

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 1, 2011
7:00 P.M.**

I. CALL TO ORDER

Mayor Hovland called the meeting to order at 7:03 p.m.

II. ROLL CALL

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

III. MEETING AGENDA APPROVED

Member Bennett made a motion, seconded by Member Brindle, approving the meeting agenda.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

IV. CONSENT AGENDA ADOPTED

Mayor Hovland asked Mayor Pro Tem Swenson to chair Consent Agenda items since he intended to recuse himself from consideration of from Item IV. C. and Item IV.G. **Member Sprague made a motion, seconded by Member Brindle, approving the consent agenda as revised to remove Items IV.C. Resolution No. 2011-111 approving lot division 5023 and 5025 Nob Hill Drive, Eva May; IV.E. Engineering Services for Tracy Avenue from Benton Avenue to Vernon Avenue; IV.G. Edina Community Foundation designated fund agreement; IV.H. Covenant regarding maintenance of yard for 7100 Ohms Lane; and, IV.I. Traffic safety report of October 5, 2011, as follows:**

IV.A. Approve regular and work session meeting minutes of October 18, 2011

IV.B. Receive payment of the following claims as shown in detail on the Check Register dated October 20, 2011, and consisting of 26 pages; General Fund \$101,758.15; Communications Fund \$9,240.65; Police Special Revenue \$23.90; PIR Debt Service Fund \$1,975.00; Working Capital Fund \$123,888.42; Equipment Replacement Fund \$51,677.38; Construction Fund \$30,391.36; Art Center Fund \$694.95; Golf Dome Fund \$64.13; Aquatic Center Fund \$260.56; Golf Course Fund \$26,004.07; Ice Arena Fund \$4,839.39; Edinborough/Centennial Lakes Fund \$15,988.68; Liquor Fund \$201,207.69; Utility Fund \$79,315.01; Storm Sewer Fund \$28,351.82; Recycling Fund \$38,820.60; PSTF Agency Fund \$2,236.14; Payroll Fund \$5,101.39; TOTAL \$721,839.29 and for approval of payment of claims dated October 27, 2011, and consisting of 29 pages; General Fund \$426,923.84; Communications Fund \$11,629.96; Police Special Revenue \$3,900.00; Working Capital Fund \$1,648,979.19; Equipment Replacement Fund \$9,089.80; Construction Fund \$261,006.42; Art Center Fund \$1,627.26; Golf Dome Fund \$158.39; Aquatic Center Fund \$151.21; Golf Course Fund \$4,958.19; Ice Arena Fund \$81,365.57; Edinborough/Centennial Lakes Fund \$57,586.73; Liquor Fund \$166,871.55; Utility Fund \$906,895.44; Storm Sewer Fund \$685,395.70; PSTF Agency Fund \$694.74; TOTAL \$4,267,233.99; and, Credit Card Transactions dated August 26 – September 26, 2011; TOTAL \$7,363.90.

~~**IV.C. Resolution No. 2011-111 approving lot division 5023 and 5025 Nob Hill Drive, Eva May**~~

~~**IV.D. Approve engineering services for Richmond Hills Park neighborhood roadway reconstruction**~~

~~**IV.E. Engineering services for Tracy Avenue from Benton Avenue to Vernon Avenue**~~

~~**IV.F. Adopt Resolution No. 2011-113, certifying special assessments for Galleria entrance**~~

~~**IV.G. Edina Community Foundation designated fund agreement**~~

~~**IV.H. Covenant regarding maintenance of yard for 7100 Ohms Lane**~~

~~**IV.I. Traffic safety report of October 5, 2011**~~

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

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Motion carried.

ITEMS REMOVED FROM THE CONSENT AGENDA

IV.C. RESOLUTION NO. 2011-111 ADOPTED - APPROVING LOT DIVISION 5023 AND 5025 NOB HILL DRIVE, EVA MAY

Planning Director Teague advised the median numbers were clearly met based on County data. **Mayor Pro Tem Swenson introduced and moved adoption of Resolution No. 2011-111 approving a lot division of 5023 and 5025 Nob Hill Drive.** Member Brindle seconded the motion.

