

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 16, 2010
7:06 P.M.**

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

CONSENT AGENDA ITEMS APPROVED Motion made by Member Swenson and seconded by Member Brindle approving the Council consent agenda.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

WEBELO PACK #123 RECOGNIZED Mayor Hovland recognized the attendance of Webelo Pack #123 and invited them to introduce themselves. The Council thanked Pack #123 for its help each year cleaning the 4th of July parade route.

2010 PREVENTION WORKS! CAMPAIGN PROCLAIMED Mayor Hovland read in full a proclamation declaring the weeks of November 22 through December 30, 2010 to be Prevention Works! Campaign. **Member Housh made a motion, seconded by Member Brindle, adopting a proclamation declaring the Prevention Works! Campaign in Edina.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

Kathy Iverson, Edina Chemical Health Partners, encouraged all to participate in this campaign to promote safe holiday parties and presented community readiness survey results.

***MINUTES APPROVED – REGULAR MEETING OF NOVEMBER 1, 2010, WORK SESSION OF NOVEMBER 1, 2010, AND CANVASS OF NOVEMBER 2, 2010 ELECTION RESULTS** Motion made by Member Swenson and seconded by Member Brindle approving the minutes of the regular meeting of November 1, 2010, work session of November 1, 2010, and canvass of November 2, 2010, election results.

Motion carried on rollcall vote – five ayes.

CITY MANAGER NEAL WELCOMED Mayor Hovland recognized and welcomed City Manager Scott Neal, noting this was his first Council meeting as the City's Manager.

PUBLIC HEARING HELD ON NEIGHBORHOOD STREET RECONSTRUCTION – RIDGE ROAD IMPROVEMENTS: NO. BA-384 - RESOLUTION NO. 2010-115 ADOPTED Affidavits of Notice presented and ordered placed on file.

Paul Pasko, SEH, reviewed the Council's past consideration of Ridge Road noting that in January of 2010, residents had petitioned for improvements. He displayed a map and described conditions of the project area. If approved, the feasibility study for Ridge Road Improvement No. BA-384 would include a reconstruct of the existing roadway, adding new colored concrete curbs, making major improvements to the storm sewer system, and minor improvement to the water and sanitary sewer system. Veronica Anderson, SEH, displayed images depicting the existing "country lane" character of this neighborhood and advised of comments received during the September 22 and October 27, 2010, neighborhood meetings to maintain that character through edge treatments. Ms. Anderson presented renderings of three options for edge treatments based on neighborhood input.

Mr. Pasko recommended colored bulkhead concrete curb, as preferred by residents, north of 5200 and to maintain existing surmountable curbs south of 5200. The estimated total project cost in 2011 dollars was

Minutes/Edina City Council/November 16, 2010

\$25,300 for sanitary sewer, \$36,500 for water main, and \$443,000 for storm sewer, equaling a City share of \$504,800. The street reconstruction costs of \$263,200 would be assessed against benefiting property. Since surmountable curb exists south of 5200, the assessment area would be divided into two areas. The Area A assessment would be \$9,800/REU (residential equivalency unit) and the Area B assessment would be \$11,000/REU. Mr. Pasko explained that the number of Area B REU indicated in the public improvement hearing notice was \$700 higher because at that time it had contained one fewer REU. Mr. Pasko presented the project schedule.

The Council discussed the project and asked questions of Mr. Pasko and staff. Mr. Pasko noted the concrete would be colored throughout to minimize the appearance of chips. The Council indicated this project design was well suited to this unique area. With regard to street lighting, Mr. Pasko advised that residents would not support an additional assessment to install decorative street light poles so no lighting was included with the proposed project.

Mayor Hovland opened the public hearing at 7:44 p.m.

Public Testimony

Betsy Robinson, 5021 Ridge Road, addressed the Council.

Joseph McErlane, 5120 Ridge Road, addressed the Council.

Mary Jo Sanderson, 6519 Interlachen Boulevard, addressed the Council.

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

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

The Council indicated support to maintain a standard curb height of 4-6 inches and addressed the questions raised during public testimony. Mr. Houle advised that project specifications hold the contractor responsible should damage occur to surrounding properties or utilities, and seismic monitoring during the project could be required. He explained that in past projects the City had offered homeowners an option to have their homes inspected by an independent testing laboratory to establish preexisting conditions. The Council complimented SEH and City staff for their cooperative work with this neighborhood and design outcome for this street. **Member Swenson introduced and moved adoption of Resolution No. 2010-115, ordering improvement for Ridge Road street and utility reconstruction Improvement No. BA-384.** Member Housh seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

PUBLIC HEARING HELD – NEW INTOXICATING LIQUOR LICENSE APPROVED – CUCINA DEL BARRIO, 5236 FRANCE AVENUE Affidavits of Notice presented and ordered placed on file.

