

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
MARCH 17, 2009  
7:00 P.M.**

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

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Bennett and seconded by Member Swenson approving the Council Consent Agenda with the exception of Item V.I., Resolution No. 2009-35 Letter Relating to Nine Mile Creek Watershed District Petition.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**\*MINUTES APPROVED - REGULAR MEETING OF MARCH 3, 2009, AND WORK SESSION OF MARCH 3, 2009** Motion made by Member Bennett and seconded by Member Swenson approving the minutes of the Regular Meeting of March 3, 2009, and Work Session of March 3, 2009.

Motion carried on rollcall vote – five ayes.

**RESOLUTION NO. 2009-30 ADOPTED ORDERING NEIGHBORHOOD STREET RECONSTRUCTION – MIRROR LAKES NEIGHBORHOOD IMPROVEMENT NO. BA-356** Affidavits of Notice presented and ordered placed on file.

Assistant Engineer Presentation

Assistant Engineer Sullivan presented the feasibility study for the Mirror Lakes Neighborhood Street Reconstruction Project. He stated the overall project cost was estimated at \$1,260,000, which included City-owned utility repairs. Mr. Sullivan said roadway costs in the amount of \$600,000 would be funded from special assessments. Each property would be assessed one REU (Residential Equivalent Unit) in the estimated amount of \$9,850. All City-owned utility repairs in the amount of \$660,000 would be funded from respective utility funds. Mr. Sullivan presented the project schedule and stated staff had analyzed the project, felt it was necessary, cost-effective, and feasible from an engineering standpoint.

The Council asked questions of staff and discussed the project.

Mayor Hovland opened the public hearing at 7:26 p.m.

Public Testimony

John Brazel, 5505 Dundee Road, addressed the Council.

Judy Schwartz, 5528 Dundee Road, addressed the Council.

Nancy Imholte, 5528 Mirror Lakes Drive, addressed the Council.

Mayor Hovland asked for a hand poll to identify the number of households in attendance, those in favor, and those opposed. Mr. Brazel advised that an additional 11 households objected but were not able to attend.

Wendy Morris, 5524 Mirror Lakes Drive, addressed the Council.

The Council asked questions of staff and discussed the merits of the project during this economic downturn and need to maintain the City's infrastructure.

## **Minutes/Edina City Council/March 17, 2009**

Judy Dugan Olson, 5516 Dundee Road, addressed the Council.

Mark Kerekes, 5517 Dundee Road, addressed the Council.

Nancy Imholte, 5528 Mirror Lakes Drive, readdressed the Council.

Scott Reich, 5517 Chantrey Road, addressed the Council.

The Council asked questions of staff about the Senior Citizen Deferral Program.

Marshall Schwartz, 5528 Dundee Road, addressed the Council.

### **Member Housh made a motion, seconded by Member Swenson, to close the public hearing.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

The Council asked questions of consultant Jonathan North, Ehlers & Associates and staff while they discussed the financing of the project.

**Member Housh introduced and moved adoption of Resolution No. 2009-30, ordering Improvement No. BA-356 Mirror Lakes Neighborhood Street Reconstruction.** Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Swenson, Hovland

Nays: Brindle

Motion carried.

**RESOLUTION NO. 2009-31 ADOPTED ORDERING NEIGHBORHOOD STREET RECONSTRUCTION – SOUTH GARDEN ESTATES NEIGHBORHOOD IMPROVEMENT NO. BA-358** Affidavits of Notice presented and ordered placed on file.

### **Assistant Engineer Presentation**

Mr. Sullivan presented the feasibility study for the South Garden Estates Neighborhood Street Reconstruction Project. He stated the overall project cost was estimated at \$1,280,500, which included City-owned utility repairs. Mr. Sullivan explained roadway costs in the amount of \$815,500 would be funded from special assessments. He noted each property would be assessed one REU (Residential Equivalent Unit) in the estimated amount of \$9,000. Mr. Sullivan advised that seven properties had either a side or back yard abutting the improvement and would be assessed at one third of the standard REU or \$3,000. All City-owned utility repairs in the amount of \$465,000 would be funded from respective utility funds. He presented the project schedule and stated staff had analyzed the project, felt it was necessary, cost-effective, and feasible from an engineering standpoint.

