

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

CITY COUNCIL MEETING

Approved Minutes  
Regular Meeting  
Meeting #11

7:00 p.m.  
April 7, 2003  
Council Chamber

Call to Order and  
Pledge to Flag

Mayor Gene Winstead called the meeting to order and Girl Scout Troop #987 from Nativity of Mary School and Normandale Hills Elementary presented the colors and led the Council and audience in the pledge of allegiance to the flag. At the Mayor's request, the Girl Scouts introduced themselves.

Roll Call

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

Proclamation Declaring  
April as National Child  
Abuse Prevention Month

Mayor Winstead read and presented a proclamation declaring April as National Child Abuse Prevention Month to Heather Smith and Sara Lambert of Cornerstone. As part of the national blue ribbon campaign across the country to raise awareness for this issue, they distributed blue ribbons to the Council and reminded everyone to work to stop child abuse and neglect.

Proclamation Declaring  
April 12 - May 3 as  
Bloomington Youth  
Service Days

Mayor Winstead read and presented a proclamation declaring April 12 - May 3 as Bloomington Youth Service Days to Allie Jacox, a member of Bloomington's United for Youth Board.

Recognized 6<sup>th</sup> Grader  
for Creating K-9  
First Aid Kits

Mayor Winstead commented on a ceremony that took place prior to the Council meeting during which a 6<sup>th</sup> grader at Oak Grove Elementary, Jillayne Beall, presented six K-9 First Aid preparedness kits she created for the Bloomington Police Department and their K-9 handlers as part of a school project to help her community. She solicited and acquired the products to supply six kits with the help of a local veterinarian.

Adopted a Resolution for  
the Health Insurance  
Portability and  
Accountability Act  
Item 4.12  
R-2003-42

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution acknowledging the City of Bloomington's compliance with the Health Insurance Portability and Accountability Act (HIPAA).

Karen Zeleznak, Health Administrator, made a presentation to update the Council on HIPAA and how it affects the City. She identified the internal HIPAA team (Jennifer Tichey, Mary Heinz, Mike Piram, and Sue Sheridan) and presented the following information:

1. Background and purpose of HIPAA.
2. What is protected health information?
3. Covered entity (City of Bloomington is a hybrid covered entity with two components - Human Resources and Public Health).
4. Impact of HIPAA.
5. Privacy Standards Requirements (City Manager is designated Privacy and Compliant Officer).
6. Deadlines for complying with HIPAA (April 14, 2003 for Privacy standards and October 16, 2003 for the electronic data information standards).
7. If our city does not comply?
8. Current activities.

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.

<p>Approved Amendment to AARP Contract Item 6.2</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an amendment to Human Services' contract with AARP for the 55 Alive Driver Safety program. The amendment adds classroom meeting space for the 55 Alive Driver Safety program (valued at \$5,616.00) and additional AARP programs - Daytime Taxpayer Assistance (valued at \$1,584.00) and the local AARP chapter meetings (valued at \$648.00).</p>
<p>Approved Amendment for Local Collaborative Time Study (LCTS) Sub-Contractor Agreement Item 6.3</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an amendment to the City's agreement with Hennepin County for the Local Collaborative Time Study (LCTS) Sub-Contractor. The City is designated fiscal host for the LCTS funds that are generated by the Public Health Division on behalf of Bloomington, Edina, and Richfield. These funds total approximately \$50,000 per year.</p>
<p>Approved Amendment to the 2003 Community Health Services (CHS) Agreement Item 6.4</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an amendment to the 2003 Community Health Services (CHS) agreement with the City of Edina and an amendment to the 2003 CHS agreement with the City of Richfield. The amendments reflect a total reduction of \$52,501 (\$30,264 for Edina and \$22,237 for Richfield) in funding due to unallotment of CHS funds by the Governor. The total payment for services provided by the Public Health Division in 2003 will be \$327,791. The reduction in revenue is accompanied by a proportionate reduction in services to both communities.</p>
<p>Approved Advisory Board of Health's Bylaws Item 6.5</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the Advisory Board of Health bylaws, which have been amended to reflect the Board's additional duties as the Public Health Emergency Preparedness Advisory Committee.</p>
<p>Approved a Joint Powers Agreement for the Tri-City/YMCA Skate Park Item 6.6</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a joint powers agreement for the construction and operation of the Tri-City/YMCA Skate Park between the YMCA of Metropolitan Minneapolis and the cities of Bloomington, Edina and Richfield. The agreement was reviewed by the Parks, Arts and Recreation Commission and is recommended for approval. Construction of the Skate Park is proposed to commence in April with completion by August 2003. The YMCA is currently negotiating a contract for the construction of the Skate Park with Grindline Skateparks, Inc., a nationally recognized skate park construction firm.</p>
<p>Approved an Indemnification Agreement with the Metropolitan Airports Commission (MAC) Item 6.7</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an Indemnification Agreement with the Metropolitan Airports Commission that holds harmless the City of Bloomington, the City's representatives on the Joint Airport Zoning Board, and City officers and employees from any damages resulting from adoption of the airport zoning ordinance and amendments by the Board, amendments to the City's Comprehensive Plan and zoning regulations necessitated to conform with the adopted airport zoning regulations and administration and enforcement of the airport zoning ordinance.</p>
<p>Approved 2003 Contracts with Independent School District #271 Item 6.8</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the following 2003 contracts for cable access service with Independent School District (ISD) #271:</p> <ul style="list-style-type: none"> <li>A. The 2003 contract with ISD #271 in the amount of \$140,468 for educational access programming (regular annual programming contract with the School District for educational access programming).</li> <li>B. The 2003 contract with ISD #271 in the amount of \$23,628 for coordination and maintenance of The Bloomington Channel 14 (regular annual programming contract with the School District for coordination of TBC 14).</li> <li>C. The 2003 contract with ISD in the amount of \$68,850.52 to upgrade the institutional network between the School District and the City to an enterprise-wide fiber wiring system for two-way transmission of video and data. This is funded through capital money specially designated for this purpose.</li> </ul>
<p>Approved Transfer of Funds from Fund 260 - Communications Item 6.9</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the transfer of \$100,000 from the fund balance of Fund 260 - Communications for money that was budgeted but unspent in 2002 for new broadcast/audio-visual equipment in City Hall.</p> <p>The account code should be: \$100,000 260-2601-499.70-46.</p>