City Clerk Mangen presented the application of Cucina Del Barrio, 5236 France Avenue, for a new intoxicating liquor license and Sunday on-sale liquor license. The application process and Police Department background investigation had been completed and supported a positive recommendation.

Mayor Hovland opened the public hearing at 7:58 p.m.

Public Testimony

No one appeared to comment.

Member Brindle made a motion, seconded by Member Housh, to close the public hearing.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

Member Brindle made a motion, seconded by Member Housh, approving a new on-sale intoxicating liquor license and Sunday on-sale liquor license to Barrio 50th LLC, dba as Cucina Del Barrio, for the period beginning November 16, 2010, and ending March 31, 2011.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

Timothy Rooney, 21 N. Fifteenth Street, Apt. 301, Minneapolis, stated Cucina Del Barrio was a Latin street food concept with large and small plates, entrees, as well as specialty drinks. They planned to open mid-December.

PUBLIC HEARING HELD – TEMPORARY INTOXICATING LIQUOR LICENSE APPROVED – CHURCH OF ST. PATRICK-EDINA – 6820 ST. PATRICK LANE Affidavits of Notice presented and ordered placed on file.

Police Chief Long presented the request of the Church of St. Patrick for a temporary intoxicating liquor license for the “Evening for a Brighter Tomorrow” event on December 4, 2010, from 6:00 p.m. to midnight. He stated the request met Code requirements and recommended approval.

Mayor Hovland opened the public hearing at 8:02 p.m.

Public Testimony

No one appeared to comment.

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

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

Member Swenson made a motion, seconded by Member Bennett, approving a temporary intoxicating liquor license for the Church of St. Patrick’s event titled “Evening for a Brighter Tomorrow” on December 4, 2010, from 6:00 p.m. to midnight.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

PUBLIC HEARING HELD – ORDINANCE NO. 2010-17 GRANTED FIRST READING - AMENDING SECTION 850, NON-CONFORMING BUILDINGS AND USES AND ADDITIONS TO OR REPLACEMENT OF HOMES WITH A FIRST FLOOR ELEVATION OVER ONE FOOT ABOVE THE EXISTING HOMES FIRST FLOOR ELEVATION

Affidavits of Notice presented and ordered placed on file.

Planning Director Teague explained the Minnesota Supreme Court recently rejected its 20-year-old ruling of “undue hardship” for variance review. In light of that ruling, Edina was considering an ordinance amendment that would allow expansion of non-conforming structures to match existing non-conforming setbacks, rather than granting a variance, which had been the standard in Edina prior to this ruling. He reviewed variances granted during the past three years and presented the ordinance amendment to allow an addition into an existing nonconforming setback up to a maximum 200 square feet on each existing non-conforming level of the home, or to match the existing nonconforming square footage of the home, whichever was less. It would also require a Conditional Use Permit (CUP) for additions, repairs, replacement and restoration to single dwelling unit buildings with a first floor elevation of more than one foot above the existing dwelling unit building. Both amendments would apply only to properties zoned R-1 and R-2. Staff and the Planning Commission recommended first reading of the ordinance amendment to Section 850.

Minutes/Edina City Council/November 16, 2010

The Council discussed the amendment, the importance of maintaining the “character of the neighborhood”, and a desire to assure an eight-foot ceiling height could be maintained for living spaces, (even a walkout basement) should there be groundwater issues present. Mr. Teague described available options explaining why it would be difficult to obtain a variance since it was possible to lower the basement floor to obtain an eight-foot ceiling. It was noted that in the event of a groundwater issue and variance request, proof of extenuating circumstances might require a hydrologic engineering study by a “licensed design professional.” The Council requested additional information on this issue prior to second reading to assure passage of the ordinance amendment would not create unforeseen problems. The Council noted that a revision would be made to Page 2, Section B.ii., to change the word “used” to the word “constructed.” Other grammatical changes were also noted. The Council acknowledged the work of the Planning Commission and staff in drafting the ordinance amendments.

Mayor Hovland opened the public hearing at 8:18 p.m.

