resolution No. 2008-117, Accepting Various Donations.

RESOLUTION NO. 2008-117 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 Housh introduced Resolution No. 2008-117 Accepting Various Donations including the Centerpoint Energy Community Partnership Grant.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

CENTERPOINT ENERGY COMMUNITY PARTNERSHIP GRANT PRESENTED

John Heer, Director of Gas Control and Production at Centerpoint Energy and resident at 4222 Scott Terrace, presented the Edina Police Department with a Community Grant of \$2,500 for the purchase of hostage crisis rescue telephones. Police Chief Siitari thanked Centerpoint Energy for this grant and advised of the need for a rescue telephone.

PROCLAMATION APPROVED – MINNESOTA CHEMICAL HEALTH WEEK Member Masica made a motion, seconded by Member Swenson, to approve a Proclamation declaring November 17 – 23, 2008, as Minnesota Chemical Health Week in Edina.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Mayor Hovland read in full and presented the proclamation to Kathy Iverson who thanked the City for this recognition and advised of activities that would take place.

***MINUTES - REGULAR MEETING OF NOVEMBER 3, 2008, WORK SESSION OF NOVEMBER 3, 2008, AND CANVASS OF ELECTION RETURNS OF NOVEMBER 6, 2008, APPROVED**

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Motion made by Member Swenson and seconded by Member Masica approving the minutes of the Regular Meeting of November 3, 2008, Work Session of November 3, 2008, and Canvass of Election Returns of November 6, 2008.

Motion carried on rollcall vote – five ayes.

PUBLIC HEARING HELD ON APPEAL OF VARIANCE DENIAL – SOUTHDALE MEDICAL CENTER – RESOLUTION NO. 2008-116 APPROVED Affidavits of Notice presented and ordered placed on file.

Associate Planner Presentation

Associate Planner Repya advised that the owner of Southdale Medical Center at 6525 and 6545 France Avenue had appealed the October 16, 2008, Zoning Board of Appeals decision to deny a variance for additional wall signage for tenants at the Southdale Medical Building. She explained that the original variance requested 17 additional signs, and prior to the vote by the Zoning Board of Appeals, it was suggested by a Board Member that they consider allowing the Urgent Care sign since it would relieve a hardship. The proponent requested a continuance to complete an amended request. She reported Southdale Medical Center then presented an amended request for four additional signs. Ms. Repya displayed a picture depicting the signs requested. She advised staff found that while the number of signs had been reduced, the considerations had not changed from the original request and again recommended denial. The Zoning Board of Appeals found that only the Urgent Care sign met the test for variance consideration and voted to approve a variance for the Urgent Care sign but to deny the variance request for the other three clinic signs. Ms. Repya said that decision was the subject of Southdale Medical Center's appeal.

In response to Council's questions, Ms. Repya reviewed that in 2004, Southdale Medical Center requested sign variances for way-finding signage plus variances for increased address numerals. At that time, the Zoning Board of Appeals suggested the Code be looked at to allow larger address numerals rather than requiring a variance.

Appellant Presentation

Bruce Carlson, representing Southdale Medical Center, presented the proponent's rationale for their appeal. He stated the building addition accommodated several critical care facilities. Mr. Carlson said two of the three signs being requested were essentially replacement for two signs taken down when the addition was constructed. He displayed pictures of the Southdale Medical Center before the addition depicting the InterBank and MedSearch Corp. signs, and the post-expansion façade, noting the two retail tenants had relocated their signs near the entrance of the building. Fairview Crosstown Clinic has relocated to the new building. Mr. Carlson stated they recognize the Sign Ordinance, as written, related to accessory retail uses in the building, thus the need for a variance. He stated he had prepared possible findings to support a hardship and presented a proposal to add two signs (Minnesota Oncology and Suburban Imaging) based on the rationale that these clinics would be operating during non-business hours caring for sick and injured patients, some aging, who would need signage to find the correct offices. Mr. Carlson referenced the Sign Ordinance and requirements for exterior signage, suggesting the Council consider a more comprehensive handling of medical clinics. He said that when the tenants had moved into the building signage had been referenced in their leases, albeit subject to City approval. Mr. Carlson stated that based on their past sign request experience, Southdale Medical thought their sign requests were unreasonable and could be accomplished. Mr. Carlson referenced the 2003 staff report that concluded: "signage needs in the Regional Medical District (RMD) are often unique, and not fully addressed in the City's sign code, and are best reviewed on an individual basis through the variance process."