<p>Approved the 2003 “Lottery in Lieu of” Parks Maintenance Budget and Project List Item 6.10</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the 2003 “Lottery in Lieu of” funded Operations and Maintenance projects list, approve the staff recommended adjustments to the 2003 Parks Maintenance Budget, and approve the Operations and Maintenance (O&amp;M) project list for 2001 and 2002 “Lottery in Lieu of” grant funds carried over to 2003.</p> <p>The following adjustments to the Parks Maintenance Budget were approved:</p> <p>Increase revenues in 2003 Budget Account #101-7727-337.46-53 by \$74,913. Increase expenditures in 2003 Budget Account #101-7727-452.63-24 by \$27,533. Increase expenditures in 2003 Budget Account #101-7727-452.70-31 by \$47,380.</p>
<p>Adopted a Resolution Canceling Special Assessments for 9911 Newton Avenue South Item 6.11 R-2003-43</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to adopt a resolution directing the cancellation of certain special assessments for the 1998 Pavement Management Program street improvements against the premises at 9911 Newton Avenue South (PID #16-027-24-32-0041), owned by the Federal Aviation Administration (FAA) in the amount of \$2,756.80.</p>
<p>Awarded a Contract to Mountain Environmental, Inc. Item 6.12</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to award a contract for the removal of spent lime from the City’s holding ponds at 110<sup>th</sup> Street and Nesbitt Avenue to Mountain Environmental, Inc. for the unit bid price of \$12.82 per cubic yard and approved an extension to the contract period to include three annual extensions through April 1, 2007.</p> <p>Funding for this contract is budgeted annually in the Water Utility Budget, Activity 510-8111-433.63-24.</p>
<p>Awarded a Contract to EDC Solutions Item 6.13</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to award a contract to EDC Solutions in the amount of \$151,174.40 for the purchase and installation of audio and projection systems for the new Bloomington Art Center. The work includes theater sound reinforcement, projection, intercom, presentation, assistive listening, portable audio and video systems, as well as audio/video cabling and infrastructure, installation and configuration services.</p> <p>Funds for this expenditure are available in the Arts Center Capital Fund, Activity 418-9542-453.70-43. The budget for this portion of the project was \$176,800.00.</p>
<p>Extended Tree Removal Contract with Asplundh Tree Experts Item 6.14</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to extend the current contract with Asplundh Tree Experts for emergency tree removal for an additional twelve-month period from May 1, 2003 through May 1, 2004 and approved acceptance of the requested 3% increase in labor rates to be effective during the extension period. Expenditures for 2002 were approximately \$20,000.00.</p>
<p>Awarded a Contract to Qwest Item 6.15</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to accept the recommendation of Elert and Associates that the City award the local dial tone service contract to Qwest at a total cost of \$323,026 for the next three years.</p> <p>Funding for the local dial tone service is annually budgeted within the Internal Service Funds, Activity 8804. In 2002, the City spent approximately \$214,000 for local dial tone services.</p>
<p>Approved Supplemental Agreement 2 for URS, Inc. Item 6.16</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the Supplemental Agreement 2 for Professional Engineering Services for Phase II elevations for two properties located within Bloomington’s 2002-204 Street Improvement Project (Lyndale Avenue between West 83<sup>rd</sup> Street and West 78<sup>th</sup> Street) for URS, Inc. in the amount of \$10,895.00 with the total amount of the contract not to exceed \$226,546.00. This additional work needs to be completed prior to acceptance of the Project Memorandum, which is required for Bloomington to receive approval and Federal funds for project construction.</p>

Approved Expenditure to Xcel Energy for Undergrounding of Utilities Bordering the Civic Plaza Site  
Item 6.18

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an expenditure up to \$150,000 to pay for undergrounding electric, telephone and cable utilities on poles along 98<sup>th</sup> Street, Old Shakopee Road and Logan Avenue bordering the Civic Plaza site. Most of the amount will be paid to Xcel Energy (\$127,895) with the remaining authorization to reimburse other utilities using Xcel's poles.

Funds are available in the Future Enhancements Uncommitted Funds.

Approved Purchase of Roller Shades for New Bloomington Civic Plaza  
Item 6.19

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the purchase of Hunter Douglas Sheerweave Roller Shades for the new Bloomington Civic Plaza in the amount of \$88,695.51 from Final Touch Interiors under the State of Minnesota Contract #428511 and approved a 5% contingency of \$4,400.00 for any unforeseen additional components.

Funds for this purchase are available through a combination of Furniture, Fixtures and Equipment Budget and uncommitted furniture enhancements contingency funds of the Facilities Replacement and Maintenance Fund, Activity 630-6902 and the Arts Center Fund, Activity 418-9542.

Approved Advancement of Relocation Benefits to Tenant at 10617 France Avenue South  
Item 6.20

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the advancement of a portion of relocation benefits to one of the tenants at the France 106 strip mall (10617 France Avenue South - Design 'N Print) that is being acquired for the France and Old Shakopee street project. This tenant has found space at Oxboro Square in which to relocate and needs an advancement of relocation benefits in order to sign a new lease. The requested advancement is \$5,800.00 is less than the ultimate amount of relocation benefits due this tenant, according to the City's relocation consultant.

Funding will come from Fund #830-9348-431.70-11 (Project 2000-501).

Continued to April 21 the Renewal of the Lease Agreement for the Records Center  
Item 6.1

Motion was made by Fossum, seconded by Abrams, and all voting aye, to continue this item to the April 21, 2003, Regular Council meeting to allow staff to provide additional information to Council.

Fossum inquired why the City is leasing space for \$19,200 per year to store records when the new city hall will be opening soon with three times the space of the existing city hall. He stated that it is not an efficient use of money.

Bernhardson explained that the amount of space in the new building was downsized slightly and that it's good data practices to have off-site storage for records for security, etc. and it's a good insurance policy. He stated that in the case of a fire, destruction, catastrophe, etc., it's better to have the City's permanent records stored elsewhere.

Approved Addendum to the Ankeny Kell Agreement  
Item 6.17

Motion was made by Harden, seconded by Winstead, to approve the addendum to the Ankeny Kell agreement for additional architectural services related to signage for the new Bloomington Civic Plaza. The amount of the addendum is \$59,800.00 plus \$3,000.00 in reimbursables. The motion passed 5-2 (Fossum and Wilcox opposing).

Funding is available in the future contingency uncommitted funds.

Wilcox expressed concern that the signage package is projected to be approximately \$295,000 and that the architectural fees appear to be high at 20% rather than the normal range of 10-12%.