Public Testimony

Connie Carrino, 4509 Garrison Lane, addressed the Council.

Jeff Miller, 4509 Garrison Lane, addressed the Council.

Janey Westin, 6136 Brookview Avenue, 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 discussed the issues raised during public testimony and asked questions of Mr. Teague. The Council reviewed the three portals, one of which must be met, in addition to the fourth portal that must always be met for additions to or replacement of single dwelling unit buildings with a first floor elevation of more than one foot above the existing first floor elevation of the existing dwelling unit building. The fourth portal indicated: “An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood.”

It was agreed that dissimilar homes were part of the evolution of the City’s housing stock and while some residents had called for creation of a Design Review Board, the Council had instead regulated via code regulations on setbacks and heights. Concern was expressed with the subjective wording of the fourth portal, opportunity for an arbitrary decision, and whether it was needed given the City’s massing threshold. Mr. Teague advised the fourth portal provided a tool to not allow a project that was grossly out of scale with the neighborhood. Attorney Knutson agreed that as written, the fourth portal was open ended and adding “mass, height, and scale” language would address the Council’s concern. It was noted that the majority of property in Edina does not have water issues and if the fourth portal was removed, the three portals and first floor elevation needed to be more prescriptive. Council consensus was reached to retain and revise the fourth portal to add: “mass, height, and scale” language. The Council agreed the FEMA floodplain was a good reference and to add a definition of the FEMA flood floor elevation. It was also agreed that the second portal needed specificity with regard to the type of work to be done, cost for that work, and measurement by a hydrologist. The term “licensed design professional” was revised to indicate “licensed hydrologist.” **Member Swenson made a motion, seconded by Member Housh, to grant First Reading adopting Ordinance No. 2010-17, amending the Zoning Ordinance concerning nonconforming buildings and uses and additions to or replacement of homes with a first floor elevation over one foot above the existing homes first floor elevation, subject to wording revisions as discussed.**

It was agreed that since another public hearing was not held for second reading, the final revision would be available by December 7, 2010, for public review with second reading scheduled for December 21, 2010.

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

PUBLIC HEARING HELD – ORDINANCE NO. 2010-18 GRANTED FIRST READING – AMENDING SECTION 850, CONCERNING ADMINISTRATION AND PROCEDURES AND ESTABLISHING A PLANNED UNIT DISTRICT
Affidavits of Notice presented and ordered placed on file.

Mr. Teague presented the ordinance amendment and explained the primary benefits of creating a Planned Unit District (PUD) zoning district was to allow the City more control over proposed new development to allow flexibility in certain development standards in exchange for greater standards and control. He explained the City's current tools for rezoning were to place conditions on approvals. However, as time passes, conditions could become problematic to enforce and once the site was rezoned and the final development plan approved, the underlying zoning ordinance dictated what could and could not be done. With a PUD rezoning, any conditions placed on approval were written into the Zoning Ordinance and became the regulation for that site. Mr. Teague advised that in each instance, a request for a PUD rezoning was a public policy decision by the Council to make in its legislative capacity.

Mr. Teague summarized the proposed ordinance that would amend the entire administrative and procedural sections and add the PUD zoning district, reflect statutory language, and make the ordinance easier to navigate. He also provided an explanation of the proposed process to consider an ordinance text amendment. The City Council requested the definition of "text amendment" be included prior to second reading.

Following discussion, the Council requested staff provide clarification on the following prior to second reading: Page 2, Point 5, clarify language so it was understood the decision of the Zoning Board of Appeals was not automatically appealed. Mr. Teague explained that anyone outside of staff would be able to appeal the decision. Correct "Heritage Preservation Commission" to "Heritage Preservation Board". Page 7, Subsection A., Purpose, remove the words "with the." Page 29, Section b.ii., considered to be superfluous and would be deleted. Page 30, Section 3.c., indicate sketch plans would be provided to the Council for informational purposes only. Page 36, Section E., refine the language regarding subjective review and delete second sentence since State action within 60 days was already referenced on Page 1. Revise language regarding traffic review to indicate "road capacities" rather than "road capability." The Council extended its appreciation to the Planning Commission and staff for its work on the proposed ordinance amendment.

Mayor Hovland opened the public hearing at 9:26 p.m.

Public Testimony

No one appeared to comment.

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

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

Member Swenson made a motion, seconded by Member Brindle, to grant First Reading adopting Ordinance No. 2010-18, amending the Zoning Ordinance concerning administration and procedures and establishing a PUD District, subject to wording revisions as discussed.

