

CITY OF BLOOMINGTON
2215 WEST OLD SHAKOPEE ROAD
HENNEPIN COUNTY, MINNESOTA 55431

CITY COUNCIL MEETING

Approved Minutes
Regular Meeting
Meeting #10

7:00 p.m.
April 15, 2002
Council Chamber

Call to Order and
Pledge to Flag

Mayor Gene Winstead called the meeting to order and Boy Scout Troop #439 from Christ the King Lutheran Church presented the colors and led the Council and audience in the pledge of allegiance to the flag. At the Mayor's request, the scouts introduced themselves.

Roll Call

Present: Mayor Winstead, Councilmembers D. Abrams, S. Elkins, M. Fossum, S. Peterson, and V. Wilcox.

Absent: H. Harden

Six New Police Officers
Sworn In By City Clerk

Police Chief Roger Willow introduced the following new six police officers and then City Clerk Evelyn Woulfe proceeded to administer the oath of office: Matthew Heinzmann, Badge #254 (University of Wisconsin-Stout, North Hennepin and Minneapolis Community College); Douglas Ranke, Badge #255 (Chaminade University-Honolulu); Donald Rix, Badge #256 (Normandale Community College); Jason Engelke, Badge #257 (Normandale Community College and Metropolitan State University); Thomas Maloney, Badge #258 (Normandale Community College, Minneapolis Community College, and Metropolitan State University); and Heather Hartman, Badge #259 (North Hennepin Community College and Center for Criminal Justice and Law in St. Paul).

Mayor Winstead announced that Harden was at home recuperating from knee surgery and could not attend tonight's meeting.

Proclamation Declaring
April as National Child
Abuse Month

Mayor Winstead read and presented a proclamation declaring April as National Child Abuse Prevention Month to Terri Froehlke of Cornerstone and Amy Kondziolka, Cornerstone Community Services Manager.

Froehlke stated that she is on the Cornerstone Board, is a prosecutor in the Hennepin County Attorney's Office, and a community prosecutor for Bloomington, handling many of the juvenile crime cases. She thanked the City Council for their support of Cornerstone. As the two can be confused, she explained that Corner House is a forensic interview program that deals with victims of sexual abuse or who have witnessed other physical abuse in their home and Cornerstone is an advocacy agency for both victims of domestic violence and child abuse.

Kondziolka reported that Cornerstone served more than 1,100 kids in 2001 who were abused and that the number has been increasing every year. She thanked Bloomington Public Health and Human Services for their display boards recognizing the "Blue Ribbon" campaign to stop child abuse. She provided Council with a petition that was signed by 156 Jefferson High School students supporting the naming of April as Child Abuse Prevention Month.

Proclamation Declaring
April as National
Volunteer Recognition
Week

Mayor Winstead read and presented a proclamation declaring the week of April 21-27 as National Volunteer Recognition Week to John Crampton, a volunteer who has been involved with the Gideon Pond site, beginning with development of its master plan. He stated that 15-20 volunteers spend an average of 3-4 hours per month working on this project. The Mayor then reminded everyone about the breakfast to celebrate volunteers to be held at the Knights of Columbus Marian Hall on Saturday, April 20.

Proclamation Declaring
April 27 as Youth
Service Day

Mayor Winstead read and presented a proclamation declaring April 27 as National Youth Service Day to Jefferson High School student Dan Gurska.

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| Youth Service Day Proclamation continued | Gurska stated that on Saturday, April 27, youth will volunteer in the morning and then high school mentors and volunteers will be recognized in the afternoon. He also mentioned the 8 th grade lock-in that he will be involved in at the Galaxy Youth Center on Friday evening, April 26 and the tree planting that will take place on the 27 th . |
| Proclamation Declaring Week of May 1-7 as Respect for Law Week | Mayor Winstead read and presented a proclamation declaring the week of May 1-7 as Respect for Law Week to Optimist Club member Glen Nybeck. He explained that a primary objective of the Optimist Club's involvement in Respect for Law Week is to encourage citizen participation in law enforcement. He stated that the events will kick off on May 1 with the recognition of a K9 officer. Chief Willow announced that Officer Jim Ousley and his K9 will be recipients of the Optimist Club's recognition award. |
| Proclamation Declaring April 27 as Arbor Day | Mayor Winstead read and presented a proclamation declaring April 27 as Arbor Day to Community Services Director Jim Truax who reported that the Bloomington Rotary Club and others have volunteered to plant trees and shrubs in Normandale Lake Park near the Bandshell at 9:00 a.m. on Saturday, April 27. |
| Opened Public Comment Period | The Mayor declared the public comment period open for those wishing to address the Council on matters other than items included on the agenda. No one came forward to speak so the Council returned to its regular agenda. |
| Ratified Bloomington Police Supervisors' Association Agreement Item 6.1 | Motion was made by Peterson, seconded by Abrams, and all voting aye, to ratify a two-year labor agreement with Bloomington Police Supervisors' Association for 2002 and 2003 and covers 23 Sergeants and Lieutenants in the Police Department. |
| Approved Plat Correction for Southtown Shopping Center 4 th Addition Item 6.2 | Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve a Land Surveyors Certificate of Correction for the Southtown Shopping Center 4 th Addition, Case 2017B-01, located at 7901 Penn Avenue South needed to provide for dedication of the avenue to the public. |
| Awarded a Contract to F.F. Jedlicki, Inc. for the 2002-901 Storm Sewer Maintenance Project Item 6.3 | Motion was made by Peterson, seconded by Abrams, and all voting aye, to award a contract to F.F. Jedlicki, Incorporated for the 2002-901 Storm Sewer Maintenance Project in the amount of \$206,038.50. Details of the project are available in the agenda materials. Funding is available in the 2002 Storm Water Utility 530-8302-433.70-31. No assessments will be involved with the project. |
| Approved Addendum #2 with Elert & Associates for Engineering and Consulting Services Relating to New City Hall Project Item 6.5 | Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve Addendum #2 with Elert & Associates to provide engineering and consulting services for the outside fiber design to connect the new Police radio tower and Public Works building to the new City Hall and Option B, which includes the design, Request for Proposals development for fiber optic cable and conduit design, award recommendation, and implementation oversight (would be out in 3-4 months) for \$14,500. The scope of the work and fee is outlined in the agenda materials. |
| Adopted a Resolution Approving an Administrative Variance for Lehman's Garage Inc. at 171 West 79 th Street Case 6449A-02 Item 6.6 R-2002-43 | Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution approving an administrative variance to reduce the rear yard setback from 25 feet to 16.5 feet for an addition onto an existing industrial building at 171 West 79 th Street for Lehman's Garage, Inc., Case 6449A-02, subject to the following 5 conditions as set forth by the Hearing Examiner: <ol style="list-style-type: none"> 1. The encroachment shall only be valid for the building shown on plans in Case 6449A-02; 2. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district; 3. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec. 19.52); 4. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and 5. Color shall be integral to the split-faced block to match the existing building. |