Community Development Director Larry Lee explained that Ankeny Kell is doing the basic signage for the building and that there is a subcontract with Yamamoto Moss to do the exterior signage and way finding and the super graphics inside the building behind the service counters and for each department (large floor to ceiling signs). Therefore, the design element for these signs is quite involved. He stated that this amount is less than the original amount due to the City requesting that a more reasonable approach to the design be used. He stated that the design element costs approximately 20% of what the overall sign production is going to cost.

Item 6.17 continued

Abrams requested that the Council be given the opportunity to approve the way finding signs before they are installed.

Wilcox again stated his concern that the cost for the sign designs appears to be very high and seemed to recall that the City had some type of protection with regard to the architect's design fees and that this goes well beyond Ankeny Kell's normal fee. He inquired if there was any chance to negotiate the fee with the architect.

Lee stated that savings would not be realized through Yamamoto Moss unless they were taken out of it and Ankeny Kell did the design. He said Ankeny Kell said they could do the design but that they are not super graphic designers. He stated that two options with regard to Ankeny Kell would be to ask them if there is a lower cost approach or to tell the staff to closely monitor the hourly basis to see if it could be brought in under the not-to-exceed amount.

Bernhardson stated that he thought this amount is half of what was originally proposed for the design by each of them individually and that through negotiations, City staff got the price down considerably.

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.

Licensing Division  
Item 4.1

No items.

Liquor License Violation  
at 1<sup>st</sup> Wok at 415 East  
78<sup>th</sup> Street  
Item 4.2

Motion was made by Fossum, seconded by Peterson, and all voting aye, to deem the on-sale liquor license violation that occurred at 1<sup>st</sup> Wok, 415 East 78<sup>th</sup> Street, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to impose a \$1,000 fine on 1<sup>st</sup> Wok, 415 East 78<sup>th</sup> Street, as a result of their first liquor license violation that occurred on February 12, 2003.

Associate City Attorney Jennifer Tichey explained the liquor license violations were the result of a compliance check conducted by the Police Department on February 12, 2003. In the case of 1<sup>st</sup> Wok, she stated that two 19-year olds ordered a beer. The server requested identification and after looking at their Under 21 driver's licenses, the alcohol was served. She described the historical penalty for a first-time on-sale violation as being a \$1,000 fine and \$1,250 fine for a second violation. She explained that Council must first make a determination as to the violation being willful or non-willful.

Speaker #1: Phillip Cheng, Manager

He stated that the server, who has been working at 1<sup>st</sup> Wok for over 11 years, didn't calculate the age correctly on the driver's licenses. He stated that the server's English is not very good. He stated that his business made a mistake and that they will have to suffer the consequences and that it was not their intention to violate the law. He stated that they would make every effort to prevent this from happening again.

Winstead requested that staff contact Mr. Cheng to identify the different organizations that can provide him with training programs and materials.

Liquor License Violation  
at Everett McClay VFW  
#1296 at 2731 East 78<sup>th</sup>  
Street  
Item 4.2

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to deem the on-sale liquor license violation that occurred at Everett McClay VFW #1296, 2731 East 78<sup>th</sup> Street, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to impose a \$1,000 fine on Everett McClay VFW #1296, 2731 East 78<sup>th</sup> Street, as a result of their first liquor license violation that occurred on February 12, 2003.

Item 4.2 continued

Tichey continued by stating that a 20-year old operative ordered a beer from the bartender and after the bartender looked at the Under 21 driver's license stated, "you're 22" and served the operative the beer. She stated that the VFW's license is a club license and that they are limited to selling alcohol to members or members' guests. She stated that historically the Council has imposed a \$1,000 fine for a first-time violation for a club.

Speaker #1: Terry Ferrell, Manager

He stated that the doorman was not on duty at the time the bartender served the alcohol. He stated that the bartender did not ask the patron if she was a member or a member's guest, looked at the Under 21 I.D. and still served the alcohol. He stated that the bartender was immediately dismissed. He stated that Everett McClay has been in business for 55 years and that he has been there for 15 years and this is their first violation.

Wilcox stated that of all the fraternal organizations, the VFW is probably the most diligent about checking memberships and that there is usually a doorman on duty.

Liquor License Violation  
at Shantytown Grill at  
8512 Pillsbury Avenue  
South  
Item 4.2

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to deem the on-sale liquor license violation that occurred at Shantytown Grill, 8512 Pillsbury Avenue South, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to impose a \$1,000 fine on Shantytown Grill, 8512 Pillsbury Avenue South, as a result of their first liquor license violation that occurred on February 12, 2003.

Tichey explained that two operatives ages 19 and 20 ordered beer. Identification was requested and presented and the server sold to one of the operatives and not to the other. She stated the manager was not on duty.

Speaker #1: Laura Taykado, Owner

She stated that the server checked both I.D.'s but didn't calculate the age correctly on one of them and that both operatives were about to turn 21 in three months. She stated that the server has always been very responsible and admitted to making a mistake in this case. They have reviewed what the different driver's licenses look like and are in the process of checking into the alcohol awareness program. She apologized for the situation.

Liquor License Violation  
at Southtown Pizza Plus  
at 2631 Southtown Drive  
Item 4.2

Motion was made by Wilcox, seconded by Abrams, and all voting aye, to deem the on-sale liquor license violation that occurred at Southtown Pizza Plus, 2631 Southtown Drive, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to suspend the liquor license at Southtown Pizza Plus, 2631 Southtown Drive, for two weeks, as a result of their first liquor license violation that occurred on February 12, 2003.

Tichey reviewed the facts of the case stating that two operatives, 19 years of age, entered the establishment and one of them ordered a beer. The beer was served without the waitress asking for any identification. She stated that this is Southtown Pizza's first violation. She stated that although there is no signed stipulation and the case has not gone to criminal court yet, the owner, Winnie Chu, had not disputed the facts when she appeared before Council on March 17. She stated the Council could go forward with the violation based on the police reports, the unsigned stipulation, and the previous comments from Ms. Chu.

Winstead commented on the correspondence that was provided to Southtown Pizza Plus that outlined the possibility, based on the request from the owner, not to impose a monetary fine but impose a license suspension instead. He inquired if a representative was present from Southtown Pizza. No one responded.

Item 4.2 continued

City Attorney Dave Ornstein clarified that based on the police report and on Winnie Chu's previous representations, the Council could go ahead and impose the sanction. He added that if the Council chooses a license suspension rather than a fine, that the license examiner and the police would follow up to make sure that the sanction is enforced.

No public testimony was received.