The Council asked questions of staff and discussed the project.

Mayor Hovland opened the public hearing at 8:28 p.m.

### **Public Testimony**

Don Gjevre, 7016 West Shore Drive, addressed the Council.

Kathy Nelson, 7117 West Shore Drive, addressed the Council.

James Jensen, 4529 Belvedere Lane, addressed the Council.

Russell Nelson, 7117 West Shore Drive, addressed the Council.

Joanne Bolduc, 7001 West Shore Drive, addressed the Council.

Ron Rich, 7008 West Shore Drive, addressed the Council.

The Council conducted a consensus poll regarding raised median islands, and the majority indicated a lack of support.

David Melroe, 7120 West Shore Drive, addressed the Council.

Don Gjevre, 7016 West Shore Drive, readdressed the Council.

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

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**Member Swenson introduced and moved adoption of Resolution No. 2009-31, order Improvement No. BA-358, South Garden Estates Neighborhood Street Reconstruction, eliminating the entrance islands.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

#### **PUBLIC COMMENT**

Ron Rich, 7008 West Shore Drive, stressed the importance of posting staff reports and project plans for public access and allowing public comment prior to Council votes.

**\*AWARD OF BID – 800 MHZ RADIOS (25) AND CHARGERS (2) – PUBLIC WORKS DEPARTMENT** Motion made by Member Bennett and seconded by Member Swenson awarding the bid for twenty-five 800 Mhz radios and two chargers to the recommended low bidder, Motorola, Inc. at \$30,820.85.

Motion carried on rollcall vote – five ayes.

**\*AWARD OF BID – CUSHMAN TURF TRUCKSTER – PARK MAINTENANCE DEPARTMENT** Motion made by Member Bennett and seconded by Member Swenson awarding the bid for a Cushman Turf Truckster (2009 Demo Unit), Park Maintenance Department to the recommended low bidder, Turfwerks at \$18,051.75.

Motion carried on rollcall vote – five ayes.

**RESOLUTION NO. 2009-34 APPROVED ADOPTING GREATER CORNELIA NEIGHBORHOOD TRAFFIC MANAGEMENT SCHEMATIC PLAN** Mr. Sullivan recapped the past consideration of the

70<sup>th</sup> Street Corridor Study and presented each of the six concepts on which the Council had requested additional investigation and recommendation. Staff presented several schematics plans, suggested phasing, and adoption of the revised Edina Transportation Commission recommendation that integrated the Study Advisory Committee's recommendation to lower speeds, reduce traffic volumes, increase safety along the corridor, and to not include the bike lanes.

The Council asked questions of staff and discussed aspects of the project.

**Member Swenson introduced and moved approval of Resolution No. 2009-34, adopting the amended Greater Cornelia Area/West 70<sup>th</sup> Street Traffic Study Report.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**Minutes/Edina City Council/March 17, 2009**

**SEWER BACKUP INSURANCE REPORT TABLED AND PUBLIC HEARING SCHEDULED FOR APRIL 7, 2009** Manager Hughes presented the staff report detailing the February 19, 2009, watermain fracture on Wooddale Avenue that caused a surcharged sanitary sewer. He said 21 home owners and one business had filed claims associated with that incident, and all had been denied by the City's insurance carrier based upon the finding that the City was not negligent. Mr. Hughes reviewed past Council action in response to similar situations.

The City Council asked questions of staff and discussed the claims for damage and option of a City program for no-fault coverage to assure a basic level of health and safety.

Members of the audience requested an opportunity to address the Council. It was explained the item was not scheduled for public hearing.