Mr. Jim Tierney, CEO of Suburban Imaging, 6015 N. Normandale Drive, Bloomington, stated the first decision a patient needed to make when coming to the clinic was which ramp/parking lot to use. Then the patient entered the building and looked for the suite number. He suggested that in many cases it was difficult to tell where the service provider was located within the building, and

their sign request was to assure that most of the time patients would park close to the appropriate building, allowing them to more quickly find their service provider. Mr. Tierney stated Suburban Imaging saw between 75 and 100 patients per day, wanted a professional-looking building of tasteful design, and believed access through simple exterior signs was at least as important as design.

Dr. Owen O'Neil, 4913 Rolling Green Parkway, stated he was an orthopedic surgeon and specialist. He suggested there were unique considerations that made it imperative to have signage, advising that many of his orthopedic patients have the need for external assistance (walker/cane) making it very important that they can easily identify the correct building and access. He displayed an image of the building and explained his practice moved to the first floor of Southdale Medical Center from Centennial Lakes to provide access to their patients without the need for an elevator. Dr. O'Neil described the route patients need to use through the 6525 building even though their facility was in the 6545 building. He read a petition signed by 57 of his patients, who signed it since November 14, 2008, describing their difficulty in finding his office and requesting the City allow the requested signage. Dr. O'Neil stated their sign needed to indicate "Orthopedic Urgent Care" to differentiate it from the other Urgent Care.

Dr. Eric Weinshel, 5405 Bonnie Point Road, Minnetonka, stated he was a physician with Minnesota Oncology, and had officed on France Avenue for 15 years. They just moved to the new space and his office hours were Monday through Friday, 8 a.m. to 8 p.m. Dr. Weinshel stated they saw about 120 patients per day who were quite ill with cancer and blood disease, the vast majority being elderly and wheelchair bound or using a walker. He stated it was not acceptable for his patients to be walking around the "maze of hallways" trying to find his office.

Chuck Greenburg, representing the owner of the building, stated their company owned all of the buildings on the Southdale Medical Center campus with the exception of the hospital. They believed they own the premier medical complex in the west and southwest metropolitan area and a "crown jewel" of greater Edina. Mr. Greenburg suggested the hardship was not from a business standpoint but rather to help users of their facility who were ill patients. It was noted there are about 70 rental offices in the building under discussion.

Upon request of the Council, Mr. Carlson used a diagram to point out and describe the four building entrance points, all being handicapped accessible, in relation to the ground level parking areas. Mr. Carlson outlined the hours the entrances were open to provide access to the Orthopedic Urgent Care facility. He stated if patients knew the location of their service provider, they typically park as close to that entrance as possible. Mr. Carlson advised there had not been a problem with availability of parking since the building was opened. It was noted that there were two building address numbers because the Southdale Medical Center sat upon two land parcels. Mr. Carlson stated if Southdale Medical Center had 15-17 retail tenants on the first floor of the building, each retail tenant would be permitted to have a sign under the current Zoning Code.

The Council discussion included: the benefit of using directional signage, placed on a standard, especially during evening and weekend hours; the option that patients could be informed of directions to the office and which building entrance to use when an appointment was made; or perhaps a postcard/map could be mailed to the patient prior to the appointment date; and it was difficult to find a hardship because patients can be dropped off at the door needed.

Mr. Carlson stated these medical practices provide an expanded level of care from others in the building and draw patients from regional areas who were not familiar with the facility. Also, the Code does not contain a definition of "retail", and he believed it would make more sense to consider medical services in that way, noting the doctors felt a first floor location was important for the type of patients they serve.

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The Council indicated they did not view any of the tenants in this building to be retailers and acknowledged the need for way-finding signage, which had to be balanced with Code requirements. City Manager Hughes advised that the signage requirements for the RMD were similar to that of the Office District, which may have multi tenants with a similar demand for signage. Planner Director Teague stated Edina's code was consistent with other cities in not allowing multiple tenants to each have wall signage where there was not a direct storefront. In terms of retail space, they could not put a sign on the side of the building unless the retailer had a storefront. Mr. Teague clarified that retail space in this building could constitute no more than ten percent of the building's total square footage since the facility was located in the RMD.