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

IV.E. ENGINEERING SERVICES APPROVED - TRACY AVENUE FROM BENTON AVENUE TO VERNON AVENUE

Public Works Director/City Engineer Houle presented staff's recommendation to prepare a feasibility study for the reconstruction of Tracy Avenue from Benton Avenue to Vernon Avenue.

The Council acknowledged the speed of traffic and lack of safe crossing locations and discussed installing sidewalks, where missing, to provide connectivity with the park and schools. Mr. Houle stated these issues would be discussed during the public hearing process when all components would be analyzed. WSB information was referenced relating to the necessity of obtaining variances from Municipal State Aid (MSA) standards so, perhaps, sidewalks could fit within the roadway. It was noted that since this was an MSA roadway, sidewalks would not result in additional cost to residents. The Council agreed there would be benefit to considering sidewalks from the beginning of the feasibility process and revised the Scope of Work to include: "sidewalk installation and/or replacement." **Member Sprague made a motion, seconded by Member Bennett, authorizing the City Manager to approve the proposal for a feasibility study and bid documents to reconstruct Tracy Avenue from Benton Avenue to Vernon Avenue, as revised to add "sidewalk installation and/or replacement."**

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

IV.G. EDINA COMMUNITY FOUNDATION DESIGNATED FUND AGREEMENT APPROVED

The Council discussed forgiving the \$150/month rent paid by the Edina Community Foundation (ECF) in recognition of its management of designated funds that supported City work. Manager Neal advised the ECF described this one-year agreement as barter because this particular fund involved an extraordinary amount of time to manage the individual transactions. The Council indicated it would hold a future discussion related to rent charged to the ECF with the understanding there were restrictions on the City's ability to donate and a need to assure transparency and accountability. **Member Brindle made a motion, seconded by Member Sprague, approving Edina Community Foundation agreement waving the Foundation's office rent for one fiscal year in exchange for expenses to process Veterans Memorial Committee fundraising contributions.**

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

IV.H. COVENANT REGARDING MAINTENANCE OF YARD FOR 7100 OHMS LANE APPROVED

Chief Building Official Kirchman presented the building owner's request to establish an assembly occupation (batting cages) within 7100 Ohms Lane and need for unlimited area building because the required ratio could not be achieved in a building of this construction and size. He explained that an

unlimited area building provision was permitted by code under two conditions: a 60-foot open side yard and a fully sprinklered building. This property met both conditions.

Mr. Kirchman answered questions of the Council related to levels of occupancy, tenants, and compatibility of uses within the building. Attorney Knutson advised that another allowable assembly use could move into this building if it complied with the Zoning Ordinance. He indicated he sees no long-term implication in considering this request because the Zoning Ordinance controlled how the building was used. Mr. Teague stated several more parking spaces might be required. It was noted the closest residential use was on the other side of the creek. **Member Brindle made a motion, seconded by Mayor Pro Tem Swenson, approving covenant agreeing to leave that part of Outlot A as indicated in Exhibit A open for as long as the current building on 7100 Ohms Lane was required to be an unlimited area building.**

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

IV.I. TRAFFIC SAFETY REPORT OF OCTOBER 5, 2011 ACCEPTED

The Council discussed whether the requested crosswalk at the intersections of Edinborough Way and West 76th Street and for Edinborough Way and Parklawn Avenue could be wider or enhanced given its setting and high number of seniors using this crossing. Mr. Houle described the two types of crosswalk markings and benefits of each type. He indicated this location would not warrant the use of flashing lights, but staff would analyze the pavement to determine whether duraprint could be used in this location. Mr. Houle said they would determine options to make the crosswalk more visible. Following discussion, the Council supported an educational effort to raise awareness of public safety and State law requiring vehicles to stop for pedestrians whether or not within a designated crosswalk.

Mr. Houle responded to the Council's questions related to the Traffic Safety Report. It was noted the Comprehensive Plan included sidewalks on the eastern segment of Benton Avenue. Mr. Houle explained staff had not been directed to prepare a feasibility report on sidewalks in that location but would be looking at bicycle routes. The Council indicated it would further address this issue during Mayor and Council Comments. **Member Bennett made a motion, seconded by Member Sprague, accepting traffic safety report of October 5, 2011.**

Ayes: Bennett, Brindle, Sprague, Swenson

Nays: None

Abstain: Hovland

Motion carried.