**Member Bennett made a motion, seconded by Member Brindle, to table further consideration and direct staff to schedule a public hearing on April 7, 2009, to allow public testimony.**

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

**ORDINANCE NO. 2009-2 GRANTED FIRST READING – AMENDING SECTION 140 HUMAN RIGHTS AND RELATIONS COMMISSION** Mr. Hughes presented Ord. No. 2009-2 amending Section 140 concerning the Human Rights and Relations Commission. The Commission would have a membership of seven persons (including a student), and all appointments would be from the City Council. The Council asked questions of staff and discussed additional amendments to be made prior to second reading.

**Member Housh made a motion to grant First Reading of Ordinance No. 2009-2, Amending City Code Concerning the Human Rights and Relations Commission, and direct staff to revise the ordinance to indicate “7 regular members including one student member” and to draft consistent verbiage related to student terms prior to consideration of Second Reading.** Member Brindle seconded the motion.

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

**ORDINANCE NO. 2009-4 ADOPTED – AMENDING SECTION 146 ENERGY AND ENVIRONMENT COMMISSION** The Council discussed the need to clarify language at a later date to assure residency of appointees. **Member Swenson made a motion to grant First Reading and waive Second Reading adopting Ordinance No. 2009-4, amending City Code concerning the Energy and Environment Commission, increasing the membership to eleven members.** Member Housh seconded the motion.

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

**RESOLUTIONS NO. 2009-32 AND 2009-33 ADOPTED – CALLING FOR SALE OF BOND SERIES 2009A, \$14,000,000 G.O. BONDS AND BOND SERIES 2009B, \$2,305,000 G.O. BONDS** Mr. Hughes presented two resolutions calling for the sale of \$14,000,000 Series 2009A General Obligation Bonds to purchase the ConAgra property for the relocated public works garage site and Series 2009B \$2,305,000 General Obligation Bonds that would secure better interest rates and fund capital equipment purchases anticipated in the 2009 budget. Jonathan North, Ehlers & Associates, commented on the current trends of the municipal bond market and presented the presale reports for the Series 2009A and 2009B bonds. The Council asked questions of Mr. North and staff about the sale of bonds.

Jeff Oertel, Oertel Architects, answered questions about the adequacy of the ConAgra building shell and site. The Council asked questions of Mr. Oertel and staff and discussed efficiency aspects of the project.

Jack Rice, 4801 Hilltop Lane, advised that a fourth price reduction had been negotiated for the ConAgra property. Mr. Hughes recommended the Council consider authorizing the lower purchase price of \$7.6 million and to extend the financing contingency period until April 8, 2009.

**Member Brindle introduced and moved adoption of Resolution No. 2009-32, calling for the sale of \$14,000,000 General Obligation Bonds Series 2009A; Resolution No. 2009-33, calling for the sale of \$2,305,000 General Obligation Bonds Series 2009B; authorizing the lower purchase price of \$7.6 million for the ConAgra property; and extending the financing contingency period to April 8, 2009.** Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**\*MN DPS GRANT ACCEPTED ALLOWING PURCHASE OF 800 MHZ RADIOS FOR PUBLIC WORKS** Motion made by Member Bennett and seconded by Member Swenson to accept the grant from the Metropolitan Emergency Services Board allowing the purchase of 800 Mhz radios for Public Works.

Motion carried on rollcall vote – five ayes.

**D'AMICOS AND DINO'S GYROS WINE & BEER RENEWALS APPROVED** Mr. Hughes stated the applications had been completed and recommended approval. **Member Housh made a motion, seconded by Member Brindle, to approve on-sale wine and on-sale 3.2 beer license renewal for D'Amico & Sons and approval of an on-sale beer license to Dino's Gyros of Edina, Inc.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**\*TRAFFIC SAFETY REPORT OF MARCH 5, 2009 RECEIVED** Motion made by Member Bennett and seconded by Member Swenson to approve the Traffic Safety Report Thursday, March 5, 2009.

