

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

CITY COUNCIL MEETING

Approved Minutes
Regular Meeting
Meeting #22

7:00 p.m.
August 19, 2002
Council Chamber

- Call to Order and Pledge to Flag Mayor Gene Winstead called the meeting to order and led the Council and audience in the pledge of allegiance to the flag.
- Roll Call Present: Mayor Winstead, Councilmembers D. Abrams, S. Elkins, M. Fossum, H. Harden, S. Peterson, and V. Wilcox.
- Announced the Passing of Pat Bugenstein Mayor Winstead announced that long-time resident Pat Bugenstein passed away and remarked on how she kept Bloomington in the forefront by her involvement in the formation of the South Hennepin Human Services Council, her participation in the League of Women Voters, the arts groups, and many other organizations. He stated that she will be greatly missed and that the City would be bringing forth a proclamation or some type of more formal recognition in the future.
- Minnesota Recreation & Parks Association Award Sandy Wagner of the Minnesota Recreation & Parks Association (MRPA) presented the City of Bloomington an Award of Excellence for the Normandale Lake Bandshell and Park Shelter Project. She provided background on MRPA, its award, and the criteria used in selecting the winners. She also recognized Parks & Recreation Manager Randy Quale for nominating this project.
- Quale stated that there are 35 events scheduled at the bandshell this year and that they have been very well attended. He stated that the bandshell draws thousands of people annually and that an estimated 350,000 people walk around Normandale Lake each year. He thanked the Council for their support and the Met Council for writing a grant to help fund the construction of the bandshell as well as the Legislative Commission of Minnesota Resources that also provided funds for the project.
- Visual Arts Week Proclamation Mayor Winstead read and presented a proclamation declaring the week beginning September 26 as Visual Arts Week of Discovery in the Twin Cities to Kate Pettit, Bloomington Fine Arts Council President and to Chris Carver of the Vern Carver Beard Gallery.
- Pettit and Carver thanked the Council for the proclamation and encouraged the public to attend the various arts activities that will be going on beginning September 26. Carver stated that his gallery is located at Loehmann's Plaza, soon to be called Normandale Village, at 98th Street and Normandale Boulevard.
- 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.
- Set the Schedule for the 2002 Assessment Rolls No. 7, 8, and 9 Item 6.1 Motion was made by Fossum, seconded by Elkins, and all voting aye, to set the schedule for the 2002 Assessment Rolls No. 7 (assessments for connection charges that have been petitioned for by developers at various locations throughout the city), No. 8 (assessments for the 2000-402 Street Improvement Project located at West Old Shakopee Road and Nesbitt), and No. 9 (assessments for 2002-102 Pavement Management Program Street Reconstruction Project).
- Approved Wetland Conservation Act Project Decision for Scarborough Townhomes Item 6.2 Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the Wetland Conservation Act Project Decision on the Wetland Replacement Plan for Scarborough Townhomes at 10284/88 Scarborough Road, a development of two single-family lots on an existing lot that contained a tennis court.