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| <p>Approved Plans, Specs and Schedule for the 2000-402 Street Improvement Project Item 6.7</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the plans, specifications, and proposed schedule for the 2000-402 Pavement Management Program Street Improvement Project. The two parts of this project consist of: Part 1 (adding a lane on the south side of West Old Shakopee Road from Nesbitt Avenue to Whalen Avenue to accommodate the increased traffic from the West Bloomington Technology Park) and Part 2 (watermain maintenance along Nesbitt Avenue from West Old Shakopee Road to 102nd Street and 102nd Street from Nesbitt Avenue to Normandale Boulevard).</p> <p>The cost of the first part of the improvement (West Old Shakopee Road widening) will be assessed to the adjacent property owners. The second part of the improvement (watermain maintenance) would be funded in accordance with budgeted watermain improvement funds 7031.</p> |
| <p>Approved Plans, Specs and Schedule for the 2002-102 Street Improvement Project Item 6.8</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the plans, specifications and the proposed schedule for the 2002-102 Pavement Management Program Street Improvement Project. This project includes street overlays and utility maintenance previously approved and ordered for construction by Council. (List of streets included in the March 18, 2002, Council agenda.)</p> <p>The improvements would be funded in accordance with the approved Pavement Management Program policy, budgeted watermain improvement funds 7031, and State Aid.</p> |
| <p>Approved Professional Services Agreement with URS Corporation for Lindau Lane Reconstruction Item 6.9</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve a Professional Services Agreement with URS Corporation in the amount of \$280,070.00 for the Lindau Lane Project including the Feasibility Study of the extension of sanitary sewer outlined in the Quote for Services and to authorize the Mayor, City Manager, and City Attorney to sign the agreement.</p> <p>The agreement is for the design of the widening of Lindau Lane from TH 77 to 24th Avenue (CSAH 1) and includes the Feasibility Study for the extension of sanitary sewer from the intersection of Killebrew Drive and TH 77 to the north to serve the former site of the Met Center as well as any additional redevelopment of the area north of Lindau Lane and west of 24th Avenue South (CSAH 1).</p> <p>Funding for this project would be the Airport South Capital Improvement Program. When the reconstruction of Lindau Lane is completed, the previously agreed share of the cost, including these consultant expenses, will be assessed.</p> |
| <p>Awarded a Contract to Ti-Zack Concrete for Curb and Gutter and Sidewalk Replacement Item 6.10</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to award a contract to Ti-Zack Concrete of LeCenter, MN for 2002 curb, gutter and sidewalk replacement based on the unit prices bid: \$16.00/ln. ft. for curb and gutter, \$2.75/sq. ft. for 4", \$3.35/sq. ft. for 6", and \$4.50/sq. ft. for stamped/textured sidewalk replacement. This material will be used by Public Works Street Maintenance and Utilities Division for routine pavement and right-of-way maintenance work and repairs required due to watermain breaks or sanitary service repairs.</p> <p>Funding for this contract is available in the 2002 Budget, Street Maintenance Activities 7622 and 7624 and Utilities Activities 8131 and 8231.</p> |
| <p>Approved Specs and Bidding Schedule for the Purchase of One New Aerial Platform/Pumper Fire Apparatus Item 6.11</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the specifications and bidding schedule for the purchase of a new Aerial Platform/Pumper Fire Apparatus to be used by the Bloomington Fire Department. The new truck will replace Unit #523, a 1979 Mack platform truck.</p> <p>Funding for this purchase is available in the 2002 Equipment Replacement Budget, Activity 617-0619-499.70-42.</p> |

Accepted Donations to Various City Activities and Approved Amendments to Related Budgets
Item 6.12

Motion was made by Peterson, seconded by Abrams, and all voting aye, to accept and thank various donors for the following donations made to City activities: \$25 donated to Fire Prevention from Daniel & Sherri Kadlec, \$500 donated to Human Services/Solid Waste Management National Youth Service Day from Wal-Mart Foundation, \$300 donated to Human Services/Solid Waste Management National Youth Service Day from Bloomington United for Youth, and \$50 donated to Human Services in memory of Margaret Schwarz from John Davis of Eden Prairie.