Mayor Hovland resumed chairing the meeting.

V. SPECIAL RECOGNITIONS AND PRESENTATIONS

None.

VI. COMMUNITY COMMENT

Doug Benner, 7025 Sally Lane, stated he received a letter from the City advising he had 30 days to remove trees from his property. He asked the Council to rescind the letter of October 14, 2011, review the information he had provided that included background as well as legal and traffic engineering analysis, and consider the two recommended actions. See Mayor and Council Comments.

VII. REPORTS / RECOMMENDATIONS

VII.A. RESOLUTION NO. 2011-112 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.

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Member Bennett introduced and moved adoption of Resolution No. 2011-112 accepting various donations. Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VII.B. NEIGHBORHOOD IDENTIFICATION PUBLIC ENGAGEMENT PROCESS

Assistant Manager Kurt presented the proposed framework for supporting neighborhood associations and outlined a two-tier engagement process that would ensure the inclusion of many stakeholders.

The Council discussed how this process would be structured. Consideration was given to a first tier neighborhood identification oversight group of eight to ten individuals selected to design the engagement process to educate residents on the potential of neighborhood associations. The second tier would be citizen teams organized by geographic quadrants to catalogue current neighborhood groups and work towards consensus on neighborhood boundaries and names. The Council also discussed options for selection of the oversight group and quadrant teams, noting the model used during the Comprehensive Plan was excellent and resulted in high attendance. The Council considered allowing self-selection for quadrant teams.

It was noted that staff's request had not included direction on how to start neighborhood associations or the City's role in that process, but whether the Council supported a two-tier public engagement process and how to select citizens for the oversight group. The desired outcome was to receive recommendations on neighborhood boundaries and names formulated by the quadrant teams, vetted by the oversight group, and presented for Council consideration.

Mr. Neal commented on the need to carefully engage citizens from the beginning in establishing neighborhood geography and names and not being too prescriptive so there was room for creativity. Support was expressed for Ms. Kurt to vet applications for the oversight group with membership confirmed by the Council. With regard to quadrant team selection and participation, support was expressed to assure adequate citizen participation on a broad geographic basis without micromanagement by the City. It was suggested that an early survey/educational orientation within the quadrants might be beneficial to inform citizens that this process was underway. Communications Director Bennerotte advised the new website content management system allowed an online polling option. **Member Sprague made a motion, seconded by Member Swenson, approving a two-tier public engagement process for determining neighborhood boundaries and names, as discussed, with City staff interviewing and selecting an oversight advisory group that would be confirmed by the City Council. This group would determine its initial name.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VII.C. GRANT APPLICATION APPROVED – HENNEPIN COUNTY FOR "OPEN TO BUSINESS" PROGRAM

Mr. Neal advised that due to the submittal deadline, a letter of interest had been completed. If approved by the Council, the application was in good standing. If not approved by the Council, the application would be withdrawn. Mr. Neal answered questions of the Council and described the advantages of services offered by this program at no cost to assist in developing a business plan and seek financing. The City's contribution of \$5,000 would be matched by Hennepin County. Mr. Neal stated it was understood that while this was a two-year program, the City would annually consider whether to budget the expense. The Council noted the Chamber of Commerce would be a key ally in promoting this service. Mr. Neal described the types of incentives that could be offered to attract businesses to Edina under this program. **Member Swenson made a motion, seconded by Member Sprague, approving the grant application to Hennepin County for the Open to Business Program.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII. CORRESPONDENCE AND PETITIONS

VIII.A. PETITION RECEIVED AGAINST VALLEY ESTATES NEIGHBORHOOD STREET RECONSTRUCTION PROJECT ACKNOWLEDGED

The Council acknowledged receipt of petition against Valley Estates neighborhood street reconstruction project and referred the petition to Engineering.