<p>Approved Request for Proposal Guidelines for Human Services Contracts Item 6.3</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the Request for Proposals (RFP) guidelines to be used by human service agencies when submitting a funding proposal to the City for human services to be provided in 2003.</p>
<p>Approved Addendum #1 to Agreement with Braun Intertec Corporation Item 6.4</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve Addendum #1 to an agreement between the City and Braun Intertec Corporation for additional construction inspection services for site paving, site concrete, and utilities at the new City Hall/Police/Arts Center facility in an amount not to exceed \$9,500.</p> <p>Funds are available in the City Hall contingency funds.</p>
<p>Approved Specifications and Bidding Schedule for Construction at Sunrise and Tretbaugh Parks Item 6.5</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the specifications and bidding schedule for the reconstruction and paving of the hockey rink at Sunrise Park and the reconstruction of the west broomball rink at Tretbaugh Park.</p> <p>Funding for the Sunrise Park hockey rink reconstruction in the amount of \$79,180 would come from the Parks Capital Fund. Funding for the Tretbaugh Park broomball rink is available in the 2002 Park Maintenance Budget, Activity 101-7723-425.70-31.</p>
<p>Approved an Agreement with Independent School District #271 for Safe and Drug Free Schools Leadership Services Item 6.6</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve an agreement with Independent School District #271 for Safe and Drug Free Schools leadership services. The City will be compensated up to \$11,000 for services provided.</p>
<p>Awarded a Contract to Jay Brother's Incorporated for the 2002-201 Intersection Improvement Project Item 6.7</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to award a contract to Jay Brother's Incorporated for the 2002-201 Intersection Improvement Project (Old Cedar Avenue and East Old Shakopee Road) in the amount of \$111,535.00.</p> <p>Federal Funding Assistance has been authorized by the Minnesota Department of Transportation (MnDOT) to cover 90% of the construction costs. The City and Hennepin County have an agreement in place to share the remaining construction costs at a 50/50 split. Funding for the City's portion of the project is available in the City's State Aid account.</p>
<p>Adopted a Resolution Approving an Administrative Variance at 8512 Haeg Drive Case 5450ABC-02 Item 6.9 R-2002-105</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to adopt a resolution approving an administrative variance to reduce the front yard setback from 30 feet to 25 feet for a garage addition; reduce the side yard setback from 5 feet to 2 feet for a garage addition; and reduce the side yard setback from 10 feet to 3 feet for a living space addition at 8512 Haeg Drive, Case 5450ABC-02, for Timothy Taffe, subject to the following 4 conditions as set forth by the Hearing Examiner:</p> <ol style="list-style-type: none"> 1. Exterior building materials be consistent with those used on the existing dwelling; 2. Existing drainage pattern shall not be altered to cast additional drainage onto abutting properties; 3. Maintenance agreement must be filed with Hennepin County; and 4. Variances shall only apply to the plans approved in Case 5450ABC-02.
<p>Ratified the City's 2002/03 Fire Pension Contribution Item 6.10</p>	<p>Motion was made by Fossum, seconded by Elkins, and all voting aye, to ratify the 2002/2003 Fire Pension contribution in an amount of \$874,372, per Section 69.77 of the Minnesota Statutes that establishes the procedure for determining the City's "minimum obligation" (contribution) to the Fire Department Pension Plan. The City Financial staff has reviewed and concurs with the calculation and this amount has been included in the City's financial budget system as a cost of the Fire Department program.</p>

Approved an Agreement with Independent School District #271's Volunteer Connection K-12 Programs
Item 6.11

Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve an agreement between the Human Services Division and Independent School District #271's Volunteer Connection K-12 Programs, which shall provide volunteer opportunities for the Homework Connection, Basic Skills, English As a Second Language (ESL), and Enrichment programs. The agreement term is through June 30, 2004.

Approved Plans, Specs, and Bidding Schedule for the 2001-202 Utility Improvement Project
Item 6.12

Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the plans and specifications and set the bidding schedule for the 2001-202 Utility Improvement Project. The project is a result of a petition requesting certain public improvements be constructed, consisting of sanitary sewer main, lift station and sanitary sewer lateral on Cedar Circle from Old Cedar Avenue to the terminus, which was received on July 14, 2000.

Funding for this project will be from special assessments to the directly benefiting properties and from the Sanitary Sewer Utility Fund.

Approved Purchase Agreement and Relocation Benefits Relating to the Acquisition of 8126 Lyndale Avenue South
Item 6.13

Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the purchase agreement for the acquisition of 8126 Lyndale Avenue in conjunction with the Lyndale Avenue Street Improvement Project and payment of the relocation benefits as follows: City's appraised value of the home (\$167,000), proration of current year taxes (\$1,110) to date of closing, and City assumption, per federal regulations, of abstracting deed tax, and various closing costs.