Approved Reallocation of Met Council Grant Agreement #SG-99-42 Relating to the East Bush Lake Road Pathway Project
Item 6.13

Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the reallocation of Grant Agreement #SG-99-42 between the City and the Metropolitan Council from parkland acquisition to the East Bush Lake Road Pathway Project, and to authorize staff to forward requests to Metropolitan Council and the Legislative Commission on Minnesota Resources (LCMR) to: 1) approve the City's grant reallocation request; and 2) approve that the balance of project costs to be paid by the City be eligible for a future reimbursement from the Met Council and LCMR.

The grant agreement in the amount of \$197,000 was to be used for the acquisition of recreational open space lands within the boundaries of Hyland-Bush-Anderson Lakes Park Reserve. Staff was considering an arrangement with the Minnesota Department of Transportation (MnDOT) to use the grant for the acquisition of parkland along Marth Road as part of the parkland mitigation proposal for the I-494 Third Lane Project. Unfortunately, MnDOT was only successful in purchasing a small portion of the desired property at their own expense, so the full \$197,000 grant remains unused. Since there are no other parcels within the boundaries of the Park Reserve currently available for acquisition, and since the grant must be used prior to the end of 2002, the City must reallocate the grant to another project or lose the \$197,000 in grant funds.

The East Bush Lake Road Pathway Project consists of pedestrian and bikeway improvements along the existing roadway of East Bush Lake Road (CSAH 28). The pathway will provide non-motorized access between the various residential developments in the area to the Hyland Lake Park Reserve area, Bush Lake Beach area, Richardson Nature Center, Forest Glen Trail Access and Normandale Lake area.

Funding for this project is proposed from a combination of sources: \$700,000 from a Federal TEA-21 grant and \$759,000 in Matching Funds (Municipal State Aid, Parks and Recreation Funds, Engineering Division Funds) for a total estimated project cost of \$1,459,000. Staff will bring a funding recommendation for the Matching Funds to Council once the project's consultant (WSB & Associates) has completed the engineering design, construction plans and specifications. WSB & Associates began their contract in March 2001 and their total contract is for \$192,376 with \$37,425 spent to date.

Approved Change Orders for City Hall/Police/Fine Arts Center
Item 6.4

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve change orders to the City Hall/Police/Fine Arts Center project in an amount that will add \$147,322.10 for a total construction cost of \$23,072,191.00. The changes are recommended by the Project Architect Ankeny Kell (AKA) and the City's Construction Manager (M.A. Mortenson). The changes, consisting of both additions and deletions, are detailed in the agenda materials.

Funding is available in the Contingency Budget adopted for the project.

Fossum inquired about the three change orders relating to Building and Fire Code changes that amount to \$44,603.00 and why weren't they anticipated and included in the original cost when the building was first designed.

Larry Lee, Community Development Director explained that the designer did design the new building according to the future building code, which is saving the City almost \$1 million in costs. However, an element in the construction of the masonry wall that was designed to comply with current code needs to be designed to the new code. As a result, this change order will make up for the correction of isolating a masonry wall that was not isolated in the original design that was bid.

Adopted an Ordinance Amending Section 14.03 of the City Code Concerning Fees Charged for Various Licenses and Permits Item 4.1A O-2002-12

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt an ordinance amending Section 14.03 of the City Code (as presented in the materials) concerning the fees charged for various licenses and permits.

City Clerk Evelyn Woulfe explained that these are the annual changes to all of the fees that are included in Chapter 14 of the City Code, not just from the business area but from multiple areas of the City. She explained that after taking into consideration the CPI at both the national and Metro levels and the City's budget, staff is recommending a 3.25% increase that is less than the CPI for the Metro area and slightly more than the national CPI. She added that increases above the 3.25% level resulted from cost studies that indicated the City has not been collecting what it costs to process certain licenses.

Winstead explained that his business is licensed within the City of Bloomington and will be subject to the fee increases of which he will be supporting.

No public testimony was received.

Adopted a Resolution Authorizing the Summary of Publication of Ordinance 2002-12 Item 4.1A R-2002-39

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution directing publication of Ordinance 2002-12 by title and summary.

Approved an On-Sale Beer 3.2% "Special Event" License for Nativity of Mary School at 9901 East Bloomington Freeway Item 4.1B

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve an On-Sale Beer 3.2% "Special Event" license application for Nativity of Mary School for their Alumni 50-Year Celebration on Saturday, May 4 from 5:00 - 10:30 pm at 9901 East Bloomington Freeway.

No public testimony was received.

Postponed to May 6 the Liquor Violation Hearing for AMF Southtown Bowl Item 4.2

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone the liquor violation for Southtown Bowl to the May 6, 2002, Regular Council meeting.

Sandra Johnson, Associate City Attorney explained that the postponement is being requested to allow sufficient time for the corporate officers to respond.

Deemed the Liquor License Violation for Green Mill Restaurant at 9445 West Bloomington Freeway as Non-Willful and Imposed a \$1,000 Fine Item 4.2

Motion was made by Fossum, seconded by Abrams, and all voting aye, to deem the on-sale liquor violation that occurred at Green Mill located at 9445 West Bloomington Freeway on February 20, 2002, as a result of a liquor law compliance check operation by the Bloomington Police Department, as non-willful.

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to impose a \$1,000 fine on Green Mill as a result of the liquor violation.

Johnson explained that Green Mill has stipulated that the violation occurred and that the Council is requested to determine if the violation was willful or non-willful and determine the penalty, of which the parameters are set forth in the City's ordinance and State law. She stated that past practice has been to look back five years for past violations and explained what the penalty fines would be for first and subsequent violations. She stated that she is not aware of any aggravated factors in any of the cases before the Council.

Speaker #1: Scott Chisholm, General Manager of Green Mill

He explained what steps Green Mill has implemented since the time of the compliance check. He added that he has requested a Bloomington police officer come in and train the employees on how to properly check I.D.'s and how to spot fake I.D.'s. He stated that the new policy is that they will not serve anyone who has a license that indicates Under 21 at the top.