VIII.B. CORRESPONDENCE RECEIVED FROM THE MINNESOTA RESTAURANT ASSOCIATION

Dan McElroy, Minnesota Restaurant Association, asked the Council to reconsider the existing City Code provision prohibiting offering happy hour and discount liquor. Mr. McElroy noted competitors in surrounding communities do not have those prohibitions. He stated he had offered potential modification to the ordinance that would maintain the restaurant style and not change the 60% food sales/40% liquor sales provision.

The Council questioned whether an ordinance change would result in licensed establishments being unable to comply with the requirement for their revenue streams to derive no more than 40 percent from the sale of alcohol with food being a minimum of sixty percent. City Clerk Mangen answered the Council's questions relating to the ordinance prohibition of offering discount liquor and explained that restaurants could offer liquor specials if offered at all times and stated on its menu. Mr. Neal stated staff realized the sensitivities in how liquor had matured in its use in the community and asked the Council whether there was interest in continuing that maturation and directing staff to discuss a potential change in the ordinance. **Member Sprague made a motion, seconded by Mayor Hovland, directing staff to review the issue of discounting the sale of alcohol during certain times of the day and to come forward with a recommendation.**

Member Swenson noted the 60% food sales/40% liquor sales provision had not stopped restaurants from opening in Edina. She stated her concern with the implications should this provision be changed and indicated she would vote against the motion.

The Council indicated it did not want to put the City's restaurants at a competitive disadvantage, especially in the location of 50th Street and France Avenue. It was acknowledged that by maintaining the 60% food sales/40% liquor sales provision, Edina was known as a restaurant town that served alcohol as an adjunct to food.

Member Bennett stated she shared the thoughts of Member Swenson, noting a parking study conducted this year indicated a shortage of 200+ spaces at 50th Street and France Avenue so there was success, however it was defined. She stated she had read *StarTribune* articles indicating a similar ratio rule applied to certain Minneapolis business districts when in proximity to residential areas.

Mayor Hovland indicated the discussion would be data driven and would address public safety to determine if there were an increase of risk to the public by allowing "happy hour". Mr. McElroy agreed that Edina was a great place to do businesses; however, there were competitive challenges from the St. Louis Park West End and recently opened areas in Minneapolis. He clarified the Minnesota Restaurant Association was not arguing that the 60% food sales/40% liquor sales provision should change but were asking for flexibility on beverage pricing. Member Sprague called the question.

Ayes: Brindle, Sprague, Hovland

Nays: Bennett, Swenson

Motion carried.

VIII.C. CORRESPONDENCE RECEIVED SINCE LAST MEETING

Mayor Hovland acknowledged the Council's receipt of various correspondence.

IX. MAYOR AND COUNCIL COMMENTS – Received

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IX.A. SIDEWALK PRIORITIZATION SCHEDULE REQUESTED

Member Bennett made a motion, seconded by Member Swenson, directing staff to prepare feasibility to connect the existing Benton Avenue sidewalk west of TH100 to Hanson Road.

The Council discussed the reconstruction schedule for Benton Boulevard and the benefit of prioritizing sidewalks so those projects could move forward when funding became available or reconstruction projects provided opportunity. It was noted that this area could serve as a safe route to school. Mayor Hovland reported the School District had requested the City work in cooperation to assure the District had funding for crossing guards. **Members Bennett and Swenson withdrew the motion. Member Bennett made a motion, seconded by Member Swenson, directing staff to work with the Edina Transportation Commission (ETC) to analyze sidewalks and develop recommendation for a prioritization schedule.**

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

IX.B. EDINA PUBLIC SCHOOLS LEVY REFERENDUM SUPPORTED

Mr. Knutson advised that while the Council could not spend money lobbying or advertising for or against a school referendum, it could make a motion. **The Edina City Council unanimously moved its support of the Edina Public School District's levy referendum on Tuesday, November 8, 2011.**

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

IX.C. DOUG BENNER, 7025 SALLY LANE – LETTER SUSPENDED TO DECEMBER 6, 2011

The Council discussed the request of Mr. Benner during Community Comment to rescind the October 14, 2011, letter requiring removal of trees from his property within 30 days. **Mayor Hovland made a motion, seconded by Member Brindle, rescinding the October 14, 2011, City notice directing Doug Benner of 7025 Sally Lane to remove approximately 30 trees from the Valley View Road right of way and referring information and the RLK study submitted by Mr. Benner to staff for further consideration and recommendation to Council.**