Motion carried on rollcall vote – five ayes.

**RESOLUTION NO. 2009-35 ADOPTED – LETTER RELATING TO NINE MILE CREEK WATERSHED DISTRICT PETITION** Kevin Bigalke, Nine Mile Creek Watershed District Administrator, explained the District's support for two potential projects under the petition it received from the City. Mr. Bigalke noted the District must have acknowledgement from the City as noted in the proposed resolution because it was required by Minnesota Statutes. He explained the required statutory language contained in the resolution would reimburse the District's costs should the City withdraw its petition or if any potential project was found not to be feasible.

The Council asked questions of Mr. Bigalke and staff and discussed its concern related to the statutory language.

Audience members requested the ability to speak to this issue and, if needed, schedule a public hearing. The Council advised of upcoming multiple opportunities to provide public testimony.

**Member Bennett introduced Resolution No. 2009-35, Letter to Nine Mile Creek Regarding Petition.** Member Swenson seconded the motion. Mr. Hughes clarified that the District would not incur trail costs until it received resolutions from Edina and the Three Rivers Park District approving the trail alignment. Mr. Bigalke stated that was correct.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**APPOINTMENTS MADE TO HERITAGE PRESERVATION BOARD** Mayor Hovland made a motion, seconded by Member Swenson, to appoint Joel Stegner to a one-year term ending February 1, 2010, and Robert Schwartzbauer to a three-year term ending February 1, 2012.

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

**\*CONFIRMATION OF CLAIMS PAID** Motion made by Member Bennett and seconded by Member Swenson approving payment of the following claims as shown in detail on the Check Register dated March 5, 2009, and consisting of 27 pages; General Fund \$158,445.18; Communications Fund \$2,634.48; General Debt Service Fund \$431.25; PIR Debt Service Fund \$827.50; Working Capital Fund \$10,804.64; Art Center Fund \$20,934.85; Golf Dome Fund \$438.40; Aquatic Center Fund \$8,117.94; Golf Course Fund \$2,641.84; Ice Arena Fund \$4,764.48; Edinborough/Centennial Lakes Fund \$14,670.43; Liquor Fund \$153,650.37; Utility Fund \$12,850.72; PSTF Agency Fund \$6,401.55; **TOTAL \$397,613.63** and for approval of payment of claims dated March 12, 2009, and consisting of 27 pages: General Fund \$237,481.66; CDBG Fund \$48.00; Communications Fund \$9,430.07; General Debt Service Fund \$402.50; City Hall Debt Service \$1,000.00; PIR Debt Service Fund \$375.00; Working Capital Fund \$12,609.48; Construction Fund \$744.64; Art Center Fund \$4,535.93; Golf Dome Fund \$2,161.25; Aquatic Center Fund \$758.73; Golf Course Fund \$18,474.60; Ice Arena Fund \$49,482.63; Edinborough/Centennial Lakes Fund \$3,673.70; Liquor Fund \$145,962.43; Utility Fund \$368,679.84; Storm Sewer Fund \$1,304.47; Recycling Fund \$3,770.10; PSTF Agency Fund \$4,924.81; **TOTAL \$865,819.84.**

Motion carried on rollcall vote – five ayes.

**\*PETITION COUNTRYSIDE SCHOOL SIDEWALK RECEIVED** Motion made by Member Bennett and seconded by Member Swenson to receive the Countryside School sidewalk petition and refer it to Engineering for processing as to feasibility.

Motion carried on rollcall vote – five ayes.

**MARCH 24, 2009, STUDY SESSION CANCELED** Council consensus was reached to cancel the March 24, 2009, Council Study Session meeting.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 12:18 a.m.

Respectfully submitted,

---

Debra A. Mangen, City Clerk

Minutes approved by Edina City Council, April 7, 2009.

---

James B. Hovland, Mayor

Video Copy of the March 17, 2009, meeting available.