Liquor License Violation  
at Zeke's Place at 7700  
West Old Shakopee  
Road  
Item 4.2

Motion was made by Peterson, seconded by Elkins, to deem the on-sale liquor license violation that occurred at Zeke's Place, 7700 West Old Shakopee Road, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful. Motion passed 6-0-1 (Harden temporarily absent).

Motion was made by Peterson, seconded by Elkins, to impose a \$500 fine on Zeke's Place, 7700 West Old Shakopee Road, as a result of no prior liquor license violations within the past five years, that occurred on February 12, 2003. Motion passed 6-0-1 (Harden temporarily absent).

Tichey stated that two 19-year old operatives each ordered a beer from the waitress and after checking their Under 21 driver's licenses, the waitress provided the operatives with the beer.

Mayor inquired if any representatives were present from Zeke's. No one responded.

No public testimony was received.

Liquor License Violation  
at SuperAmerica #4332  
at 8600 Liquor Lyndale  
Avenue South  
Item 4.2

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to deem the off-sale liquor license violation that occurred at SuperAmerica #4332, 8600 Lyndale Avenue South, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to impose a \$500 fine on SuperAmerica #4332, 8600 Lyndale Avenue South, as a result of their first liquor license violation that occurred on February 12, 2003.

Tichey explained that a 19-year old operative attempted to purchase a six-pack of beer and the clerk did not ask for identification and made the sale.

Speaker #1: Cliff Weisman, District Manager

He stated that their store has several programs in place to train employees on the selling of alcohol and that they recently installed upgraded registers to make it easier for the associates to scan the I.D.'s in order to determine the age of the purchaser. He stated that the clerk who made the sale was terminated approximately two weeks later after they found out about the incident.

Liquor License Violation  
at Tom Thumb Store  
#116 at 8946 Lyndale  
Avenue South  
Item 4.2

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to deem the liquor license violation that occurred at Tom Thumb Store #116, 8946 Lyndale Avenue South, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to impose a \$500 fine on Tom Thumb Store #116, 8946 Lyndale Avenue South, as a result of their first liquor license violation that occurred on February 12, 2003.

Tichey explained that a 19-year old operative entered the store and purchased beer. The clerk asked for identification and after looking at the Under 21 driver's license made the sale.

Item 4.2 continued

Speaker #1: Dan Simek, Regional Manager

He stated that he observed the sale and the clerk asked for and checked the I.D. and then make the sale. He described the incident as a careless sale of alcohol and that they have several programs in place to try and eliminate this from happening. They have also installed scanners that provide the age of the purchaser. He stated that the clerk looked at the I.D. but did not scan it. He stated that due to feedback received from other communities, they did not terminate the clerk and that the best prevention might be to let them learn from the first mistake. After the second violation, he stated that they are automatically terminated. They are totally against the sale of tobacco and liquor to minors and will do whatever they can to prevent it.

Liquor License Violation at Winestreet Spirits at 10522 France Avenue South  
Item 4.2

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to deem the liquor license violation that occurred at Winestreet Spirits, 10522 France Avenue South, as a result of a detail to enforce the law against liquor sales to underage persons conducted by Bloomington Police Officers on February 12, 2003, as non-willful.

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to impose a \$500 fine on Winestreet Spirits, 10522 France Avenue South, as a result of their first liquor license violation that occurred on February 12, 2003.

Tichey stated that a 20-year old operative purchased the beer without the clerk asking for any identification.

Speaker #1: Brad Weis, Owner

He stated that he does not take selling to a minor lightly. He described some of the bonus programs they have in place as an incentive for clerks and managers not to sell to minors and rewards for passing compliance checks. He stated that the TIPS training is now mandatory and that all employees have signed up for it. He introduced Brian Clark, Manager of the Bloomington store who will also go through the training to be qualified as a TIPS trainer. He apologized to Council for incident stating that they too take it very seriously.

Wilcox applauded the owner for rewarding his employees and managers who have passed their compliance checks.

Reconsidered Fine for 1<sup>st</sup> Wok at 415 East 78<sup>th</sup> Street  
Item 4.2

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to reconsider the fine imposed on 1<sup>st</sup> Wok, 415 East 78<sup>th</sup> Street, as a result of their first liquor license violation that occurred on February 12, 2003.

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to direct staff to impose a \$500 fine for 1<sup>st</sup> Wok, 415 East 78<sup>th</sup> Street, if they possess a 3.2 on-sale beer license and a \$1,000 fine if they possess a full liquor license. Staff to review the on-sale intoxicating liquor license for 1<sup>st</sup> Wok and determine the penalty accordingly.

Phillip Cheng, Manager of 1<sup>st</sup> Wok reapproached the Council to inform them that he has a 3.2% liquor license and not a full liquor license.

Winstead stated that staff would clarify which license it is and requested a motion by Council to impose the appropriate fine depending on the type of liquor license held by 1<sup>st</sup> Wok.

Staff to Review Previously Imposed Fees on the Hunan Restaurant

Council directed staff to review the on-sale intoxicating liquor license for the Hunan Restaurant, 8066 Morgan Circle, to clarify whether it's a 3.2 beer license or a full liquor license and to change the previously imposed penalty of \$1,000 to \$500 if appropriate.

Elkins stated that he believes the Hunan Restaurant that was before the Council previously holds a 3.2% liquor license and not a full liquor license and so staff was directed to review the Hunan Restaurant's license also. He added that perhaps an outreach effort should be made to the family-owned type of restaurants such as those that failed the last compliance check to get the TIPS training program for their employees, as there seemed to be more of them in this last round of liquor license violations. Staff to follow up on the suggestion.

Approved 2003-2004  
Community  
Development Block  
Grant (CDBG) Budget  
Item 4.3

Motion was made by Fossum, seconded by Abrams, and all voting aye, to approve the 2003-2004 Community Development Block Grant (CDBG) Budget and approved the application for submission. The 2003-2004 CDBG Program year runs from July 1, 2003 to June 30, 2004. The Department of Housing and Urban Development (HUD) has informed staff that \$522,000 will be available in 2003, \$21,000 more than in 2002.

No public testimony was received.

Adopted an Ordinance  
Amending Chapter 18 of  
the City Code Relating to  
Buckthorn  
Item 4.4  
O-2003-8

Motion was made by Elkins, seconded by Wilcox, and all voting aye, to adopt an ordinance amending Chapter 18 of the City Code to remove "Rhamnus frangula Columnaris", Tallhedge (glossy buckthorn, all cultivars) from the SUGGESTED TREE list and place it in the PROHIBITED TREE LIST to bring Bloomington into compliance with the Minnesota Department of Agriculture's prohibited noxious weed list.

No public testimony was received.

Adopted a Resolution  
Amending the  
Comprehensive Plan for  
the France Avenue and  
Old Shakopee Road Area  
Item 4.5  
R-2003-39

Motion was made by Wilcox, seconded by Fossum, and all voting aye, to adopt a revised resolution amending the Bloomington Comprehensive Plan to reflect a change in land use designation for the France Avenue and West Old Shakopee Road Area (the area bounded by the railroad tracks on the north, Beard Avenue on the east, West 108<sup>th</sup> Street on the south and Kell Avenue on the west, as shown in Attachment A), contingent upon completion of Metropolitan Council review and comment. The four areas proposed to be amended are as follows:

1. Change Area #1: Change from Retail Commercial to Community Commercial.
2. Change Area #2: Change from Retail Commercial to General Business.
3. Change Area #3: Change from Retail Commercial (10617 France Avenue South and 3816 West Old Shakopee Road), Office (3800 West Old Shakopee Road), Low Density Residential (10549 and 10601 France Avenue South, and 10548, 10600, and 10608 Ewing Avenue South) to General Business.
4. Change Area #4: Change from High Density Residential to Medium Density Residential (recommended by the Committee, however, staff recommends that two of the parcels at 4101 and 4141 West Old Shakopee Road remain guided High Density Residential to match the existing land use on those parcels).

Senior Planner Bob Hawbaker explained that two areas of the city were not included in the adoption of the 2000 Comprehensive Plan; Airport South and the France and Old Shakopee Road Area that was under study at the time the Plan was adopted. He explained that since then, two citizen advisory groups have determined possible directions for development of land uses in that area. The Planning Staff and the Planning Commission have since made recommendations for the area that are consistent with the 2000 Land Use Guide Plan. Now that the process is complete and the citizens advisory committee has made its recommendation, the Planning Staff has reviewed the recommendations and translated certain elements of them into the categories that are consistent with the 2000 Land Use Guide Plan. He stated that two parcels containing existing apartment buildings are recommended to remain High Density Residential as they are now. A second change is for three lots facing Ewing to be designated as General Business.

Speaker #1: Pamela Aschling, 10600 Ewing Avenue South

She stated that her home is one of the ones being acquired and inquired as to when her property would be designated as General Business. She stated that the City has not talked to her about her property and would like to know their timetable.

Hawbaker replied that the northeast quadrant was designed by the Advisory Committee for public redevelopment but there is no timetable for that development yet and a Request for Proposals could be sought for development in that area.

Winstead suggested a meeting between HRA and the Aschling's to talk about the future of their property.

Item 4.5 continued

Speaker #2: Larry Granger, Advisory Committee Member

He inquired about the continuation of the HDR designation that covers the two apartment buildings and that continuing that designation does not fully carry out the recommendation by the Committee and inquired if another designation would be better that would allow a high density designation to be located somewhere else in the area between Kell Avenue and Bloomdale. He suggested that the entire site be planned as a unit. He reiterated that the Advisory Committee wanted the whole site developed as one site.

Fossum stated that judging from the single-family homes in the area there is justification for making the entire area High Density Residential.

Speaker #3: Carolyn Hamilton, Johnson Circle

She asked for clarification of the OFC designation and inquired if there were any proposed changes for her area.

Staff replied that the designation is for Office and that there are no proposed changes for her area.

Wilcox requested that staff meet with all three property owners along Ewing Avenue.

Closed the Public  
Hearing on the Walser  
Automotive Group  
Applications  
Item 4.6

Motion was made by Elkins, seconded by Wilcox, and all voting aye, to close the public hearing on the following Walser Automotive Group (1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive) applications: Case 7770A-02 (rezoning from General Industrial I-3 and General Industrial (Planned Development) I-3(PD) to Regional Commercial (Planned Development) CR-1(PD); Case 7770B-02 (preliminary and final development plan for Class I Motor Vehicle Sales; Case 7770C-02 (Conditional Use Permit for Class I Motor Vehicle Sales; Case 7770D-02 (preliminary and final plat of Walser 2<sup>nd</sup> Addition); Case 7770A-03 (variance to increase total site signage); Case 7770B-03 (add additional primary sign elevation); Case 7770C-03 (add additional secondary sign elevation); and Case 7770D-03 (increase primary sign elevation sign area to more than 150 square feet).

Hawbaker explained Walser's application is for a significant redevelopment of their original BMW dealership on Clover Drive. He stated that Walser has acquired some smaller properties to the north and the former Grazzini building to the east for their redevelopment. Walser's plan proposes to remove all of the existing buildings and to construct a dealership with an integral parking ramp on the north side of the site. An Xcel Energy easement bisects the site, which would only allow for parking with the approval of Xcel Energy. Initial access would be off of Fremont Avenue and temporarily off of Clover Drive. When the I-35W/494 interchange is rebuilt, Clover Drive will be closed and the applicant has agreed that that access will be closed but that continual circulation will continue to Fremont Avenue. The site will contain a 240-space surface parking lot and display lot, a two-story structure that includes two showrooms, a service bay on the lower level, car wash, offices, and a two-level parking deck. He stated that the first phase could go to as many as six levels of parking. A model of the building with two levels of parking was provided by the applicant. The second Walser application is for a sign variance. He stated that the issue regarding the sign ordinance is that the ordinance allows a total of 350 square feet for all signage for car dealers. Walser's proposal includes a stair tower that would include signage on all four sides. He stated that the Planning Commission recommended a graduated scale starting at 350 square feet for the building at its smallest size, graduating up to the 506 square feet, which was Walser's revised proposal presented at the meeting, depending on the height of the structure. He described the actions before the Council as follows:

1. Rezone the property to CR-1(PD), which would be consistent with the zoning adjacent on the west side of I-35W.
2. Approval of the development plan.
3. Approval of the conditional use permit for the auto dealer.
4. Approval of the variance for the signage.
5. Approval of the preliminary and final plat.

Hawbaker clarified that with the current configuration, traffic would come down Clover and enter the site and that most of the east/west traffic would enter from American Boulevard.

Peterson inquired as to how much signage would be allowed for a three-story office building on that site.

Hawbaker replied that it depends on the dimensions of the office building but that it would probably be in the range of 400 feet of signage using channel letters. He stated that the signage allowance is calculated at 10% of the surface of the wall, but using only the bottom 25 feet of the building (using channel letters).

Abrams inquired if Walser planned on using American Boulevard for test drives.

Speaker #1: David Phillips, Architect for Walser Automotive and Walser Toyota  
Regarding test drives, he stated that the site will only have access from American Boulevard off of Fremont Avenue and the designated route for test drives would be over to Lyndale, north on Lyndale and onto the freeway and around but there wouldn't be access to any residential streets. He made the following comments regarding staff's recommendations:

1. Case 7770B-02, Condition #1  
He requested that the word "permanent" be stricken from the condition regarding the escrow fund, as it would expire after five years with no violations anyway.
2. Case 7770B-02, Condition #21  
For clarification, he explained that inventory will not be parked in the customer parking area. However, after a customer returns from a test drive, they may park it in one of the customer service spaces while they go in and complete their deal. Walser would prefer this rather than have the customer try and repark the car in a space in the parking ramp. He wanted to make sure this instance would not be a violation of that condition. (No need to change the language.)
3. Case 7770B-02, Code Requirement #9  
Again for clarification, he stated that the building will be fire sprinkled but that the parking ramp portion may or may not be fire sprinkled depending on various Code issues. He stated that the City's fire marshal stated that the parking ramp could be handled with standpipes. (Hawbaker stated that it's a Code requirement and that Walser can do it however it meets the Code.)
4. He expressed Walser's concern with the bridge construction and that it would be detrimental for Walser to open just in time for the start of the bridge construction. He stated that Walser had anticipated a spring construction start on the bridge when this proposal was brought forward. He requested that the Council consider changing the one-year time deadline to start construction to make it coincide with the start of the bridge, which according to the City's Engineering's staff would be August or September 2003 and it could go into 2004.

Hawbaker suggested that a two-year deadline for Walser to start construction be approved for both variances and the conditional use permit. (Phillips concurred with this deadline.)

5. Regarding signage, Phillips stated that Walser is being asked to upzone the property to a CR1 to make it consistent with the Comp Plan. He stated that any other planned development proposal of similar size to this one, except a dealership, would be allowed without a variance, signage in excess of 1,200 square feet. He stated that they initially requested a variance for 600 square feet but have since revised it to 506 square feet. He stated that Walser has responded to the City's desire to intensify the use, to minimize the surface parking lots, and maximize the size of the building, and that their minimum request for a variance is justified. He explained that it will be a very large building on the corner of two major freeways and that all of the Planning Commissioners actually agreed to allow them more signage, some by graduating expansion and two who approved 600 square feet outright. He requested the Council approve 506 square feet as reasonable signage for the intensity of the site.

Fossum inquired if there is any requirement for stormwater ponding on the 4.19-acre site.

Hawbaker explained that there is stormwater rate control required on the site and it is being handled by a buried pipe gallery.

The question was asked as to how much signage area would Walser be allowed for just the size of the dealership building without the parking ramp.

Phillips replied that in the CR1 zoning ordinance, a building between 15,000-100,000 square feet, which Walser is without the ramp, without pylon signs, 680 square feet of signage would be allowed and another 300 square feet for a total of 980 square feet if the use was anything other than a dealership. He explained Walser would like a minimum of 506 square feet in signage and that they be allowed to ramp it up if more parking levels are added above the second.

Harden stated that Walser's request for signage to go all the way around the four sides of the stair tower is a reasonable request.

Hawbaker stated that Walser's current variance request is to go to 506 square feet.

Phillips stated that Walser would accept approval for 506 square feet. In response to Winstead's inquiry as to whether or not the ramp inventory would be strictly Walser's or not, he stated that Walser would like approval to be able to store another Walser dealership's inventory in additional ramps if that other dealership would pay for the construction of that additional story.

Hawbaker stated that Walser would only need to apply for building permits and meet the Code requirements to add more stories to the ramp, as their application is for a total of six stories.

Bernhardson inquired as to the rationale for only allowing 350 square feet of signage for a dealership.

Hawbaker explained that the reason that larger buildings are allowed so much more signage in CR-1 is that they are usually multi-tenant and in order to accommodate multi-tenants in retail buildings, additional signage is necessary. He stated his desire to wait and see how much signage looks reasonable on the building once it's constructed.

Winstead and Wilcox both indicated their support for the 506 square feet of signage.

Adopted an Ordinance  
Approving the Rezoning  
of Properties at 1216 and  
1400 West 79<sup>th</sup> Street  
and 1301, 1309, 1313  
and 1317 Clover Drive  
Case 7770A-02  
Item 4.6A  
O-2003-9

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt an ordinance approving the rezoning from I-3 and I-3(PD) to CR-1(PD) for the properties at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, Case 7770A-02, for Walser Automotive Group.

Elkins commented that this approval will be viewed as a travesty in the future and that that the Comp Plan was developed in such a way that an area with such strategic importance to the city and an area where major transportation facilities should be planned and surrounded by transit-supportive development, was Comp Planned to be allowed to be developed in the most pedestrian, transit-hostile, way imaginable. He referred to it as a "gross lack of foresight, all perfectly legal, but not the highest and best use of that land that's actually a harmful use of the land."

Winstead stated that if a mistake was made 5-10 years ago in the planning for this area, then the Council should think about making changes for the future.

Approved Preliminary and Final Development Plan for Walser Automotive Group at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive  
Case 7770B-02  
Item 4.6B

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve a Preliminary and Final Development Plan for a Class I Motor Vehicle Sales for the properties at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, Case 7770B-02, for Walser Automotive Group, subject to the following 28 conditions and 16 Code requirements being satisfied prior to Grading, Footing, and Foundation Permits, as set forth by the Planning Division Staff and the Planning Commission including a change to Condition #1:

1. A development agreement, including all conditions of approval, be executed by the applicant and the City. The development agreement shall include provisions for establishing a replenishable escrow fund to assure compliance with City Code requirements, Conditions of Approval and requirements of the development agreement. The escrow fund shall be established with provisions reflecting the result of discussions between applicant and staff or, failing agreement prior to Council consideration, on terms and conditions no more burdensome than proposed in the staff report dated March 6, 2003, but providing for reasonable notice and opportunity to respond prior to imposition of charges pursuant to paragraph (d) in staff report;
2. The developer shall meet with Planning, Public Works, and Building and Inspection staff to review conditions of approval and show that the deficiencies of the civil and architectural plans have corrected prior to application for any type of development permit other than for demolition;
3. The Final Development Plan is approved for all six ramp levels with a minimum of two ramp levels to be constructed with the dealership building. The future addition of any ramp levels up to the approved six levels may follow a formal Administrative Approval process that includes a complete staff level review prior to issuance of any permits if the additions are substantially the same as in the approved Final Development Plan;
4. Provision of an indemnification from damage agreement or easement along both West 79<sup>th</sup> Street and Clover Drive where the applicant has less than a 20 foot deep yard in order to protect the City and State from damage caused by objects and drainage from the adjacent bridges;
5. Allowed building setbacks shall be 37' 10" along Fremont Avenue, 20' 7" along Clover Drive, and 19' 2" from the north property line as per the approved architectural site plan in Case 7770B-02;
6. Less than 20-foot deep yards shall be allowed along Clover Drive and West 79<sup>th</sup> Street as shown on the architectural plan approved in Case 7770B-02;
7. Exterior building materials be approved by the Planning Manager;
8. Grading, drainage, utility and erosion control plans be approved by the City Engineer;
9. Proof of filing the approved Final Plat with the Hennepin County Recorder shall be provided to the Manager of Building and Inspection;
10. Access, circulation and parking plans be approved by the City Engineer;
11. Plans shall show restoration of City streets through compliance with street improvement policy as approved by the City Traffic Engineer;
12. Landscape surety shall be provided to the Building and Inspections Manager;

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

13. Connection charges be satisfied;
14. A SAC questionnaire be completed and submitted to the Department of Public Works;
15. Standby fuel provisions be approved by the Fire Marshal;

and subject to the following additional conditions:

16. City Traffic Engineer shall approve revised interior circulation and parking plan prior to closure of the Clover Driveway;
17. A six-foot wide sidewalk shall be constructed by the developer in the sidewalk easement along Fremont Avenue;
18. No more than ten (10) inventory vehicles shall be displayed on the display area next to Fremont Avenue;
19. All inventory and display vehicles shall be at finish grade level. No jack stands, risers, or other mechanisms shall be used to elevate any vehicle for display purposes;
20. Vehicles shall be not be displayed in any yard area, drive aisle or fire lane;

Item 4.6B continued

21. The 47 customer parking spaces shall be clearly signed and shall be not be used at any time for inventory vehicle parking;
22. Alterations to utilities be at the developer's expense;
23. All pickup and drop-off occur on site and off of public streets;
24. All loading and unloading occur on site and off of public streets;
25. Temporary street signs, lighting, and addresses shall be provided during construction;
26. All construction related parking, loading, unloading, staging, and material storage shall occur on-site;
27. No loudspeaker paging system shall be used;
28. Approved and installed erosion control barriers shall be maintained throughout the construction period and not removed until authorized by the City Engineer;

and subject to the following Code requirements:

1. Three foot high solid screening be provided along Clover Drive, those portions of West 79<sup>th</sup> Street east of the bridge retaining wall, and Fremont Avenue as approved by the Planning Manager (Sec. 19.52);
2. Landscape plan be approved by the Planning Manager (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. Property be platted in accordance with the requirements of Chapter 16 of the City Code (Sec. 16.03);
8. 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);
9. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
10. Utility plan showing location of existing and proposed 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);
11. Food service plans be approved by the Environmental Services Division (City Code Sec. 14.360);
12. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code;
13. A uniform sign design be submitted for approval by the Planning Manager;
14. All signage be in accordance with the approved Uniform Sign Design (Sec. 19.109); and
15. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Sec. 19.42).

Adopted a Resolution Approving a Conditional Use Permit for Walser Automotive Group at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive  
Case 7770C-02  
Item 4.6C  
R-2003-44

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving a conditional use permit for Class I Motor Vehicle Sales at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, Case 7770C-02, for Walser Automotive Group, with a two-year time limit for obtaining building permits, subject to the following 3 conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The conditional use permit shall apply only to the Preliminary and Final Development Plans approved in Case 7770AB-02;
2. Class II Motor Vehicle Sales (used car sales) shall be allowed as an accessory part of the new car sales; and
3. The conditional use permit shall have a two-year time limit for obtaining building permits.

Adopted a Resolution Approving Preliminary and Final Plat of Walser 2<sup>nd</sup> Addition at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive Case 7770D-02 Item 4.6D R-2003-45

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving the one lot, one block Preliminary and Final Plat of Walser 2<sup>nd</sup> Addition at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, Case 7770D-02, that has been filed to plat the development package into one lot with the dedication of a small amount of right-of-way adjacent to Clover Drive for future interchange improvements and provision of standard drainage, utility, and sidewalk easements along the frontages, retention of the transmission line easement, and vacation of existing easements, as required in Case 7770D-02, with a two-year time limit, subject to the following 7 conditions and 3 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

1. Standard 10 foot and 5-foot drainage and utility easement be shown along the frontage(s) and interior property line respectively as approved by the City Engineer;
2. A 10-foot sidewalk easement shall be provided along Fremont Avenue and around the Xcel transmission tower as approved by the City Engineer;
3. A 10-foot non-access easement be provided along both West 79<sup>th</sup> Street and Clover Drive as approved by the City Engineer, to include language stating that temporary driveway on Clove Avenue will be properly closed by the applicant without compensation upon notification to do so by the City for pending roadway modifications;
4. Existing easements of record be vacated or redescribed as approved by the City Engineer;
5. Proof of filing of all documents shall be provided to the City Engineer.
6. The applicant shall sign *Conditional Approval for Encroachment into Public Easements* with the City of Bloomington and provide proof of filing to the Engineering Department;
7. Alterations to utilities shall be at the developer's expense;

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 and a certified copy provided to the Engineering Division.

Adopted a Resolution Approving Four Sign Variances for Walser Group at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive Case 7770ABCD-03 Item 4.6E R-2003-46

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the following variances for Walser Automotive:

Case 7770A-03 to increase the total site signage from 350 square feet to 506 square feet for a Class I Motor Vehicle Sales at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, with a two-year time limit for obtaining building permits, subject to the following conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The variance shall have a two year time limit to the obtaining of building permits;
2. No sign permits shall be issued prior to the approval of a Uniform Sign Design consistent with the Sign Code and approved sign variances in Cases 7770ABCD-03; and
3. The allowed total site sign area shall not exceed 506 square feet and shall be available in full with the construction of at least a two-story parking ramp.

(The Council was able to approve the request for a variance for 506 square feet in total signage due to Walser's amending their application request on the record from a total of 596 square feet to 506 square feet of signage on the site.)

Case 7770B-03 to allow a second primary sign elevation for Class I Motor Vehicle Sales at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, subject to the following conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The variance shall have a two year time limit to the obtaining of the building permits; and
2. The second primary sign elevation shall be designated on the approved Uniform Sign Design.