Members Swenson and Sprague spoke against rescinding the order because it was based on the ordinance that gave clear authority to remove encumbrances within the boulevard. Mr. Knutson advised the City had the right to order the removal of anything from the right-of-way that interfered with travel or if determined to be safety hazard. Member Brindle asked if staff should study whether Sally Lane could be realigned to create a more direct approach and eliminate the sight line issue. The Council discussed whether the submittal raised new issues and was compelling enough to warrant consideration by legal staff to determine whether the submittal was factual. The alternative of suspending action was considered since the 30-day deadline might not allow time for legal review and consideration by a full Council. **Mayor Hovland and Member Brindle withdrew the motion. Mayor Hovland made a motion, seconded by Member Brindle, to suspend the October 14, 2011, 30-day notice to December 6, 2011, when a legal opinion would be received for review by the Council.**

Ayes: Bennett, Brindle, Swenson, Hovland
Nays: Sprague
Motion carried.

X. MANAGER'S COMMENTS – Received

X.A. CITY COUNCIL MEMBER E-MAIL PROTOCOL RECEIVED

Mr. Neal requested Council direction related to e-mail protocol. During discussion, Mayor Hovland and Members Swenson and Brindle indicated a preference to use Edina e-mail, and Members Bennett and Sprague indicated a preference to use a personal e-mail. Staff was asked to determine whether an option could be offered to send an e-mail to all Council Members.

X.B. PROPOSED FRANCE AVENUE PEDESTRIAN BRIDGE – CHANGE OF SCOPE AUTHORIZED

Mr. Neal indicated staff had been directed, in 2007, to seek funding to advance a potential pedestrian bridge over France Avenue at 72nd Street. In that effort, a matching grant had been awarded. Mr. Neal noted the ETC was on record as not supporting the project and asked for Council direction whether it affirmed this project and staff should seek an extension on the grant.

Member Swenson stated her reasoning to support both a pedestrian bridge over France Avenue as well as enhanced at-grade crossings. The Council discussed the changes that had occurred in this general area since its 2007 decision to seek funding for a pedestrian bridge including: Living Streets Policy developed by the ETC, Hennepin County Complete Streets Policy, alignment determination for the Three Rivers trail, and creation of the Promenade.

It was indicated that a Texas study found 70% of pedestrians would use an overpass bridge if it was roughly equal in distance to an at-grade crossing. However, if the distance was 50% or greater, the number of pedestrians that would use the overpass bridge fell to 5%. The Council acknowledged a survey had found pedestrians were currently crossing France Avenue at numerous locations, some considered to be dangerous points.

Given the City's design philosophy change, the Council indicated a pedestrian bridge over France Avenue was no longer the best approach to provide pedestrian crossing or use of public funds. Rather, it supported a change in scope to create as many enhanced at-grade crossings as feasible, designed to assure pedestrian safety through inclusion of adequate timing and perhaps an all-stop vehicle option that allowed pedestrians to cross in any direction (including diagonal). Support was also expressed to coordinate a broad based public/private coalition in cooperation with other municipalities, Hennepin County, and private businesses to develop a prioritized implementation plan for the entire Southdale area and gateway locations using the Hennepin County France Avenue Corridor Study as a catalyst. This plan would include connectivity features for Richfield and the Hennepin County library. The Council acknowledged that such a change in scope required the project to be rescored based on its original standards and accepted the possibility of the loss of the grant. **Member Sprague made a motion, seconded by Member Bennett, requesting staff to pursue a change in scope for the grant from a pedestrian bridge over France Avenue to multiple enhanced at-grade crossings as reflected in the Hennepin County France Avenue Crossing Study and to pursue an extension of the grant sunset date.** Member Bennett requested clarification that the motion and vote meant that the City would no longer pursue the pedestrian bridge over France Avenue. Consensus was expressed

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

XI. ADJOURNMENT

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 9:52 p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk

Minutes approved by Edina City Council, November 15, 2011.

James B. Hovland, Mayor

Video Copy of the November 1, 2011, meeting available.