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

Minutes/Edina City Council/November 16, 2010

PUBLIC HEARING HELD – ORDINANCE NO. 2010-19 ADOPTED – AMENDING SECTION 850, CONCERNING DRIVEWAY WIDTHS Affidavits of Notice presented and ordered placed on file.

Mr. Teague explained the minimum residential driveway width was 12 feet, and the ordinance amendment would recommend no minimum width. He advised that required driveway widths had been problematic in certain areas, such as the Country Club District that contained 50-foot lots and driveway widths that averaged nine feet. The amendment would also allow pervious pavers as an acceptable driveway material and included information on the construction for that type of driveway.

Mayor Hovland opened the public hearing at 9:29 p.m.

Public Testimony

No one appeared to comment.

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

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

Member Housh made a motion, seconded by Member Swenson, granting First and waiving Second Reading adopting Ordinance No. 2010-19, amending the Zoning Ordinance concerning driveways.

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

AGREEMENT 50TH AND FRANCE COMMERCIAL AREA TRIAL VALET PARKING APPROVED – NOVEMBER 17-DECEMBER 31, 2010

Mr. Houle presented the trial license agreement between the City and Tradition, a valet business to offer lunch and dinner time valet service to customers on 50th and France Avenues that would help alleviate congestion. During lunch time, valet cars would be parked in the underutilized north ramp, and during evening hours the valet cars would be parked in the underutilized south ramp.

Rachel Hubbard, 50th and France Business & Professional Association, thanked Council for considering this option to relieve parking shortages and congestion.

Mr. Houle explained this valet service was not exclusive to any one restaurant or store and any customer could utilize the valet service. It was noted there was no place for patrons to stand while waiting for their car to be retrieved. However, if this trial was successful the City could consider a heated bus stop type of structure. Valet parking customers would be charged a \$7 fee by Traditions to offset the cost charged to the sponsoring restaurant. Staff advised that the lunch hours would be defined as 11:45 a.m. to 2:00 p.m. for lunch and 5:45 p.m. to 11 p.m. for dinner. Staff would request approval of temporary valet signage from the County and temporary parking cards similar to those issued by the 50th and France Business Association would be used for valet cars. The Council discussed the agreement and suggested the hours of parking be specified in the agreement.

Alan Ackerberg, with Parasole Restaurants, thanked those who had worked on this matter and encouraged Council support of a trial agreement since it would help all businesses. He stated they were pleased to initially sponsor this program, which would be available to all businesses, during a trial period through the winter months.

In response to Council's questions, Ms. Hubbard stated she had not informed all of the professional offices of this option but had informed one who indicated support. It was noted that Ms. Hubbard would be responsible to educate the general public that this service was available.

Member Brindle made a motion, seconded by Member Bennett, approving the license agreement between the City of Edina and Tradition valet service for 50th and France commercial area and authorizing the Mayor and Manager to sign said agreement.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

2011-2015 CAPITAL IMPROVEMENT PROGRAM ADOPTED Finance Director Wallin presented the 2011-2015 Capital Improvement Program (CIP) and recommended adoption. The Council asked questions of Mr. Wallin about capital expenditures and enterprise funds that were not operating profitably. A desire was expressed to schedule enterprise fund discussions much earlier in 2011, prior to CIP consideration. It was noted that future CIP years created a “placeholder” for expenditures that would again come before the Council. **Member Brindle made a motion, seconded by Member Housh, adopting the 2011-2015 Capital Improvement Program.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

***ORDINANCE NO. 2010-16 ADOPTED – AMENDING CHAPTER 7 OF THE EDINA CITY CODE CONCERNING BODY ART ESTABLISHMENTS** Motion made by Member Swenson and seconded by Member Brindle to waive Second Reading adopting Ordinance No. 2010-16, amending Chapter 7 of the Edina City Code concerning body art establishments.

Motion carried on rollcall vote – five ayes.

MAYOR’S EXPENSE REIMBURSEMENT APPROVED Mayor Hovland explained that while he had previously informed the Council of his interest in the Intercity Leadership Conference, he had inadvertently missed requesting payment authorization prior to the Conference. He reported on the Conference, described how the City would benefit, and requested payment in the amount of \$2,095 that included transportation, hotel, and meals. Mayor Hovland stated he would provide the Council with a written report, focusing on economic development opportunities and strategies. **Member Housh made a motion, seconded by Member Brindle, authorizing expenditure in the amount of \$2,095 for Mayor Hovland’s attendance at the 2010 Intercity Leadership Conference.**

Ayes: Bennett, Brindle, Housh, Swenson

Abstain: Hovland

Motion carried.