Deemed the Liquor License Violation for Embassy Suites (Chez Daniel Bistro) at 2800 West 80th Street as Non-willful and Imposed a \$1,000 Fine
Item 4.2

Motion was made by Fossum, seconded by Peterson, and all voting aye, to deem the on-sale liquor violation that occurred at Embassy Suites (Chez Daniel Bistro) located at 2800 West 80th Street on February 20, 2002, as a result of a liquor law compliance check operation by the Bloomington Police Department, as non-willful.

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to impose a \$1,000 fine on Embassy Suites as a result of the liquor violation.

Speaker #1: Bob Kinsella, Beverage Operations Manager for Chez Daniel Bistro
He explained the training program that they have implemented since the compliance check was conducted. He stated that his goal is to increase awareness in an effort to avoid a reoccurrence of another violation.

Wilcox suggested that Mr. Kinsella look into hardware for registers that will prevent the sale from processing if the birthdate provided is less than 21 years of age.

Deemed the Liquor License Violation for Billabong's Aussie Grill at 5001 West 80th Street as Non-willful and Imposed a \$1,250 Fine
Item 4.2

Motion was made by Fossum, seconded by Abrams, and all voting aye, to deem the on-sale liquor violation that occurred at Billabong's Aussie Grill located at 5001 West 80th Street on February 20, 2002, as a result of a liquor law compliance check operation by the Bloomington Police Department, as non-willful.

Motion was made by Fossum, seconded by Peterson, and all voting aye, to impose a \$1,250 fine on Billabong's as a result of the second liquor violation within a five-year period.

Johnson explained that the driver's license presented in this case was a North Dakota license and that it does not identify the driver as being under 21 as clearly as Minnesota licenses do.

Speaker #1: Bob Lawrence, Part Owner of Billabong's
He confirmed that it was a North Dakota license but stated that it shouldn't be an excuse for poor math. He explained that they have reviewed the proper procedures with their employees to try and avoid this type of reoccurrence.

Fossum commenting on the employee's driver's license history, inquired if his irresponsibility on the road carries over to his duties as bartender.

Mr. Lawrence replied that he has not had any problems with this employee and that his driving violations occurred prior to his employment at Billabong's.

Elkins inquired as to the consequences for the servers in all of the cases that are charged with a misdemeanor.

Johnson replied that per State law, they go to Southdale District Court and are charged with a crime. She stated the possible penalties are 90 days in jail, or a \$1,000 fine, or any combination. She stated that penalties for first-time violators are up to the discretion of the judge.

Deemed the Liquor License Violation for Bobby & Steve's Auto World at 7920 France Avenue South as Non-willful and Imposed a \$500 Fine
Item 4.2

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to deem the off-sale liquor violation that occurred at Bobby & Steve's Auto World located at 7920 France Avenue South on February 20, 2002, as a result of a liquor law compliance check operation by the Bloomington Police Department, as non-willful.

Motion was made by Fossum, seconded by Peterson, and all voting aye, to impose a \$500 fine on Bobby & Steve's Auto World as a result of the off-sale 3.2% beer/liquor license violation.

Item 4.2 continued

Speaker #1: Steve Anderson, Owner of Bobby & Steve's Auto World

He explained that they had done a thorough job of training their employees before the compliance check and therefore believes more responsibility should be put on the employees committing the violation rather than on the owners who are trying to do everything possible to train their employees in proper procedures. He suggested that a certification program be implemented whereby servers could be certified by the City so that if they commit a violation, more of the responsibility falls on them and not the owners. He stated the courts are not tough enough on violators and the worse thing he can do is fire them.

City Manager Mark Bernhardson explained that years ago the City tried what Mr. Anderson was proposing and it didn't work out very well. He stated that it's a better practice to make the owners responsible for their employees.

Abrams inquired if the City does anything to try and catch those who providing tobacco and alcohol to minors by making the purchase themselves or those who use fake I.D.'s to purchase.

Chief Willow responded by stating that it is more difficult to catch those individuals but that the Police encourage the beverage sellers to notify them when they suspect someone is purchasing for a minor. In addition, he stated that the Department performs surveillance of parking lots, etc. to try and catch underage drinkers in order to find out the source of their supply. He commented that the Legislature has passed a statute that will help with regard to keg parties in the future that would require all kegs to be registered. He clarified that the State requires compliance checks for tobacco but not for alcohol. He stated that the Department is more concerned with trying to stop the bigger issues that result from underage drinking than they are with going after the business owners.

Closed Public
Comment Period

The Mayor asked if anyone else wished to address the Council during the public comment period or it would be closed. No one came forward to speak and the public comment period was closed.

No Action was Taken
Due to a Lack of a
Majority
Item 4.3

Motion was made by Peterson, seconded by Elkins, not to order the 2002-1B Street Improvement Project (Pavement Management Program Reconstruct) for the 2002 construction season. Motion failed for a lack of a majority at 3-3-0 (Fossum, Winstead, and Wilcox opposing).

Bernhardson inquired if anyone objected to this project being postponed since this matter was previously discussed and a notice went out to the neighborhood regarding the recommendation that the project be delayed to 2003.

City Engineer Shelly Pederson stated that although some residents in attendance may want the project to go forward this construction season, it is possible that this project would not make the construction window and the assessment window. Therefore, 6.5% interest would have to be added to carry it over the winter so that it could be assessed in 2003. In addition, she stated that if this project had to be bid as a standalone project, it would not benefit from a large-scale project bid as the rest of the 2002 PMP street reconstruction project would. She stated this could result in a higher assessment than other average lots in the PMP program. Therefore, postponing the reconstruction project to the 2003 construction season may not cost any more than the additional costs incurred if the project were to proceed in 2002, considering the additional interest and the higher bid that may result.