The Council discussed that medical and retail have successfully coexisted in the Southdale area for a number of years; whether the Planning Commission should be asked to review the Code as it related to signage in the RMD; whether variances were the preferred method to deal with sign requests; Southdale Medical Center's 2003 request for larger building numbers (rather than clinic names) had been allowed to reduce confusion in a congested location; proponents had been informed in 2003 that the building identification sign variances maxed out allowable signage for the site; receiving a variance was a privilege; and, the precedence setting impact of this request for any office building in Edina to allow wall signage.

Mr. Carlson stated it had been Southdale Medical Center's understanding that they had maxed out allowable signage only for that building addition, not the entire site, and he would hesitate to say this complex had stopped growing, noting the floor area ratio on this site would allow the addition of 100,000 sq. ft. of building space and there may be the need for additional signage at that time. Mr. Carlson noted that ten percent of the space in this building could be used for retail, each retail use having a sign. He restated that the building was almost 300,000 sq. ft., and they hope to replace the two signs that were taken down for InterBank and MedSearch Corp. and to add an Orthopedic Urgent Care sign.

Mayor Hovland opened the public hearing at 8:32 p.m.

Public Comment

No one appeared to comment.

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

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

The Council discussed that way-finding signage could resolve this issue; there was not a clear and consistent hardship present; patients visiting all providers other than the Orthopedic Urgent Care have probably been to the facility previously or been given directions; the entrances needed at night were the most visible from the street, convenient to parking with a canopy at one and turnaround at the other; the site was well designed; and the danger of precedent setting was illustrated by the applicant's citing a decision made in the past.

Member Swenson introduced Resolution No. 2008-116, upholding the October 16, 2008, decision of the Zoning Board of Appeals and denying the requested signs. Member Masica seconded the motion.

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

The Council discussed whether to ask the Planning Commission to review the issue of signage in the RMD and whether the Zoning Ordinance language was appropriate. It was suggested that a more comprehensive review of the Sign Ordinance was needed to address lighting and signage in

other zoning districts. Mr. Hughes recommended this fact finding and comparative study be conducted by the planning staff. The Council discussed timing for consideration.

Member Housh made a motion, seconded by Member Swenson, to direct staff to review the signage requirements of the Regional Medical District and make a recommendation within 60 days and to conduct a more comprehensive review of the Sign Ordinance post Comprehensive Plan.

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

PUBLIC HEARING HELD ON PRELIMINARY AND FINAL PLAT – GALLERIA SHOPPING CENTER – RESOLUTION NO. 2008-115 TABLED Affidavits of Notice presented and ordered placed on file.

Planning Director Teague presented the replat application to create separate lots for the Crate & Barrel and Gabbert's stores and their associated parking areas. He advised there would be no building additions to accommodate this request. The Planning Commission reviewed this application and unanimously recommended approval of the Galleria Registered Land Survey date stamped September 26, 2008.

In response to Council's concern about the impact on parking lots when ownership changed, Mr. Teague explained that the shared parking easement covered all parcels in the Galleria. It was noted that a parking study was completed when the Crave Restaurant was considering a small addition and it revealed they are over-parked by 50-60 spaces because of the shared easement over the site. Mr. Teague stated this replat would not impact the parking arrangement described but allows Crate & Barrel to have their own parking rather than a lease basis. He advised that the replat would also have no impact on development rights because it was all zoned the same and does not recognize the interior lot lines.

The Council discussed the rationale to divide the parking areas and expressed concern the parking spaces could become proprietary to a business. It was explained that the Southdale campus had the same situation with cross-parking easement to prove parking sufficiency. City Manager Hughes stated this could be tabled for two weeks so the proponent could be present to state the logic for the request. The Council asked whether the ownership of the parking would remain at the Galleria or be changed. Mr. Hughes stated a master parking variance covered the Galleria, so it may cause a conflict if the parking was split for private ownership.

Mayor Hovland opened the public hearing at 8:58 p.m.