***MEMBERS TO BOARDS, COMMITTEES AND COMMISSIONS REAPPOINTED** Motion made by Member Swenson and seconded by Member Brindle reappointing the following persons to the various City Boards, Commissions and Committees as noted for three year terms beginning 2/1/2011:

Board of Appeals and Equalization

Michael Friedberg
Craig Johnson
Gordon Tuchenhagen

Community Health Committee

Janet Johnson
Mary Jo Kingston

Human Rights and Relations Commission

Lisa Finsness
Jessica Kingston
Russell Stanton

Park Board

Joseph Hulbert
Daniel Peterson

Planning Commission

Floyd Grabiell

Transportation Commission

Jennifer Janovy

Zoning Board of Appeals

Scott Davidson
Bernadette Hornig
Helen Winder

Minutes/Edina City Council/November 16, 2010

East Edina Housing Foundation
Douglas Mayo

Mary Kay McNee

Motion carried on rollcall vote – five ayes.

***RESOLUTION NO. 2010-114 ADOPTED – APPROVING DEFERRAL OF SPECIAL ASSESSMENTS** Motion made by Member Swenson and seconded by Member Brindle to adopt Resolution No. 2010-114, approving deferral of special assessments.

Motion carried on rollcall vote – five ayes.

RESOLUTION NO. 2010-88 ADOPTED – 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 Bennett introduced and moved adoption of Resolution No. 2010-88 accepting various donations.** Member Brindle seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

***2011 COUNCIL MEETING DATES AND HOLIDAYS APPROVED** Motion made by Member Swenson and seconded by Member Brindle approving the 2010 Council meeting dates and holiday schedule.

Motion carried on rollcall vote – five ayes.

***TRAFFIC SAFETY REPORT OF NOVEMBER 3, 2010, ACCEPTED** Motion made by Member Swenson and seconded by Member Brindle accepting the November 3, 2010, Traffic Safety Report.

Motion carried on rollcall vote – five ayes.

COMMUNITY COMMENT

No one appeared to comment.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Swenson and seconded by Member Brindle approving payment of the following claims as shown in detail on the Check Register dated November 4, 2010, and consisting of 33 pages: General Fund \$172,059.56; Communications Fund \$2,047.96; Police Special Revenue \$366.00; Working Capital Fund \$43,240.24; Equipment Replacement Fund \$49,952.01; Art Center Fund \$22,777.26; Golf Dome Fund \$4,185.29; Golf Course Fund \$9,102.90; Ice Arena Fund \$6,412.39; Edinborough/Centennial Lakes Fund \$41,877.70; Liquor Fund \$162,220.19; Utility Fund \$22,436.66; Storm Sewer Fund \$1,000.00; PSTF Agency Fund \$13,622.11; Payroll Fund \$8,201.39; **TOTAL \$559,501.66** and for approval of payment of claims dated November 11, 2010, and consisting of 26 pages: General Fund \$94,226.62; Communications Fund \$450.68; Working Capital Fund \$46,090.23; Art Center Fund \$5,523.76; Golf Dome Fund \$96.43; Aquatic Center Fund \$491.76; Golf Course Fund \$11,923.56; Ice Arena Fund \$2,123.43; Edinborough/Centennial Lakes Fund \$7,320.91; Liquor Fund \$218,302.58; Utility Fund \$403,454.00; Storm Sewer Fund \$61,766.73; PSTF Agency Fund \$10,151.79; **TOTAL \$861,922.48**; and, Credit Card Transactions dated September 28, 2010 – October 25, 2010; **TOTAL \$7,068.59**.

Motion carried on rollcall vote – five ayes.

STUDY SESSION CANCELLED Council consensus was reached to cancel the November 23, 2010, study session.

SIDEWALK FEASIBILITY REPORT REQUESTED Member Swenson made a motion, seconded by Member Bennett, directing engineering staff to prepare a sidewalk feasibility report for the north side of School Road from Concord to 60th Avenues to create a safe route to Concord Elementary School.

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

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 10:32 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk

Minutes approved by Edina City Council, December 7, 2010.

James B. Hovland, Mayor

Video Copy of the November 16, 2010, meeting available.