Winstead stated that although this project was on the list with other PMP reconstruction projects, this one raised issues that the Council has determined need to be addressed from a policy standpoint regarding street width. Consequently, the Council has referred the street width policy issue to the Traffic & Transportation Advisory Commission (TTAC) for their review and recommendation. He stated that the standard street width has been 36 feet wide but that neighborhood input has suggested that a lesser width be considered for this area and that Council discussion resulted in it being referred to TTAC for their review and policy recommendation. He explained that this action has resulted in the project not making the bidding widows, etc. He stated that there is no doubt that Lakeview Road needs repair and that it would be first on the list for next year's construction season.

Pederson reported that TTAC discussed the matter at its last meeting and that they anticipate the review and study process to take 3-4 months with a policy recommendation coming back to Council in August. She stated that staff suggested a narrower street design to the neighborhood, but to date, they have been unable to reach an agreement on the width.

Speaker #1: Gary Hohman, 8917 Woodcliff Road

He supports the project going forward in this construction season. He stated that because the road is only 19 feet in front of his house there are safety issues associated with the street width. He stated that it was his understanding from a previous City informational meeting that the project would proceed unless 100% of the neighbors were against it. Because the roadway is in such poor condition, he would like the street reconstructed now even though there might be an additional 6% in interest to get it assessed next year.

Speaker #2: Jim Cwayna, 8905 Woodcliff Road

He stated that the potholes are very bad on that street. He stated that a 26-foot wide street would save his birch tree from being taken and doesn't believe anything wider is necessary. He concurred with Hohman in that the project was supposed to move quickly this year. He doesn't want to go through another winter the way it is.

Pederson commented that Maintenance would continue to fill potholes on the street and stated that some parts of the roadway area are already signed "no parking" and that the entire area could be designated as "no parking" throughout the winter to increase safety. She stated that staff initially told the neighborhood that it was staff's intention to get the work done in 2002 if they could meet the bidding window but that it ultimately had to be approved by the City Council.

Speaker #3: Gary Smalkoski - 8924 Mt. Curve

He agreed that his street needs improvement but is concerned that 9-10 feet would be taken from his property and driveway. He inquired how the City handles the fact that the yard level is lower than the curb level in several places. How is that difference made up? He stated that he would lose every tree in his yard along Mt. Curve with the widening of his street.

Schane Rudlang, Engineering stated that he could meet with Mr. Smalkoski to discuss his specific issues but explained that the plan is to shift the reconstructed street more into the middle of the right-of-way while trying to save as many trees as possible. He believes that most of Mr. Smalkoski's trees would be saved. He stated that the permanent grade for the street has not been determined, therefore, it is not known if a retaining wall would be necessary or not. He stated that all of the reconstruction would occur within the existing right-of-way and that no portion of private property would be taken.

Regarding a comment that neighborhoods can opt out of a reconstruction project, Pederson explained that there have been cases where all of the property owners on a street signed a petition requesting that the project not be done. The petition is then brought to Council and it's up to the Council to take a project off the list for any given year.

Speaker #4: Gordon Bratsch, 7501 Izaak Walton Road

He explained that this is a unique street and that it's been his understanding that the area would eventually be park and commented that every time someone sells, the City purchases the property. He mentioned that there are unusual plants and birds in the area that should be considered before any decisions are made regarding reconstruction of that street.

Bernhardson agreed that Izaak Walton is a unique street and stated that a decision would come later regarding it unless Council decides to move ahead with it tonight. He stated that for 30 plus years the City has worked on acquiring property but it is the intent of the City to acquire the properties from willing sellers for future park land.

Speaker #5: Mark Schwartz, 8951 Lakeview Road

He believes there is a division of opinion that is localized to parts of the more global neighborhood. He stated that the neighbors on his block seem to be united on the perspective that street widths should be minimized. He suggested that staff move as quickly as possible on this but develop a policy using a localized perspective taking into account the interests of the residents of the community but that is consistent with the City's Code to ensure safely maintained streets.

Speaker #6: Steve Dale, 7401 Izaak Walton Road

He stated that it was his understanding that there was never a definite time given that the project had to be done and that if all of the neighbors didn't want the project and the City Council agreed, that it would be taken off the project list. He thanked Elkins and the Council for looking at the street policy in general and that it may be time to look at a policy that provides a range of street widths from which the Engineering staff can then determine as the appropriate width based on their expertise and that with the Council's input, would result in a least expensive and least invasive street for the neighborhood, rather than starting with a 36-foot wide street and making the neighborhood convince staff and Council why it should be narrower. He supports postponing the project until the policy has been revisited with public input and research.

Speaker #7: Tim Olish, 7420 Izaak Walton Road

He stated that there are some physical realities that need to be considered when determining the appropriate street width in front of his house. He remarked that he recently spent a great deal of money remodeling his home and that he would not be happy with a 36-foot wide street because it would put the edge of the street very close to his home. In addition, he would lose too many trees. Therefore, he asked Council and staff to take their time and think this policy through to see how it would impact the property owners, especially on Izaak Walton Road.

Speaker #8: Pam Hohman, 8917 Woodcliff Road

She stated it was her understanding that the roads in this area were the worst in Bloomington and inquired why the residents weren't told that delaying the meetings could result in the entire project being delayed to the next construction season. She stated that based on past experience, installing curb and gutter on the street would not impact the wildlife that currently frequents the area. For the taxes they are paying, she stated the roads are unacceptable. She wants the reconstruction to get done this year because the potholes are embarrassing and an inconvenience to them and their guests.