Public Comment

No one appeared to comment.

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

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

Member Swenson made a motion, seconded by Member Housh, to table consideration of Resolution No. 2008-115, regarding the Preliminary and Final Plat at the Galleria Shopping Center, 3501 Galleria, to the December 2, 2008, meeting.

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

PUBLIC HEARING HELD ON ISSUANCE OF LIQUOR LICENSE – ROMANO'S MACARONI GRILL, 7651 FRANCE AVENUE – APPROVED Affidavits of Notice presented and ordered placed on file.

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City Manager Hughes advised that Romano's Macaroni Grill, had been operating on France Avenue since 1998 and would change ownership the end of November. Edina's code required that the new owners go through the licensing process. He advised that Mac Acquisition LLC dba Romano's Macaroni Grill had applied for new on-sale intoxicating and Sunday Sale liquor licenses, filed the necessary paperwork, and paid the applicable fees. Edina Code required a public hearing before the issuance of a new liquor license. Mr. Hughes said the Police Department had completed the necessary background check with no negative findings, and all appropriate departments have completed their review.

Mayor Hovland opened the public hearing at 9:01 p.m.

Public Comment

No one appeared to comment.

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 Mac Acquisition LLC dba Romano's Macaroni Grill, 7651 France Avenue South, for the period beginning November 20, 2008, and ending March 31, 2009.

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

PUBLIC COMMENT

No one appeared to comment.

***RESOLUTION NO. 2008-118 APPROVED AUTHORIZING SPECIAL ASSESSMENT DEFERRALS** Motion made by Member Swenson and seconded by Member Masica to approve Resolution No. 2008-118 Approving Deferral of Special Assessments.

Motion carried on rollcall vote – five ayes.

***TRAFFIC SAFETY REPORT OF NOVEMBER 5, 2008 ACCEPTED** Motion made by Member Swenson and seconded by Member Masica to accept the November 5, 2008 Traffic Safety Report.

Motion carried on rollcall vote – five ayes.

RESOLUTION NO. 2008-119 APPROVED MnDOT SAFE ROUTES TO SCHOOLS Mr. Hughes explained this MnDOT Agreement was being amended to provide use of in-house staff to perform some of the work on the project instead of going out for a proposal. He noted a speed zone study was required to lower speeds by schools, which would proceed as soon as possible, and the grant would fully cover the costs of the study. **Member Bennett introduced Resolution No. 2008-119, Accepting the MnDOT Grant Agreement 93737.** Member Masica seconded the motion.

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

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Swenson and seconded by Member Masica approving payment of the following claims as shown in detail on the Check Register dated November 6, 2008, and consisting of 26 pages; General Fund \$142,198.49; Communications Fund \$1,079.54; Working Capital Fund \$14,595.88; Art Center Fund \$3,075.04; Golf Dome Fund \$2,070.74; Aquatic Center Fund \$322.53; Golf Course Fund

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\$12,915.57; Ice Arena Fund \$30,916.20; Edinborough/Centennial Lakes Fund \$15,446.46; Liquor Fund \$130,628.94; Utility Fund \$8,833.74; PSTF Agency Fund \$4,277.55; TOTAL \$366,360.68 and for approval of payment of claims dated November 13, 2008, and consisting of 31 pages: General Fund \$226,456.83; Communications Fund \$1,083.42; Working Capital Fund \$33,975.37; Art Center Fund \$3,672.77; Golf Dome Fund \$26.60; Aquatic Center Fund \$627.50; Golf Course Fund \$19,341.91; Ice Arena Fund \$21,687.62; Edinborough/Centennial Lakes Fund \$2,912.99; Liquor Fund \$258,432.53; Utility Fund \$370,961.73; Storm Sewer Fund \$488.18; PSTF Agency Fund \$3,961.67; TOTAL \$943,629.12; and Credit Card Transactions dated September 26, 2008, to October 28, 2008; TOTAL \$6,048.93.

Motion carried on rollcall vote – five ayes.

CITY CLERK MANGEN AND ELECTION JUDGES RECOGNIZED

Mayor Hovland and the Council Members thanked City Clerk Deb Mangen and the election judges for their work on the recent election and recount, noting it was well run.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 9:10 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk