

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

CITY COUNCIL MEETING

Approved Minutes
Regular Meeting
Meeting #24

7:00 p.m.
September 9, 2002
Council Chamber

Call to Order and
Presentation of Colors

Mayor Gene Winstead called the meeting to order and Girl Scout Troop #220 led the Council and audience in the pledge of allegiance to the flag. At Mayor Winstead's request, the girl scouts introduced themselves stating that they attend Oak Grove and Olson Middle Schools.

Roll Call

Present: Mayor Winstead, Councilmembers D. Abrams, S. Elkins, M. Fossum, H. Harden, S. Peterson, and V. Wilcox (arrived at 8:30 p.m.)

Proclamation Declaring
9-11 As a Day to
Remember Always

Mayor read the proclamation marking the anniversary of the criminal attacks on the people of the United States on September 11, 2001, in which citizens are encouraged to reflect, to mourn, and to rededicate themselves to the ending of terrorism and reaffirming their patriotism to this community, the country, and to other freedom-loving people in the world. He mentioned that there are events scheduled at Fire Station #1 as well as the other fire stations in Bloomington and at the Mall of America.

Proclamation Declaring
September as Prostate
Cancer Awareness
Month

Mayor read and Jim Truax, Community Services Director accepted a proclamation declaring September as Prostate Cancer Awareness Month in Bloomington.

Adopted a Resolution
Approving Issuance of
Health Facilities
Revenue Bonds
Item 4.5
R-2002-110

Motion was made by Abrams, seconded by Elkins, and all voting aye, to adopt a resolution giving host City approval to the issuance of Health Facilities Revenue Obligations for a project by Wingspan Life Resources and approve a Joint Powers Agreement.

Joe Huss, Acting Chief Financial Officer stated that a portion of the proceeds from the bonds would be used to finance improvements at three facilities owned by Wingspan within the city of Bloomington. Stated that the proposal had been reviewed by the City's Bond Counsel and is recommended for approval by staff, as there is no obligation to the City of Bloomington. A representative from Wingspan was present for Council questions.

No public testimony was received.

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.

Speaker #1: Dave Anderson, 3160 Spring Lake Road, Prior Lake
Referring to some police reports he had filed regarding a forging of his name, Anderson inquired if the information he received from the City Attorney's Office that he needed to hire a private prosecuting attorney if he wanted to prosecute the forging of his name was correct.

Mayor suggested Anderson confer with the Acting Chief of Police and the City Attorney out in the hallway to discuss the matter and to determine if there are any issues that should be dealt with in the future by the City Council.

Postponed to September
23 an Administrative
Variance for Southbrook
Homeowner's
Association
Case 10600AB-02
Item 6.11

Motion was made by Peterson, seconded by Fossum, and all voting aye, to postpone to the September 23, 2002, Regular Council meeting, the variances for neighborhood identification signs for Southbrook Homeowner's Association at 9720 & 9721 Upton Road, Case 10600AB-02.

<p>Postponed to September 23 an Administrative Variance for Ellen Carlson at 8137 16th Avenue South Case 10601A-02 Item 6.16</p>	<p>Motion was made by Peterson, seconded by Fossum, and all voting aye, to postpone to the September 23, 2002, Regular Council meeting, an administrative variance to reduce the prevailing setback for a front porch at 8137 16th Avenue South, Case 10601A-02 for Ellen Carlson.</p>
<p>Approved Agreement with Richfield ISD #280 for SHIELD Central Referral Services Item 6.1A</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve an agreement with Richfield ISD #280 for SHIELD (South Hennepin Interagency Early Learning and Development) central referral services from the Public Health Division. The City will receive up to \$60,702 for providing referral services for handicapped children under age five and their families.</p> <p>No budget adjustment is necessary.</p>
<p>Approved Agreement with Richfield ISD #280 for Services to Children with Handicapping Conditions Item 6.1B</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve an agreement with Richfield ISD #280 whereby the City will receive up to \$35,648 for Public Health Division services to children with handicapping conditions. Total compensation includes: Public Health Nurse Service Coordination (\$1,440), Speech/Language Pathologist Services (\$26,000), Interpreter Services (\$1,181), Follow-Along Program (\$3,400), and Public Health Nurse Support Services (\$3,627).</p> <p>No budget adjustment is necessary.</p>
<p>Approved Transfer of Funds for Laptop Computer for Police Item 6.2</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the transfer of \$5,900.00 from line item 101-4234-421.67-95 to the capital outlay line item 101-4234-421.70-44 to facilitate the purchase of a Panasonic Toughbook 28 laptop computer under state contract from the Auto Theft Prevention grant monies.</p>
<p>Approved Hearing Conservation Agreement with City of Edina Item 6.3</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve an agreement with the City of Edina to provide hearing screening and referral services for Edina's employees who are exposed to elevated levels of noise in their jobs. The City would receive a base sum of \$2,500 to screen up to 85 employees. If more than 85 employees participate in the program, Edina would pay an additional \$60 per employee. Edina would also bear the costs for direct employee evaluations by an audiologist.</p> <p>No budget adjustment is necessary.</p>
<p>Set Truth In Taxation Hearing Date Item 6.4</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to set the Truth In Taxation hearing date for Monday, December 2, 2002, at 6:00 p.m. with a continuation hearing date if necessary of Monday, December 9, 2002, at 6:00 p.m.</p>
<p>Approved Additional State Primary and General Election Judges Item 6.5</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve additional election judges for the State Primary Election to be held on September 10, 2002 and State General Election to be held November 5, 2002, as listed in the agenda materials.</p>
<p>Adopted a Resolution Approving an Administrative Variance at 9118 Fremont Avenue Case 10597A-02 Item 6.6 R-2002-117</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving an administrative variance to reduce the side yard setback from 10 feet to 9.5 feet for a living space at 9118 Fremont Avenue, Case 10597A-02, for Mellissa McKeand subject to the following condition as set by the Hearing Examiner:</p> <ol style="list-style-type: none"> 1. Variance shall only apply to the converted garage space in Case 10597A-02.

Adopted a Resolution
Approving an
Administrative Variance
at 8351 Amsden
Ridge Drive
Case 10598AB-02
Item 6.7
R-2002-118

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving an administrative variance reducing the approved planned development front setback from 25 feet to 20 feet for a garage addition and reducing the side yard setback from 10 feet to 7 feet for an existing living area at 8351 Amsden Ridge Drive, Case 10598AB-02, for Joseph and Julie Rath, subject to the following 5 conditions as set forth by the Hearing Examiner:

1. The variances approved apply only as shown in plans in Case 10598AB-02;
2. At no time shall the converted living space attached to the garage be converted back into garage space;
3. Garage area shall not exceed 1,070 square feet;
4. Exterior materials shall be consistent with the existing garage; and
5. The existing drainage pattern shall not be altered to cast additional drainage onto abutting properties.

Accepted Donations to
Various City Activities
and Amended Revenue
and Expenditure Budgets
Accordingly
Item 6.8

Motion was made by Peterson, seconded by Elkins, and all voting aye, to accept and thank the following donors who made the following donations to various City activities: \$300.00 from Kenneth Armstrong to the Police Department Animal Control; snacks valued at \$150 from Frito Lay and \$100 from American Legion Club Post 550 to the Human Services Safety Festival; a display ad valued at \$500 from CityPages Minneapolis to the Human Services Job Fair; \$3,000 from Bloomington Crime Prevention Association to Police Explorer Post; \$1,370 from Bloomington Youth Soccer Club to Park Maintenance Soccer Net/Goal Fund; and \$150 from Knights of Columbus to Fire Prevention.

Approved Renewal of
Agreement with
Metropolitan Health Plan
Item 6.9

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the renewal of an agreement with Metropolitan Health Plan (MHP) for the period October 1, 2002 through September 30, 2006. Through this agreement, the City will be reimbursed for public health services provided to MHP members who live in Bloomington, Edina, and Richfield.

No budget adjustment is required.

Approved Change Order
#1 to the 2000-402 Street
Improvement Project
Item 6.10

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve Change Order #1 to the 2000-402 Street Improvement Project in the amount of \$250,016.51. This change is for the lane widening along West 79th Street, adjacent to the new Sam's Club development, per the approved development and street modification agreement. The change order modifies the original contract amount from \$2,047,961.82 to \$2,297,978.33.

Approved the Purchase
Agreement for 8100
Lyndale Avenue South
Item 6.12

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the purchase agreement for the acquisition of the premises at 8100 Lyndale Avenue in conjunction with the Lyndale Street Improvement Project. Agreement contemplates a purchase of the home for the City's appraised value of \$183,000. Other financial terms include: (1) proration of current year taxes (\$1,110) to date of closing; (2) city assumption, per federal regulations, of abstracting deed tax, and various closing costs.

Approved Acquisition of
Easements at 7845
Telegraph Road
Item 6.13

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the acquisition of certain permanent and temporary construction easements over the property at 7845 Telegraph Road. The easements are proposed to be acquired for a price of \$34,600 (which is the City's approved appraisal amount). As part of the settlement with the property owner (Telegraph Hill Offices Owners' Association, Inc.), the City also agrees that the new driveway will be narrower to save existing trees, that protective fencing will be placed around certain trees during construction, and that trees lost during construction will be replaced on a tree-for-tree basis.

Approved Change
Orders to the City Hall/
Police/Fine Arts Center
Project
Item 6.14

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the change orders to the City Hall/Police/Fine Arts Center Project recommended by Project Architect (AKA) and the City's Construction Manager (M.A. Mortenson). The change orders consist of the following additions and deletions: SGO Roofing (decrease of \$7,001.83), Innovative Building Concepts (decrease of \$2,630.00), Kelleher Construction (increase of \$36,962.00), Lund Martin (increase of \$9,704.00), Minuiti-Ogle (increase of \$28,795.00), Ridgedale Electric (increase of \$18,927.00), Doody Mechanical (increase of \$24,596.00) for a total of \$109,352.17 bringing the total cost of construction to \$23,603,682.00.

Funding is available in the Contingency Budget adopted for this project. The combined contingency for Police, City Hall, and Fine Arts has a balance of \$618,618 after these change orders.

Adopted a Resolution
Granting Approval of the
Final Plat of Holiday
Nicollet Addition
Case 10545B-01
Item 6.15
R-2002-108

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution granting approval of the final plat of Holiday Nicollet Addition, 4 & 20 West 98th Street, Case 10545B-01, subject to a review of the title by the City Attorney and receipt of the necessary documents and deposits for Bow & Arrow, LLC. Because the plat was not filed with the County within 12 months time allowed after the City Council initially approves, the plat must be reapproved. The conditions of preliminary and final plat approval that were granted by Council on August 6, 2001 are as follows:

1. Grading, drainage, utility and erosion control plans be approved by the City Engineer;
2. Access, circulation and parking plans be approved by the City Engineer;
3. Common driveway/access/parking agreement with Burger King be provided as approved by the Traffic Engineer, and proof of filing be provided to the Manager of Building and Inspection;
4. Provide 5 executed Subdivision Agreements with proof of filing to the City Engineer;
5. Rights-of-way be dedicated as shown on the attached proposed final plat;
6. Vacate existing easements (see subsequent Council Item 4.2C);
7. Drainage and utility easement be provided 10 feet along all street frontages and 5 feet along all internal lot lines as shown on the attached proposed final plat;
8. A 10-foot sidewalk/bikeway easement be provided by document along West Old Shakopee Road and Nicollet Avenue as approved by the City Engineer and proof of filing be provided to the Manager of Building and Inspection;
9. Park Dedication to be paid prior to issuance of permit;
10. Connection Charges to be determined shall be satisfied prior to issuance of Utility permit;
11. Sidewalk be installed along West Old Shakopee Road and Nicollet Avenue;
12. A letter of approval with any conditions shall be obtained from the Watershed District and submitted to the City Engineer;

and the following Code requirement:

1. Property be platted in accordance with the requirements of Chapter 16 of the City Code (Sec. 16.03).

Adopted a Resolution
Approving an
Administrative Variance
at 8417 Pillsbury Avenue
Case 8129A-02
Item 6.17
R-2002-119

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving an administrative variance to reduce the side yard setback from 5 feet to 2.5 feet for an attached garage at 8417 Pillsbury Avenue South, Case 8129A-02, for Jay K. Cremers, subject to the following 5 conditions as set forth by the Hearing Examiner:

1. The variance shall only apply to the garage addition as shown in Case 8129A-02;
2. A 5-foot maintenance agreement from the property owner to the north be obtained and proof of recording be provided;
3. The applicant shall hard surface the driveway in accordance with the City Code;
4. A grading plan be approved by the City Drainage Engineer to insure adequate drainage after the addition is constructed; and
5. The exterior materials and finish of the addition shall match that of the existing structure.

<p>Awarded Contracts for Sunrise Park and Tretbaugh Park Item 6.18</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to award contract to Blacktop Repair Service in the amount of \$88,111.00 for the reconstruction and paving of the hockey rink at Sunrise Park and to Finley Bros. Inc. in the amount of \$63,706.00 for the reconstruction of the west broomball rink at Tretbaugh Park, to approve the appropriation of budgeted funds in the amount of \$12,000.00 from 101-7723-425.63-41 to 101-7723-425.70-31, and to approve the use of \$15,000.00 from unused 1999 Year-end Strategic Priorities to provide additional funds for the Sunrise Park project as well as a contingency for any necessary additional expenses.</p>
<p>Approved Purchase Agreement for 8138 Lyndale Avenue South Item 6.19</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a purchase agreement for the acquisition of the premises at 8138 Lyndale Avenue South in conjunction with the Lyndale Street Improvement Project. The agreement contemplates a purchase of the home for the City's appraised value of \$164,000. Other financial terms include: (1) proration of current year taxes (\$1,078) to date of closing; (2) city assumption, per federal regulations, of abstracting deed tax, and various closing costs.</p>
<p>Authorized Advance of Relocation Benefits on Lyndale Avenue Street Project Item 6.20</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to authorize the staff to make advance payments of up to \$20,000.00 in relocation benefits to residents whose properties are being acquired by the City in connection with the Lyndale Avenue Street Improvement Project. Any advances made by the City would be credited toward the total amount of relocation benefits due to the owner or tenant. It was noted that the original request was increased from \$10,000 to \$20,000 by staff.</p> <p>Funding would come from Fund #830-9156-431.70-11 (Project 2002-204) or Fund #830-9156-431.70-11 (Project 1998-302), depending on the location of the property involved.</p> <p><Mayor mentioned that Wilcox would be arriving later and stated that the item relating to the 2003 Levy would be held out until his arrival.></p>
<p>Adopted a Resolution Approving Right-of-Way Plan for 2000-501 Item 4.9A R-2002-115</p>	<p>Motion was made by Elkins, seconded by Peterson, and all voting aye, to adopt a resolution approving the Right-of-Way plan for 2000-501 France Avenue (CSAH 17) and West Old Shakopee Road (CSAH 1) intersection improvements.</p> <p>Elkins stated that he attended the open house and likes the plans but inquired if there any bus shelters planned for the corners facing West Old Shakopee Road, as the plans indicated only one on one of the four corners. He suggested that the City hold out for the trees that were in the plans, as they would be a nice addition to the intersection.</p> <p>No public testimony was received.</p>
<p>Authorized Setting of "Just Compensation" and Making of Offers for 2000-501 Intersection Improvements Item 4.9B</p>	<p>Motion was made by Elkins, seconded by Peterson, and all voting aye, to authorize and direct staff to set the "Just Compensation" amounts and to make offers to owners in accordance with the approved appraisals of value for the 2000-501 Intersection Improvements at France Avenue and West Old Shakopee Road.</p> <p>No public testimony was received.</p>
<p>Approved Amendment to WSB & Associates, Inc. Contract for 2000-501 Intersection Improvements Item 4.9C</p>	<p>Motion was made by Elkins, seconded by Peterson, and all voting aye, to amend the original contract with WSB & Associates, Inc. for the 2000-501 Intersection Improvements that was awarded by Council on February 4, 2002, in an not-to-exceed amount of \$77,314.00 in order to seek additional design service for the following items: watermain replacement; roadway design (extension of original project limits); coordination with HRA's consultant; ROW base mapping; and project phasing, resulting in additional charges not to exceed \$46,082.00.</p> <p>No public testimony was received.</p>

Adopted a Resolution
Ordering Feasibility
Study for the 2003-1
Pavement Management
Reconstruction Project
Item 4.10
R-2002-116

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution ordering the Feasibility Study for the 2003-1 Pavement Management Reconstruction Project for those streets listed in the agenda materials.

No staff report was provided.

Regarding the list of streets for 2003, Elkins stated that Izaak Walton Road was included east of Lakeview Road but not west and inquired if this had been discussed with the neighborhood. Regarding the Picture Drive improvements, he also inquired if these are normal PMP improvements or if there is anticipation of an on-ramp at that location.

Shelly Pederson, City Engineer stated that the fall meeting with that neighborhood has not yet taken place but that the streets were approved previously and the meetings with the neighborhood meetings forthcoming. She stated that Izaak Walton Road is intended to include all the way to the west end and that it would be discussed with the property owners. She also stated that the planned improvements at Picture Drive are the normal PMP repairs at this time.

No public testimony was received.

Boards/Commissions
Communications
Item 7.1

No boards/commissions communications reported.

Status of Action Items
Item 7.2

Status of Action Items Update provided.

Approved Grant and
Adopted a Resolution for
Emergency Management
Drill at the Mall of
America
Item 4.6
R-2002-111

Motion was made by Peterson, seconded by Fossum, and all voting aye, to approve a grant from the State of Minnesota in the amount of \$1,500.00 to assist in a full scale emergency management exercise drill at the Mall of America on September 22, 2002, to adopt a resolution authorizing execution of the grant agreement, and to approve the following budget adjustment with regard to the grant monies: 101-4234-334.46-33 (\$1,500), 101-4234-421.60.01 (\$1,000), and 101-4234-421.67-08 (\$500.00). The grant will assist in funding some of the logistical issues such as food and beverages and incidentals for the role players. It will also be used to reimburse personnel costs in the planning process of the drill (BPD).

No public testimony was received.

Approval of Minutes

Motion was made by Abrams, seconded by Peterson, and all voting aye, to approve the minutes of the August 5 and August 19, 2002, Regular Council meetings, as presented.

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.

<Council recessed from 7:31 - 7:37 p.m.>

Adopted a Resolution
Approving the 2002
Assessment Roll No. 6
Item 4.2
R-2002-109

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving the 2002 Assessment Roll No. 6 involving the Street Improvement Projects 2001-101, 102, 103, which involved construction of curb and gutter and/or permanent surfacing on the following list of streets:

Ref.

<u>No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>
1.	W. 96 th St.	Bloomington Ferry Rd.	Yukon Ave. So.
2.	Yukon Ave. So.	Yukon Cir. (no. of 96 th)	W. 96 th St.
3.	Yukon Court	Yukon Ave. @ W. 97 th St.	West Terminus
4.	W. 98 th St. N Serv. Rd.	Little Rd.	W. 98 th St. (approx. Johnson)
5.	Abbott Ave. So.	W. 102 nd St.	W. 98 th St.
6.	Ivy Lane	Maple Ave. So.	Penn Ave. So.

Item 4.2 continued

7. Maple Ave. So.	Penn Ave. So.	Ivy Lane
8. Queen Ave. So.	Russell Ave. So. (approx. 97½ St.)	W. 98 th St.
9. Colfax Ave. So.	W. 84½ St.	W. 85 th St.
10. W. 85 th St.	Colfax Ave. So.	Lyndale Ave. So.
11. Aldrich Ave. So.	W. 84 th St.	W. 85 th St.
12. Mission Rd.	Hopkins Rd.	Nicollet Ave. So.
13. Wentworth Ave. So.	W. 107 th St.	Mission Rd.
14. E. 99 th St.	Columbus Ave. So.	Elliot Ave. So.
15. E. 100 th St.	Park Ave. So.	11 th Ave. So.
16. E. 101 st St.	Chicago Ave. So.	Elliot Ave. So.
17. Chicago Ave. So.	E. 101 st St.	E. 98 th St.
18. Elliot Ave. So.	E. 102 nd St.	E. 98 th St.

Speaker #1: Roberta Albright, 10025 Maple Avenue

Stated she is a senior citizen and believes her assessment is too high, as she is on the curve and her lot is pie-shaped. She stated that she didn't petition for the project and doesn't believe her assessment should be as high as her neighbors.

City Engineer Pederson explained that there is a policy for corner lots whereby the calculation for those lots adjusts the front footage to make it more like a normal city lot. She stated that Albright's lot is larger than some of the neighboring lots. She explained that corner lots only pay assessments on one side and not on both street frontages.

Eric Wharton, Engineering stating that he has had previous conversations with Mrs. Albright, explaining that her lot is mostly rectangular and has a computed street frontage calculated at 147 feet, which is consistent with the City's policy for corner lots. He stated that the senior citizen deferment has been discussed.

Peterson stated that the assessment on the corner lot of 147 feet is actually less than what it would be if it were oriented in the middle of the block. He added that using the front footage method to calculate assessment has been a long-time and consistent City policy.

No other testimony was received.

Adopted a Resolution
Amending Comp Plan
and Approved the
Preliminary Plat of
Hillcrest Rearrangement
Case 4045AB-02
Item 4.3AB
R-2002-120

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution amending the Comprehensive Land Use Plan from Quasi Public to Public and Low Density Residential at 9100 Russell Avenue, Case 4045AB-02, for Hillcrest United Methodist Church and to approve the preliminary plat of Hillcrest Rearrangement at 9100 Russell Avenue, Case 4045AB-02, subject to the following 6 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. Connection charges, as determined, be satisfied;
2. Alterations to utilities be at the developer's expense;
3. Floodage easement be provided over the 100 year flood plain on all lots;
4. 10-foot drainage and utility easement be provided along storm sewer that enters the property from 91st Street and heads south/southeasterly toward the parking lot, as approved by the City Engineer;
5. 10-foot sidewalk/bikeway easement be provided by document along Russell Avenue; and
6. Park dedication be in land (Outlot A).

Bob Sharlin, Planner provided the staff report stating that Hillcrest United Methodist Church is subdividing a piece of property into two residential lots and that the Comprehensive Plan deals with a change from Quasi Public to Low Density Residential.

Adopted a Resolution Granting Final Plat Approval for Hillcrest Rearrangement Case 4045A-02 Item 4.3C R-2002-107

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution granting approval of the final plat of Hillcrest Rearrangement at 9100 Russell Avenue South, Case 4045A-02, for Hillcrest United Methodist Church, subject to completion of the following conditions, receipt of the title, necessary documents and deposits and review of all documents by the City Attorney:

1. Provide drainage and utility easements as shown on proposed plat delivered to the City by September 4, 2002.
2. 10-foot sidewalk/bikeway easement shall be provided along all public street frontages.
3. A floodage easement be provided to encompass the 100 year flood elevation on the property.
4. Connection charges in the amount of \$1,285.40 be satisfied.
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 submitted to and approved by the City Engineer.

and the following Code requirements:

1. Park Dedication shall be in land (Outlot A).
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.

Adopted an Ordinance Revising Standards and Fees for Tower and Antenna Variances Case 10000D-02 Item 4.4 O-2002-31

Motion was made by Abrams, seconded by Peterson, and all voting aye, to adopt an ordinance revising standards and fees for tower and antenna variances, thereby amending Chapter 19 of the City Code, including the suggestion that the word "half" be inserted into the second sentence under Sec. 19.14(b)(4) as follows: "In the event that the actual costs exceed \$2,000, the applicant shall be required to pay half the additional cost."

Glen Markegard, Planner stated that the two main components of the ordinance include: additional reference in the Code to several technical issues that should be examined when a wireless variance is received, and the other is regarding a fee that would cover the cost of hiring a technical expert to review technical considerations related to such an application. He stated that staff believes it should retain an RF engineer to assist in the technical reviews. He explained that the fee is proposed to shift the cost of the review from the general taxpayer back to the applicant, since the review is necessary specifically because of the proposed variance request. The fee is \$2,000, as recommended by the RF Engineer based on the scope of services. If the amount was determined to be less, a refund would be given. If the amount turned out to be more, the amount would be billed. However, if there is no variance request, there is no fee.

Abrams stated that this fee doesn't seem to create any kind of accountability or incentive for the City to be reasonable in what it spends.

No public testimony was received.

Adopted a Resolution of Denial for Recreational Vehicle at 9440 3rd Avenue South Item 4.7 R-2002-112

Motion was made by Abrams, seconded by Peterson, to adopt a resolution of denial for an application by Gail Milner for a 3-year Temporary Conditional Use Permit to park and store a recreational vehicle at 9440 3rd Avenue but approving said permit for a period from June 22, 2002 through October 31, 2002. Motion passed 5-1-0 (Fossum opposing).

No public testimony was received.

Liquor Locker License Violation Hearing Item 4.11

Motion was made by Fossum, seconded by Peterson, and all voting aye, to deem the liquor license violation that occurred at the Liquor Locker, 2525 West 79th Street on May 10, 2002, as non-willful and imposed a \$750 civil penalty, as this was third violation, second in the last five years.

Item 4.11 continued

Associate City Attorney Jennifer Tichey who initially presented this item to Council on August 5, 2002, stated that the attorney for the licensee had presented an affidavit indicating that the minor who purchased the alcohol had used a false I.D. in the past indicating that she was over 21 years of age. The licensee claimed that the store had relied on that I.D. for previous purchases and, therefore, it was not requested on May 10. Tichey stated that staff never received a copy of that affidavit. She stated that to date, no I.D. has been provided to Legal.

Speaker #1: Dick Bennett, Owner of Liquor Locker

He stated that he recalls that the affidavit was passed out for Council's review at the earlier meeting but that it was collected again after the item was discussed. He stated that their defense is that they do rely in good faith on the I.D.'s presented. He added that he has purchased a scanning system that hopefully will prevent further false I.D.'s in the future.

Motion was made by Fossum, seconded by Abrams, and all voting aye, that a civil penalty of \$1,250 be fined, as this was the third offense.

Winstead clarified that this violation was only the second one in five years and not the third one.

Peterson stated that he would support the City having a policy that looks at violations that go back five years and set the civil penalty accordingly. In this case, he stated that the fine should be \$750.

Fossum concurred and amended his motion to make it consistent with the "on-sale" policy.

Approved One-Year
Temporary Conditional
Use Permit for The
Beauty Spot at 10941
Washburn Avenue
Case 56541A-02
Item 5.1

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a one-year Temporary Conditional Use Permit for a beauty salon in a single-family home at 10941 Washburn Avenue South, Case 5651A-02, for Shelby Beach/The Beauty Spot, subject to the following 3 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. All client parking, drop-off, and pick-up shall occur off of the adjacent streets.
2. The sole operator of the salon shall be a resident on the property and shall be limited to one operator; and
3. All business licenses shall be obtained as required.

No public testimony was received.

Approved Temporary
Conditional Use Permit
for Infinity of
Bloomington on a
Month-to-Month Basis
Item 5.2

Motion was made by Abrams, seconded by Peterson, and all voting aye, to approve a temporary conditional use permit on a month-to-month basis for open storage of new cars for Infinity of Bloomington at 150 West 81st Street, Case 10599A-02, subject to the following 3 conditions of approval as set forth by the Planning Staff:

1. Cars shall be located as indicated on plans in Case 10599A-02;
2. There shall be no more than 70 cars on the lot at one time;
3. Access to the cars be limited to those associated with Infinity of Bloomington.

No public testimony was received.

Approved Revised Final
Site and Building Plans
for SurModics, Inc. at
10701 Lyndale Avenue
Case 8192A-02
Item 5.3

Motion was made by Peterson, seconded by Fossum, and all voting aye, to approve the Revised Final Site and Building Plans for the proposed building addition (not including plans for the recladding of the 1961 building curtain wall) at 10701 Lyndale Avenue South, Case 8192A-02, for SurModics, Inc., subject to the following conditions being satisfied prior to Grading, Footing, and Foundation Permits:

1. Exterior building materials be approved by the Planning Manager;
2. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district;
3. Access, circulation and parking plans be approved by the City Engineer;

and subject to the following conditions being satisfied prior to Structural Permits:

4. Connection charges, as appropriate, be satisfied;
5. A SAC questionnaire be completed and submitted to the Department of Public Works;

and subject to the following additional conditions:

6. Alterations to utilities be at the developer's expense;
7. All pickup and drop-off occur on site and off of public streets;
8. All loading and unloading occur on site and off of public streets;

and subject to the following Code requirements:

1. 3-foot high solid screening be provided along Hopkins Road as approved by the Planning Manager (Sec. 19.52);
2. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
3. Erosion control measures be in place and bond be filed;
4. All rooftop equipment be fully screened (Sec. 19.52.01);
5. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
6. All trash and recyclable materials be stored and screened inside the principal building/in a screened area (pick appropriate requirement). (Sec. 19.51);
7. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn. Rules Chapter 1306; Uniform Fire Code Sec. 1003);
8. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
9. Utility plan showing location of existing and proposed water main, including completion of a looped water main, and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Uniform Fire Code Sec. 903);
10. Food service plans be approved by the Environmental Services Division (City Code Sec. 14.360);
11. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code and;
12. Signage be in conformance with the requirements of Chapter 19, Article X of the City Code.

Sharlin provided history on the building and its occupants beginning with the first, Archer Daniels Midland in 1962, followed by Honeywell, then Seagate, and was just recently purchased by SurModics, Inc. He described the property as a 26-acre parcel with a campus-like setting for a low impact, high technology or medical technology user. He described the proposed addition to be constructed on the east side of the building. He stated the primary access point is from Lyndale Avenue with an emergency access to Hopkins Road. He added that the parking adjacent to Hopkins Road would be removed and moved farther to the west away from Hopkins Road. He stated that an important consideration in this project is the relationship of the development to the surrounding area. He reported that a neighborhood meeting held in December 2001 was followed up with an application. The Planning Commission approved the final site and building plans for the proposed building addition, not including plans for the replatting of the 1961 building curtain wall. The applicant was available for Council questions.

Peterson stated the applicant did a good job of coming to the neighborhood in December 2001 and presenting their plans. He stated that to the credit of SurModics, the most frequently asked questions from the neighbors attending the meeting were how could they invest in the company.

No public testimony was received.

Adopted a Resolution for a Deck at 1400 West 102nd Street for Mike Hagen Case 3698A-02 Item 5.4 R-2002-121

Motion was made by Abrams, seconded by Peterson, and all voting aye, to adopt a resolution approving a variance to reduce the required setback for an open deck from 25 feet to 23 feet per the recommendation of the Planning Staff and the Planning Commission and requested staff prepare a resolution of denial for the variance to reduce the required setback from 25 feet to 20 feet unless a letter withdrawing that original variance request is submitted by the applicant.

Markegard provided the staff report explaining that this particular lot received a variance for a reduced lot size and thus there is a very limited rear yard area. He explained that the applicant desires a deck and given the location of the garage and the reduced lot size, the only practical location for the deck is off the side of the house, which is the front yard for the neighbors along Girard Avenue. He stated that the applicant desires a 15-foot wide deck but that the Code only allows for an encroachment of 10 feet into the required setback area. He stated that the Planning Commission could not make the findings for a 15-foot deck but could make the findings for a 2-foot variance, which would yield a 12-foot deck. Because the applicant is amenable to the 12-foot deck, staff recommends a two-foot variance for the deck.

Abrams stated because the lesser variance is the minimum variance to get the job done, he supports the Planning Commission's recommendation in this case. However, he stated that staff recommended denial and he questioned the interpretation of the variance standard that says, "the variance is necessary for a reasonable use of the land." He explained that staff used the variance standard that a reasonable use of the land does exist without the requested deck depth variance.

Ornstein recommended that Council order a resolution approving the recommended variance but denying the original variance request unless the applicant is willing to revise his original request to what is being proposed and recommended by the Planning Commission, as no action on the original request could be argued that it was approved.

<Wilcox arrived at 8:31 p.m.>

The Hagens stated that they were agreeable to the 12-foot wide deck and would be submitting a letter withdrawing their original variance request.

Approved Final Site and Building Plans for an Underground Electric Transmission Line Case 10397A-02 Item 5.5

Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the final site and building plans for an underground electric transmission line from the Bloomington Substation at 2901 E. 80th Street west to its point of transition directly east of Thunderbird Road (up to but not including the transition "riser" structures), Case 10397A-01, for Northern States Power (dba Xcel Energy) and the Metropolitan Airports Commission (MAC), subject to the following 9 conditions of approval (that have been revised since the Planning Commission review on November 8, 2001) as set forth by the Planning Division Staff and the Planning Commission:

1. A development agreement between the applicant and the City, including all conditions of approval for Case #10397A-01, must be executed.
2. Final layout and engineering plans (including a choice of either Option A or Option B between 80th and 79th Streets) with all utilities identified must gain the approval of the Public Works Department.
3. In order to avoid conflicts with rights-of-way and potential future roadway expansion, unless a reduced set back is approved by the Director of Public Works, the southerly edge of the duct banks shall be set back a) no less than 80 feet from the centerline of 80th Street (75 feet in the immediate vicinity of the Budget Rental Car Building) and b) west of 24th Avenue, no less than 45 feet from the centerline of the existing 79th Street extended, except for in the immediate vicinity of the Thunderbird Hotel rotunda and the riser pole, where a reduced setback as approved by the Public Works Director may be necessary.
4. The applicant shall obtain all necessary ROW permits through the City of Bloomington.
5. The applicant shall obtain all necessary ROW permits through Hennepin County.

and subject to the following additional conditions:

6. Should the applicants desire to amend this application to route the underground transmission line on the north side of the future American Boulevard through the "Met Center" site (7901 Old Cedar Ave. S.), that amendment can be approved administratively by City staff.

7. Xcel shall allow skyway connections over the underground transmission lines subject to safety requirements.
8. Xcel shall allow sidewalks above the underground transmission lines.
9. Existing pole foundations to be abandoned must be removed to a minimum of 6 feet below grade outside the Runway Protection Zone and to a minimum of 2 feet below grade inside the Runway Protection Zone to allow storm sewer and catch basin leads to cross.

Markegard explained that the Metropolitan Airports Commission (MAC) is a co-applicant on the underground application necessitated by the north/south runway. Because the existing transmission line easement runs through the Runway Protection Zone, which needs to be a clear area, MAC is working with Xcel to place the transmission line underground. Using a map, he showed the alignment stating that from the East Bloomington Substation, the line would proceed northward across 80th Street, run along the north side of 80th Street, shift to the north and cross 79th Street, tunnel under 24th Avenue, continue underground through the Amoco and Thunderbird Hotel sites where it would transition to overhead just to the east of Thunderbird Road. He stated that an alternative alignment along the new American Boulevard alignment through the Met Center site could possibly be approved in the future so a condition of approval has been included that would allow staff to approve that amendment to the alignment should it become feasible in the future. He stated that staff and the Planning Commission recommend approval of the underground alignment and final site and building plans.

No public testimony was received.

Approved a Conditional Use Permit and Final Site and Building Plans for an Overhead Electric Transmission Line and Support Poles
Item 5.6

Motion was made by Harden, seconded by Elkins, and all voting aye, to approve a conditional use permit and final site and building plans for an overhead electric transmission line and support poles from Riser Structures #92 and #92A (2115 East 79th Street) westward to Structure #102 (700 East 79th Street), Case 10397B-01, which have been revised since the Planning Commission review on November 8, 2001, subject to the following 13 conditions of approval, including amended Condition #3 as recommended by staff being satisfied before construction begins:

1. A development agreement between the applicant and the City, including all conditions of approval for Case #10397B-01, shall be executed;
2. Final pole layout plans with all utilities identified must gain approval of the Public Works Department. Xcel shall coordinate pole layout with property owners to minimize site disruption. Structure 97 shall be moved 50 to 100 feet west;
3. To avoid conflicts with existing and future roadways, the centerline of Riser Structure #92 (southeast riser structure) shall be a minimum of 48 feet from the centerline of the existing 79th Street and a minimum of 84 feet from the centerline of Thunderbird Road and the centerline of Riser Structure #92A (northwest riser structure) shall be a minimum of 50 feet from the centerline of Thunderbird Road unless a reduced set back is approved by the Director of Public Works;
4. The applicant shall obtain all necessary ROW permits through the City of Bloomington.
5. The applicant shall obtain all necessary approvals through the Minnesota Department of Transportation;
6. The applicant shall obtain all necessary reviews and approvals through the Federal Aviation Administration (FAA). Any change in structure design based on FAA review shall require the approval of the Issuing Authority before construction begins;
7. The applicant shall obtain through Bloomington's Community Development Director all permits required by the 1984 MSP International Airport Zoning Ordinance or any subsequent superceding airport zoning ordinance. Application for the permits should follow FAA Airspace Review;

and subject to the following additional conditions:

8. Should construction not commence within 12 months of issuance of the conditional use permit, requests for extension of the conditional use permit may be considered for approval by the Hearing Examiner;
9. Xcel shall allow skyway connections underneath the overhead transmission lines subject to safety requirements;

10. Except for the two “riser pole” transition structures, which shall have a galvanized finish, all support poles shall have a painted surface to match the existing painted transmission line support poles in this corridor to the west;
11. Xcel shall permanently maintain support pole finish and paint in good condition, free from rust, graffiti, peeling paint, or other blemish;
12. Xcel shall allow colocation of antennas upon the support poles when technically feasible if a telecommunication provider agrees to meet reasonable terms and conditions; and
13. Existing pole foundations to be abandoned must be removed to a minimum of 6 feet below grade to allow storm sewer and catch basin leads to cross.

Markegard explained that this request is due to Xcel’s double-circuit project, which would provide for increased load growth in the southeast Metropolitan area and increased reliability throughout the corridor. The existing single circuit transmission line would be replaced with a new overhead double-circuit transmission line that would start just on the east side of Thunderbird Road, where it transitions from underground to overhead, continue overhead across Hwy. 77, continue along the north side of 79th Street to the American Boulevard where it would stop at approximately Park Avenue. He stated that the physical impact would be more wires than currently exist today and that the new towers would be taller, wider, and sturdier and of monopole construction. By condition of approval, all of the existing towers would be painted to match the existing towers within the corridor except two riser poles. He stated that MAC has reviewed the application with regard to the runway height limits and that a formal FAA airspace review has been requested and that the Airport Zoning Ordinance will require a permit for some of the towers. Planning Commission and staff recommend approval subject to the conditions in the staff report.

No public testimony was received.

Adopted a Resolution
Establishing 2003
Preliminary Tax Levy
Item 4.8A
R-2002-113

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution establishing the 2003 Preliminary Levy at \$32,274,623 as follows: General Fund (\$26,766,080), Fire Pension (\$874,372), Debt Service (\$2,818,937), Recreation Facilities Fund (\$647,235), and Strategic Priorities (\$1,167,999).

Huss explained that the request is for Council to adopt a preliminary 2003 tax levy and the preliminary General Fund Budget for 2003, of which the tax levy can be reduced before final Council approval. Highlights regarding the levy and budget included:

1. Overall 10% growth in market value for residential.
2. Decrease in tax capacity in apartments due to legislative changing has resulted in a tax capacity increase of 6%.
3. Proposed overall levy increase of 4.9%.
4. Gross levy proposed at \$32,274,623.
5. \$2.2 million gap between revenues and expenditures has resulted in increased program income, reduction of over \$900,000 in expenditures, and use of \$1.3 million of Strategic Priorities.
6. Proposed 2003 Budget Revenues of \$44,994,154 and Proposed 2003 Budget Appropriations of \$44,994,154.
7. Average home valued at \$196,790 would have a monthly tax cost of \$52.00 in 2003 compared to \$47.57 in 2002.

He summarized the request for Council action as follows: set Preliminary 2003 Tax Levy at \$32,274,623, adopt Preliminary 2003 General Fund Budget, and set the Truth In Taxation hearing scheduled on December 2 with a continuation hearing date of December 9 if necessary.

Winstead stated that as Council had requested, staff would be bringing forth specific examples of reductions and their impact on the various departments for Council’s consideration in reviewing the budget prior to its final adoption. Staff to provide this information at the September 30 study meeting or the October 7 meeting.

Adopted a Resolution
Adopting Preliminary
2003 General Fund
Budget
Item 4.8B
R-2002-114

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution adopting a Preliminary 2003 General Fund Budget with total revenues of \$44,994,154 and total appropriations of \$44,994,154 as follows:

Revenues: Current Property Tax Levy (\$27,640,452), Less Est. Delinquencies and Abatements (-\$685,496), Delinquent Collections (\$200,000), Hotel/Motel Admissions Tax (\$4,975,000), Business Licenses (\$1,300,000), Building Permits & Fees (\$2,683,110), Court Fines and Forfeits (\$1,000,000), Program Income (\$2,432,181), Intergovernmental Revenue (\$1,499,558), Interest Earnings (\$600,000), Transfers from Other Funds (\$3,261,788), and Other (\$87,561).

Appropriations: City Council/Commissions (\$720,124), Manager (\$302,492), Legal (\$998,334), Human Resources (\$602,253), Finance (\$1,354,853), Public Safety - Police (\$14,446,874) and Fire (\$2,758,283), Community Development (\$4,681,925), Community Services (\$8,011,673), Public Works (\$9,287,007), and Technical Services Group (\$1,854,189), Contingency (\$1,106,374), and Estimated Unexpended (\$1,130,227).

Reminder to Get Out
and Vote

Mayor reminded audience to get out and vote in tomorrow's primary election.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 8:52 p.m.

Barbara Clawson
Council Secretary