Speaker #9: Warren Kokes, 9009 Lakeview Road

He believes more time is needed to develop the proper street width policy and that delaying the project until next year is the right thing to do.

Speaker #10: Tom Nelson, 9313 Yukon Avenue South

He stated that he grew up at 8905 Lakeview Road and that it would be appropriate to be cautious with this neighborhood and with these decisions. He agreed that there are safety issues to be considered and yet there are potholes that need to be filled now. He believes the new policy should reflect the uniqueness of the neighborhood. He believes there is real debate over the appropriate width of the street by the neighborhood and that a widened road could cause drivers to increase their speed in the area. He added that the neighborhood seems to be very committed to working with the staff and City Council in order to find the best solution possible for all concerned.

As a result of the testimony presented, Bernhardson suggested the following options for Council to consider:

1. Wait for a general street width policy regarding the remaining streets to come back in August for construction in 2003, but continue to fill potholes. (Ask the neighbors concerned about the width as to whether or not "no parking" should be posted in the area.)

2. If an agreement could be reached with the neighborhood within a few weeks on street widths, most likely between 28-32 feet, taking into consideration street limitations and parking, with special consideration for Izaak Walton, then the project could be bid as a separate project with a goal of getting the street surface in by fall 2002. With this option, Council would have to look at the customer service issue of the additional cost versus the normal policy.
3. Determine a street width tonight and go forward to try and get the project included in this year's list.

Winstead stated that because the streets are so bad in the Lakeview area, he hoped that the project could go forward tonight by turning it over to the City's engineers to determine the appropriate width with neighborhood input with continued work on the general street width policy.

Abrams would support waiting on this project until after the discussions regarding street width policy have taken place because enough of the neighbors have expressed their concerns regarding the width. He stated that from the meeting he attended, staff did not over-promise as to something being done this year as versus next year but that the preference was for this year.

Wilcox stated that he has enough faith in the City's Engineering Department to allow them to modify the street widths to make them work in this area as they have done in the past. He believes the City made a commitment to the neighbors to get it reconstructed. He supports staff determining the appropriate width for the streets in this area, taking into account input from the neighborhood so that they can get reconstructed this year.

Elkins stated that he believes the street width range for this area should be 24-28 feet, not 28-32 feet based on all of his research on this subject. He would support the current recommendation in the American Association of State Highway Transportation Organization (AASHTO) Green Book Guidelines, which is 26 feet.

Peterson doesn't believe these streets should be determined by the general street width policy and would support the project going forward this year if a consensus could be reached with the neighborhood. He, therefore, suggested laying this over for three weeks until May 6 to see if a consensus could be reached so that Council could make a final decision on whether the project should be included on this year's list or next.

A motion was made by Peterson, seconded by Wilcox, (for discussion purposes) to continue action on this project to the May 6 Regular Council meeting directing staff to determine a recommendation to either go forward with the project this year, that includes neighborhood input, or delay it until next year. No vote was taken.

Winstead stated that he questions whether or not curb and gutter is necessary for the leg of Izaak Walton from Lakeview Road to the deadend but believes it is along with storm sewer on the other streets in the area.

Bernhardson stated that there would have to be six votes on the Council in favor of ordering the project to move it forward this year.

Abrams stated that he would not be available to vote on this project at the May 6 meeting and has been very concerned about this issue for a long time and doesn't want to miss voting on it. However, if a consensus was reached by staff, the neighborhood, and the Council, in particular Elkins, he would be comfortable with the Council voting on this matter in his absence.

Pederson stated that if Council approved the project at the May 6 meeting, staff would still need Council approval on the bidding schedule, etc., but that they could probably get it built yet this year, with the landscaping to be completed in 2003 and assessed in 2003. She reminded everyone that the construction bid could be higher than the rest of the 2002 Street Improvement Project and there would be the additional interest resulting from the delayed assessment.

Item 4.3 continued

Elkins stated that after studying the issue of street width extensively, he is not prepared to accept, nor does he believe the neighborhood is prepared to accept any width that exceeds current AASHTO Green Book Guidelines, which is 26 feet, or ITE Residential Streets Guidelines, in the same general range. Therefore, he would not vote for any width that is beyond the current traffic engineering profession's guidelines.

Bernhardson stated that he would be concerned with a street width of 26 feet given our snow climate as it could cause significant parking restrictions in that area. He stated that staff could possibly accept the 28-30 foot range.

Peterson withdrew his original motion. Motion was made by Peterson, seconded by Elkins, not to order the 2002-1B Street Improvement Project (Pavement Management Program Reconstruct) for the 2002 construction season. Motion failed for a lack of a majority at 3-3-0 (Fossum, Winstead, and Wilcox opposing).

Fossum and Wilcox both stated that they could not support the motion because they believe the City has an obligation to the Lakeview area to get the roads reconstructed in the 2002 season while continuing the street width policy discussions.

Winstead stated that the project is in limbo because there was no direction by Council to move it forward and no direction to remove it from the list. He believes there will not be enough votes to get it passed for this construction season and that the policy will go through the TTAC process and will come back for approval in next year's projects.

Adopted an Ordinance to Vacate an Easement for Floodage Purposes Over and Across a Part of Lot 2, Block 3, Marce Woods 2nd Addition
Item 4.4
O-2002-13

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt an ordinance to vacate an easement for floodage purposes over and across a part of Lot 2, Block 3, Marce Woods 2nd Addition located at 9209 Veness Road. The vacation is requested because the existing house encroaches into the floodage easement. The proposed vacation will clear title on the property.

No public or private utilities are affected by this vacation.

No public testimony was received.

Adopted an Ordinance Designating District and Precinct Boundaries for 2002
Item 4.5
O-2002-14

Motion was made by Abrams, seconded by Wilcox, and all voting aye, to adopt an ordinance adopting the redistricting of district and precinct boundaries for the City of Bloomington as a result of the 2000 census and the congressional and legislative redistricting.

Peterson inquired as to how strictly the redistricting must adhere to the City ordinance.

Evelyn Woulfe explained that because there is no road that runs through Hyland Park, the precinct boundary follows around the park and then on the west side of the park, the east/west line must be a road that continues to Bloomington's boundary which ends up not being a straight line. She added that the redistricting criteria also includes the census blocks and not just the roads.

Abrams thanked the City Clerk and staff for their work on this item.

Adopted an Ordinance Authorizing the Transfer of Lands and Easements to the Minnesota Department of Transportation for Phase I of the I-494 "Third Lane" Project
Item 4.6
O-2002-15

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt an ordinance authorizing the transfer to the Minnesota Department of Transportation (MnDOT) of certain lands and easements lying within Sections 17 and 18, Township 116, Range 21 of the City of Bloomington as a result of Phase I of MnDOT's I-494 Third Lane Project. The Third Lane Project consists of a widening of I-494 between T.H. 5 and T.H. 100. In conjunction with Phase I work, a retaining wall will be installed along the edge of the freeway and a City bike path and sanitary sewer that presently exists in the Project area will be relocated and rebuilt.

No staff report was provided but a reference was made to a memo that Council had received earlier on the matter.

Approved an Agreement for the Transfer of Lands and Easements to the Minnesota Department of Transportation for Phase I of the I-494 "Third Lane" Project
Item 4.6

Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve an agreement for the transfer of lands and easements to the Minnesota Department of Transportation (MnDOT) for purposes of Phase I of the I-494 Third Lane Project.

Deputy Director of Public Works Jim Gates responding to Elkins' inquiry as to lots that were included as part of the taking, explained that there are actually two lots on either end of the project. In Phase IA of the 494 Third Lane Project, there is an impact on the very east end to the Peterson parcel and an impact on the Anderson parcel on the west end. He confirmed that MnDOT needs to secure the properties in order to build the project.

Postponed to May 6 an Ordinance Imposing a Moratorium on Development Within State Airport Safety Zones
Item 4.10

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone to the May 6 Regular Council meeting, an ordinance imposing a moratorium on development for properties located within State Airport Safety Zones currently proposed by the Metropolitan Airports Commission.

Ornstein stated that the item be tabled until May 6 until after the Council considers the Alternative Urban Areawide Review of the Airport South District. He stated that it would be readvertised and that all of the affected properties would be notified. He added that the Joint Airport Safety Board continues to make progress on a zoning ordinance and the State safety zone boundaries.

Adopted a Resolution Designating General Fund Balance and Strategic Priority Funds
Item 4.7
R-2002-40

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution designating \$13,780,470 for General Fund working capital and \$1,857,010 for strategic priority funding.

Bernhardson explained that this item only transfers the money over to the Strategic Priorities Capital Projects and the designation of that money will be approved by Council at a later date.

No public testimony was received.

Adopted a Resolution Dedicating Certain City Lands for Street and Roadway Purposes Relating to the Intersection Improvements at Old Cedar Avenue and East Old Shakopee Road
Item 4.8
R-2002-41

Motion was made by Wilcox, seconded by Fossum, and all voting aye, to adopt a resolution dedicating Lots 45 and 46, Auditor's Subdivision No. 205 for street and roadway purposes for certain roadway improvements relating to the intersection improvements at Old Cedar Avenue and East Old Shakopee Road.

Wilcox inquired as to the schedule of the project.

Scott Anderson, Engineering replied that plans have been submitted to the State and County for approval and that staff is anticipating a bid letting in early July and that demolition would occur after the letting.

No public testimony was received.

Adopted a Resolution Approving the Bloomington Family Aquatic Center 2002 Season Pass Refund Policy
Item 4.9
R-2002-42

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving the following Bloomington Family Aquatic Center 2002 season pass refund policy:

A season pass holder who purchases a pass in advance of June 8, 2002, can request either:

1. A refund of 10% of the season pass price for each week that the 2002 pool opening is delayed; or
2. A 10% discount off the season pass price in 2003 for each week that the 2002 pool opening was delayed; or
3. A full refund of the 2002 season pass purchase if they do not want to wait for the delayed opening of the pool.

Wilcox inquired as to who would be responsible for the 10% refund if the project is delayed.

Item 4.9 continued Randy Quale, Park & Recreation Manager replied that the City would be responsible for the 10%, however, the City Attorney would be consulted if the City determined there were damages to be claimed. He stated that the 10% refund would take effect if the project is at least 7 days late and would go to 20% if the project is at least 14 days late, etc. He added that Mortenson is very set on pursuing the current deadline for the project so that it hopefully won't get delayed.

Boards/Commissions
Communications
Item 7.1 No boards/commissions communications reported.

Status of Action Items
Item 7.2 No Status of Action Items provided.

Community Development Director Larry Lee presented an update on the Metropolitan Airport Commission's (MAC) Part 150 noise mitigation strategy meeting that was held today regarding the 60-65 dbl area. He showed a map MAC staff had presented indicating the revised Part 150 noise contours. He explained that Northwest Airlines has included a new fleet mix that will take out the hush-kitted aircraft faster, adding in new aircraft sooner, resulting in a shrinkage of the contours. As a result, there is very little 60 dbl area left to the west of T.H. 77. He stated that the policy adopted by MAC today offers the entire noise insulation out to the 63 dbl contour that will include most, but not all, of the blocks east of T.H. 77. The policy results in the four houses in the 60-63 dbl contour that will be eligible for a mechanical package (air conditioning, if not already existing). If homes in the 60-63 dbl do have air conditioning, they would be eligible for a reimbursement for air conditioning or other noise mitigation work that they have already had done. MAC staff estimates indicate that \$45 million would be for the full mitigation in the 63-64 dbl contours, \$68 million for the mechanical package in all of the contours, \$29 million for reimbursement of houses that did have air conditioning or other mitigation, and \$6 million for their estimate of homes which are tested but don't meet the noise mitigation requirement essential in the structure of the home and doing full insulation there. Lee stated that based on a comment from one of the MAC commissioners, he doesn't believe any of the homes in the 60-64 dbl will fail the test. He added that a Northwest Airlines representative who testified believes the contours, based on five-year projections, are too aggressive and that they should be based on today's reduced airline traffic. He stated that the updated map and the mitigation measures are in front of the FAA now and that Northwest could possibly lobby the FAA against their adoption.

Lee reported that the Commission voted on the following details today in their meeting:

1. \$150 million maximum for the work based 1998 dollars.
2. Definition of single-family residential is up to and including a tri-plex.
3. Reimbursement for those with air conditioning and other noise mitigation in the 60-62 dbl is limited to \$10,000.
4. Acoustical testing will only occur if MAC staff believes it is necessary.
5. Every participant in the program, regardless of the degree, will be required to provide a navigation release to MAC.
6. If less than \$150 million is spent, the remaining money will not be used for noise insulation.

Lee stated that the change in contours had an even greater effect in Minneapolis, reducing the number of homes inside the 60 dbl from over 8,000 homes to over 6,000.

To counter a possible NWA lobbyist, Peterson inquired if it made sense for Bloomington to have a lobbyist in favor of this plan.

Lee responded that it was discussed but that it would involve hiring a firm based in Washington, D.C. However, consideration could be given to hire one lobbyist to work for a group of communities. He stated that Bloomington has a total of 250 houses affected out of 8,000 according to the contours.

Peterson added that one benefit resulting from the Part 150 Program is that aircraft will be making their turns out over the river.

Lee stated that most of the Northeast Noise Point Neighborhood is in the 60 dbl contour and that the best hope for insulation of those homes is because of the equity issue, as they stepped back from insulation to allow MAC to make a decision to acquire or to insulate.

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| <p>Approved Comment Letter to the Minnesota Pollution Control Agency on the Draft NPDES Phase II General Permit and Application Item 7.3</p> | <p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the comment letter on the Draft National Pollutant Discharge Elimination System (NPDES) General Permit to the Minnesota Pollution Control Agency (MPCA) and to authorize staff to forward the letter and continue to work with the MPCA staff to produce a practical general permit that can be effectively implemented.</p> |
| <p>Accepted the 2001 Annual Insurance Report Item 7.4</p> | <p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to accept the 2001 Annual Insurance Report that indicated the premium costs, losses by division, and reserve amounts for unsettled claims on a comparative basis over the past three years.</p> <p>Risk Manager Amy Larson presented a slide presentation on the City's annual insurance program as of December 31, 2001. She explained that the City has a casualty package program with the League of Minnesota Cities Insurance Trust. She highlighted the following information:</p> <ol style="list-style-type: none"> 1. Little change in the General Liability experience between 1999 and 2001. 2. Premiums have increased significantly in the area of Business Auto, especially in 2001 with the addition of the collision coverage and the overall increased costs due to the City's losses. 3. Workers' Compensation costs for 2001 decreased. 4. Estimated accumulative savings of nearly \$12 million in Workers' Compensation costs since the City became self-insured in 1986. 5. Minor losses reported over the last three years under the property policy (deductible is \$10,000). 6. Clinic, Golf Course Liquor Liability, and the other individual policies (only losses reported include property damage under the Clinic policy and that the deductible is \$100.) 7. Over the past two years, the equity in the Insurance Fund has decreased due to the number of claims filed and the expenses associated with closing a small number of large exposure claims. 8. In 2002, Internal Service fees were increased by a total of \$100,000. 9. City continues to have a reasonable loss record overall. (Safety Committee to be re-established to look at reducing claims in specific areas.) 10. A study to be conducted to confirm that the reserve levels of claims are adequate for a city of this size with results to be reported back to Council. |
| <p>Approval of Minutes</p> | <p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve the minutes of the March 25 Study and April 1, 2002, Regular Council meetings, as presented.</p> |
| <p>Appointed Raye Marie Black to the Bloomington Family Services Community Council Item 3.1</p> | <p>Motion was made by Peterson, seconded by Fossum, and all voting aye, to appoint Raye Marie Black to the Bloomington Family Services Community Council to fulfill a term expiring on May 31, 2003, vacated last year by Kaita Mpambara.</p> |
| <p>Appointed Elkins to the Management Committee and Chad Smith to the Technical Advisory Committee for the Cedar Avenue Transitway Corridor Study Item 3.2</p> | <p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to appoint Councilmember Elkins as a policy representative on the Management Committee and Chad Smith, Traffic & Transportation Engineer to the Technical Advisory Committee for the Cedar Avenue Transitway Corridor Study.</p> <p>Phase 2 of the Feasibility Study will include a scoping study leading to environmental work, feasibility studies of extending the transitway south to County Road 70 in Lakeview and southwest along I-35E/I-35 to County Road 46, an alternatives analysis, and a short-range transit improvements study for the Cedar Avenue corridor.</p> |
| <p>Adjourn Meeting</p> | <p>Mayor Winstead adjourned the meeting at 10:25 p.m.</p> |

Barbara Clawson
Council Secretary