Approved Agreement with Nine Mile Creek Watershed District
Item 6.8

Motion was made by Elkins, seconded by Fossum, and all voting aye, to approve an agreement between the City and the Nine Mile Creek Watershed District to allow the location of two water quality monitoring stations along Nine Mile Creek in Bloomington. The stations will be operated and maintained by the Watershed District and will be used to obtain water quality data in Nine Mile Creek.

Scott Anderson, Storm Drain Engineer explained that the Nine Mile Creek Watershed District hopes to start construction later this summer and that monitoring should begin in the fall and continue into the spring. He stated that he was not certain if the water testing would include phosphorous levels or not, but that they probably would do so if they're equipped to monitor phosphorous. If they do, he stated the data collected yet this fall and early next spring could be used as the base line data.

Regarding the condition of Lake Normandale each summer, Elkins inquired if Anderson was aware of a treatment the City of Minneapolis has used recently to treat their lakes that includes the laying down of a layer of sediment that keeps things from growing up.

Anderson stated that he was unaware of it but would contact the City of Minneapolis to inquire. To answer Fossum's inquiry regarding whether or not the City has ever used a mechanical machine to pull up the weeds manually, similar to what's been used on Lake Calhoun and Lake Harriet, explained that Public Works has used a mechanical harvester and that it was determined by staff to be a losing battle. Weeds would grow up as fast as they could cut them and disposal of the weeds was problematic. So the mechanical harvester was sold. Anderson explained that the lakes and ponds in the metro area were adversely affected by the type of freeze and snow cover that occurred last fall and winter, which allowed additional time for the plant life from last year to stay around longer and start earlier this year. In addition, the warm temperatures have stimulated aquatic growth.

Adopted a Resolution Authorizing Eminent Domain for Acquisition of Easements at 7845 Telegraph Road
Item 4.6
R-2002-103

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to adopt a resolution authorizing and directing staff to initiate eminent domain proceedings for the acquisition of certain permanent and temporary construction easements over the property at 7845 Telegraph Road. The easements are necessary to move the entrance to the office property at that location from Telegraph Road to Marth Road, in conjunction with the first phase of the Minnesota Department of Transportation's (MnDOT) "3rd Lane Project" on I-494.

Item 4.6 continued	City Attorney Dave Ornstein explained that negotiations have been taking place between the property owners and staff, however, no agreement had been reached to date. Due to the MnDOT's construction bid schedule, initiation of the quick-take process needs to begin even though there is still hope for a negotiated agreement.
Adopted a Resolution Adopting Final Alternative Urban Areawide Review for Airport South District Item 4.7 R-2002-104	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution adopting the Final Alternative Urban Areawide Review (AUAR) and Mitigation Plan for anticipated development in the City's Airport South District.</p> <p>Ornstein explained that an objection to the AUAR was filed by the Minnesota Department of Transportation's Office of Aeronautics because they wanted to defer any action on Bloomington's AUAR for the Airport South Area until the airport zoning process was completed. He stated that staff explained that the Council had adopted an eight-month moratorium and that there won't be any development in the area of the proposed State Airport Safety Zones, and that if necessary, the moratorium could be extended. Because MnDOT staff still had a problem with the objection, it went to the Environmental Quality Board (EQB), which is made up of commissioners of each of the State agencies, including MnDOT's commissioner. He stated that the EQB unanimously determined that the AUAR was adequate, therefore, the matter is now before the City Council for adoption of a resolution finding that the AUAR and Mitigation Plan are adequate. He added that development within properties outside the State Safety Zones not affected by the moratorium such as the McGough Development would be allowed to go forward without any further environmental review. Therefore, staff recommends adoption of the resolution.</p> <p>Bernhardson publicly thanked City staff members Dave Ornstein, Larry Lee, Bob Hawbaker, Clark Arneson, Bob Sharlin, Charlie Honchell, Jim Gates and others who were very instrumental in putting together one of the first AUAR's in the area, which is a very complex process.</p> <p>No public testimony was received.</p>
Approved On-Sale Beer 3.2% "Special Event" License for Nativity of Mary Church at 9900 Lyndale Avenue South Item 4.1A	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an on-sale beer 3.2% "Special Event" license application for Nativity of Mary Church at 9900 Lyndale Avenue South. The special event will occur on Tuesday, September 10, 2002, from 5:00 p.m. - 10:00 p.m.</p> <p>No public testimony was received.</p>
Adopted a Resolution Approving a Class B Gambling Premise Permit at Joe Sensor's 4217 West 80 th Street Item 4.1B R-2002-100	<p>Motion was made by Wilcox, seconded by Elkins, and all voting aye, to adopt a resolution approving a new Class B (raffles, paddlewheels, tipboards and pull-tabs) lawful gambling premise permit for Metro Baseball League for use at Joe Sensor's, 4217 West 80th Street.</p> <p>No public testimony was received.</p>
Approved an On-Sale Beer 3.2% "Special Event" License for St. Bonaventure Church at 901 East 90 th Street Item 4.1C	<p>Motion was made by Wilcox, seconded by Elkins, and all voting aye, to approve an on-sale beer 3.2% "Special Event" license application for St. Bonaventure Church at 901 East 90th Street for their Fall Festival to be held on Friday, September 6 from 4:00 p.m. - 10:00 p.m. and on Saturday, September 7 from 10:00 a.m. - 7:00 p.m.</p> <p>No public testimony was received.</p>
Boards/Commissions Communications Item 7.1	No boards/commissions communications reported.
Status of Action Items Item 7.2	Status of Action items were included with the August 5, 2002, City Manager's Information.

<p>Authorized Transmittal of Comment Letter to Met Council on their Draft Blueprint 2030 Item 7.3</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to authorize transmittal of a letter to Ted Mondale, Chairman of the Metropolitan Council commenting on the Met Council's Draft Blueprint 2030, which sets regional policy, is often referred to in issuing grants, and is used as a measuring stick when determining whether a local comprehensive plan or development proposal is consistent with regional systems and plans.</p> <p>Bernhardson provided background stating that the Met Council has been undergoing a process to try and frame the growth in the area to the year 2030. He stated that staff had prepared a comment letter per Met Council's request as they prepare additional Blueprint 2030 drafts. He stated the City wanted to take a lead in this process along with the Association of Metropolitan Municipalities.</p> <p>Elkins remarked on the nice job Glen Markegard did on drafting the comment letter and in addressing the sewerage fee, which is an important issue.</p>
<p>Adopted a Resolution Approving 2002 Assessment Roll No. 4 Item 4.2A R-2002-101</p>	<p>Motion was made by Abrams, seconded by Peterson, and all voting aye, to adopt a resolution approving the 2002 Assessment Roll No. 4, a petitioned street modification of the Green Valley Drive area that was added as a change order to the 2001-103 Improvement Project:</p> <p>Ref. No. 1 Green Valley Drive from Norman Center Drive (West) to Norman Center Drive (East).</p> <p>No public testimony was received.</p>
<p>Adopted a Resolution Approving 2002 Assessment Roll No. 5 Item 4.2B R-2002-102</p>	<p>Motion was made by Abrams, seconded by Peterson, and all voting aye, to adopt a resolution approving the 2002 Assessment Roll No. 5, a petitioned item for the Conrade Addition. This was part of Schedule 1 of the 2001-103 Pavement Management Program Street Improvement Project:</p> <p>Ref. No. 1 Queen Avenue from 105th Street to Terminus North.</p> <p>No public testimony was received.</p>
<p>Closed Public Comment Period</p>	<p>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.</p>
<p>Approval of Minutes</p>	<p>Motion was made by Abrams, seconded by Fossum, and all voting aye, to postpone approval of the minutes of the June 24, 2002, Council Study meeting to August 26, 2002, for a clarification of the motions relating to Study Item #3C.</p> <p>Wilcox requested a clarification in the language regarding the motions made relating to Study Item #3C and the Light Rail Transit (LRT) enhancements to indicate that Wilcox and Fossum opposed the City's participation in an amount not to exceed \$77,000 for a stucco/brick enhancement of the Mall of America LRT station.</p> <p>Motion was made by Peterson, seconded by Abrams, to approve the minutes of the July 15, 2002, Regular Council meeting as presented. Motion passed 6-0-1 (Elkins abstaining).</p> <p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the minutes of the July 29, 2002, Study Meeting as presented.</p>
<p>Adopted a Resolution Approving the Final Plat and Subdivision Agreement for Moir Park Apartments at 2001 & 2021 West Old Shakopee Road Case 4765C-02 Item 4.3 R-2002-106</p>	<p>Motion was made by Abrams, seconded by Elkins, and all voting aye, to adopt a resolution approving the preliminary and final plat of Moir Park Apartments, located at 2001 and 2021 West Old Shakopee Road, Case 4765C-02, approval of the subdivision agreement subject to the following revised conditions and a review of the title by the City Attorney, and receipt of the necessary documents and deposits:</p> <ol style="list-style-type: none"> 1. Dedicate Right-of-Way as shown on plat submitted August 14, 2002. 2. Dedicate drainage and utility easements as shown on plat submitted August 14, 2002. 3. Provide 10-foot sidewalk/bikeway easement along street frontage.

Item 4.3 continued

4. An ingress/egress easement across the proposed Moir Park Apartments plat that fully covers the existing easterly driveway for the benefit of the two properties to the east be filed with Hennepin County and proof of filing be furnished to the City Engineer.
5. Sewer Availability Charge (SAC) be satisfied.
6. Alterations to utilities shall be at the developer's expense.
7. Approved and installed erosion control barriers shall be maintained throughout the construction period and not removed until authorized by the City Engineer.
8. Grading, Drainage, Utility and Erosion Control plans shall be approved by the City Engineer and the Watershed District.

and subject to the following Code requirements:

1. Park Dedication shall be in cash.
2. Unused water services shall be properly abandoned (Sec. 11.15).
3. The approved Final Plat shall be filed with Hennepin County, a certified copy provided to the Engineering Department.

Winstead stated that the Council had received a revised staff report that included a change in Condition #4.

No public testimony was received.

Postponed to September 23 the Rezoning of the Property at 3700 & 3750 East 80th Street and a Related Item
Item 4.4A&B

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone to the September 23, 2002, Regular Council meeting, a rezoning of the property at 3700 and 3750 East 80th Street from CS-0.5(PD), Commercial Service-0.5 (Planned Development) to CS-1(PD), Commercial Service (Planned Development) and the Revised Final Development Plan to modify Condition #9 from Case File #9250AB-94, per the applicant's request.

<Council took a 15-minute recess.>

Adopted an Ordinance Vacating Easements Over and Across 10740 & 10736 Normandale Boulevard Relating to WAJCO ADDITION
Item 4.5
O-2002-30

Motion was made by Wilcox, seconded by Harden, and all voting aye, to adopt an ordinance vacating easements for utility purposes over and across all of Lots 1 and 2, Block 1, Baillif's Addition, 10740 and 10736 Normandale Boulevard, to Bloomington and vacating an easement for sign purposes over said Lot 1 for William Jay Bernardy, subject to the filing of the final plat of WAJCO ADDITION.

No public or private utilities are affected by this vacation.

No public testimony was received.

Closed the Public Hearing on Storage of a Recreational Vehicle at 9440 3rd Avenue
Case 6039A-02
Item 5.1

Motion was made by Peterson, seconded by Abrams, and all voting aye, to close the public hearing on the renewal of a temporary conditional use permit to park and store a Class II recreational vehicle (RV) at 9440 3rd Avenue, Case 6039A-02, for Gail Milner.

Senior Planner Bob Hawbaker explained that the RV has been in the same location at this home for three years, at which time, the application was initiated due to a complaint by a neighbor. He stated that the Hearing Examiner denied the application at that time and that it was referred to the Planning Commission who recommended approval, and then Council gave its approval to the three-year temporary conditional use permit. He stated that when the application came back for renewal, staff approved it but the Hearing Examiner again denied it. The applicant appealed the decision and it went to the Planning Commission, who on a 4-2 vote, recommended approval. It is now before the City Council for its decision. He stated that the RV is legal with the use permit, about 1½ feet off the sidewalk, and is located in the middle of the front yard. He explained the applicant's argument is that there is a significant slope between the driveway and the property line that prevents the parking of the RV there. Therefore, the applicant would like to park it in the middle of his yard. However, the Hearing Examiner believes that it is too much of a visual intrusion into the neighborhood and that if the Council can't turn this one down, it wouldn't be able to turn any others down either and that the ordinance should then be revisited to allow them without needing temporary conditional use permits.

Item 5.1 continued

The Milners were present in the audience and Mayor Winstead inquired if they wanted to address the Council on the matter. They indicated that they did not, as they believed it was pretty straightforward.

Abrams stated that he agrees with the Hearing Examiner on this one and that based on the work the Council did on this ordinance years ago, the Council should deny it or else revisit the ordinance.

Wilcox commented that because there was only one neighbor who originally opposed this when it came through three years ago and because it's only stored there for six months (April through October), he could support it.

Peterson, referring to a previous application involving a pickup truck camper on a cul-de-sac on the east side of Hyland Park in which a neighbor objected, stated that it was similar to this one and the Council had denied that one.

Fossum stated that because the Hearing Examiner stated that the RV didn't pose any safety hazard, isn't blocking the sidewalk or right-of-way, and isn't an eye sore, he would support approval of the renewal of the temporary conditional use permit.

Winstead stated that he would not support it because the City doesn't allow vehicles of this size like school buses to be parked in residential driveways and that the purpose of the ordinance was to keep RV's stored someplace out of sight, not in driveways.

No public testimony was received.

Requested a Resolution for September 9 Relating to the Parking and Storage of a Recreational Vehicle at 9440 3rd Avenue
Case 6039A-02
Item 5.1

Motion was made by Peterson, seconded by Abrams, to direct staff to prepare a resolution of denial for a three-year temporary conditional use permit to park and store a Class II recreational vehicle more than eight feet in front of the dwelling at 9440 3rd Avenue, Case 6039A-02, and a waiver to the screening requirement, and approved allowing the applicant to continue parking and storing the RV through October 31, 2002, to provide time to find an off-site location. Motion passed 5-2-0 (Fossum and Wilcox opposing).

Hawbaker explained that the Hearing Examiner did approve a temporary conditional use permit to October 31, 2002, in order to allow the applicant time to find another location.

Comment Regarding Presbyterian Homes' Concept Master Plan

Referring to a piece in the City Manager's Information regarding the development of the area between the new City Hall and Gideon Pond housing and Presbyterian Homes' desire to present a master plan developed by their consultant to the City Council, Wilcox stated his concern that the City is going to review one developer's concept for this area and wanted to make it clear that the City is not supporting any one particular developer. He stated that he has no problem with Presbyterian Homes' desire to develop the area but wanted to destroy any illusion that the City is only interested in one developer's plan for that site and that the City would give any developer the same opportunity to present a concept plan.

Bernhardson clarified that a developer would like to present a concept master plan and that the City would review it but that it doesn't mean that it necessarily supports the developer. He stated that the City might support the concept master plan and that it would be open to anyone who had a proposal for that site.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 8:11 p.m.

Barbara Clawson
Council Secretary