Item 4.6E continued

Case 7770C-03 to allow a second secondary sign elevation for Class I Motor Vehicle Sales at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, subject to the following conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The variance shall have a two-year time limit to the obtaining of building permits;
2. The second secondary sign elevation shall be designated on the approved Uniform Sign Design; and
3. Sign area of the second secondary sign elevation shall not exceed the allowed sign area.

Case 7770D-03 to increase the allowed sign area of one primary sign elevation from 150 square feet to 217 square feet for Class I Motor Vehicle Sales at 1216 and 1400 West 79<sup>th</sup> Street and 1301, 1309, 1313 and 1317 Clover Drive, subject to the following conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The variance shall have a two-year time limit to the obtaining of building permits;
2. The increased sign area may be applied to only one of the two designated primary sign elevations as shown on an approved Uniform Sign Design;
3. The applicant may use any amount of sign area, not to exceed a total of 217 square feet, for the oversized primary sign elevation; and
4. The second primary sign elevation sign area shall not exceed 150 square feet.

Adopted an Ordinance  
Vacating a Portion of  
Walser Addition and  
Southbend Terrace for  
Walser Automotive  
Group  
Item 4.6F  
O-2003-10

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt an ordinance, as revised in the staff report, to vacate certain easements over and across Lots 1 and 2, Block 1, Walser Addition, and Lots 12, 13 and 14, Block 2, Southbend Terrace. The vacation is requested to clear title and replat all the properties into one new lot in the new plat of Walser 2<sup>nd</sup> Addition. There are public and private utilities affected by this vacation, but new easements will be dedicated with the new plat to cover the in-place utilities.

No public testimony was received.

Approved Temporary  
Conditional Use Permit  
for Muscle Mechanics at  
10210 Queen Avenue  
Case 10447A-03  
Item 5.1

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a three-year temporary conditional use permit for a licensed therapeutic massage business in a single-family residence at 10210 Queen Avenue, Case 10447A-03, for Muscle Mechanics, subject to the following 4 conditions and 1 Code requirement, as set forth by the Planning Division Staff and the Hearing Examiner:

1. All business licenses and insurance shall be maintained as required;
2. The enterprise shall be limited to one licensed massage therapist who shall be a resident on the property;
3. All client parking, pick-up, and drop-off shall occur on-site and off of the adjacent public street;
4. Appointments shall be scheduled from 12:30 p.m. to 9:00 p.m. as indicated by the applicant's hours of operation.

and subject to the following Code requirement:

1. Signage, if acquired, shall comply with the sign ordinance.

Approved Revised Final  
Site & Building Plans for  
Park 'N Go at 7901  
International Drive  
Case 8962A-03  
Item 5.2A

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to approve the revised final site plans and building plans for the expansion of a remote airport parking facility, the addition of a canopy at the site entrance, the restoration of the site after LRT construction, and other minor site improvements at 7901 International Drive, Case 8962A-03, for Park 'N Go, subject to the following 5 conditions and 4 Code requirements, as set forth by the Planning Division Staff and the Planning Commission:

1. Site improvements and additions are limited to those shown on the plans approved in Case 8962A-03.

Item 5.2A continued

2. Prior to the issuance of permits for the site restoration (yard, curb, and screening) along 34<sup>th</sup> Avenue after completion of the LRT construction, a formal Administrative review and approval shall be required to insure compliance and consistency with the plans approved in Case 8962A-03.
3. All utility alterations shall be at the developer's expense.
4. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district.
5. Access, circulation and parking plans be approved by the City Engineer.

and subject to the following Code requirements:

1. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code.
2. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52).
3. Three-foot high solid screening be provided along 34<sup>th</sup> Avenue, East 80<sup>th</sup> Street, and International Drive as approved by the Planning Manager (Sec. 19.52).
4. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64).

Hawbaker explained two issues with this application are that 34 parking spaces will be lost along 34<sup>th</sup> Avenue with a replacement of them plus a couple of more along the west side and the filling in of a detention pond that was constructed with the original parking lot. He explained that the Minnesota Department of Transportation, which is taking the right-of-way, has agreed to take and treat the water in the 494 system. The other part of the application is addition of a canopy over the entrance and exit ramps at the pay booth kiosk. It was stated that this application puts them on a par with Park 'N Fly, as the permit will expire on December 31, 2008. The Planning Division Staff and the Planning Commission recommend approval.

No public testimony was received.

Renewed a Temporary  
Conditional Use Permit  
for Park 'N Go at 7901  
International Drive  
Case 8962B-03  
Item 5.2B

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to approve the renewal of a temporary conditional use permit to December 31, 2008 for remote airport parking at 7901 International Drive, Case 8962B-03, for Park 'N Go, subject to the following 10 conditions and 4 Code requirements, as set forth by the Planning Division Staff and the Planning Commission:

1. A development agreement including all conditions of approval be executed by the applicant and the City and proof of filing be provided to the Manager of Building and Inspection and include the following:
  - A. Acknowledgement by the applicant and owner that the use of the property for remote airport parking is temporary in nature.
  - B. Acknowledgement that the applicant and owner have no expectations to continue the remote airport parking use of the property beyond December 31, 2008.
  - C. Acknowledgement that on or after July 1, 2005, the applicant and owner shall submit a report detailing efforts to market the property for development to the Director of Community Development within 30 days of the report being requested. The report shall include but not be limited to any agreement with brokers, contacts and inquiries with potential developers or potential users, and copies of all marketing materials prepared and distributed to promote the development of the property.
  - D. A copy of the agreement that allows the discharge of the storm water from this development into the MnDOT I-494 system, to include those use, scope, or time limitations that agreement is subject to.
2. Non-access easements shall be provided along the I-494, 34<sup>th</sup> Avenue, and East 80<sup>th</sup> Street frontages as approved by the City Engineer.
3. The remote parking facility shall have access only onto International Drive.

Item 5.2B continued

and subject to the following additional conditions:

4. The temporary conditional use permit shall not extend past December 31, 2008.
5. All landscaping and required screening shall be maintained during the term of the temporary conditional use permit.
6. The number of on-site parking spaces shall not exceed 1,355 spaces as approved in Case 8962A-03.
7. Maintenance shall be limited to minor service (oil changes and fluid replacement) and cleaning of vehicles used in conduct of the business.
8. No maintenance or cleaning of customer or employee vehicles shall be allowed.
9. The building(s) shall be removed when the use ceases.
10. Utility services shall be properly abandoned when the use ceases.

and subject to the following Code requirements:

1. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec. 19.52).
2. Three-foot high solid screening be provided along 34<sup>th</sup> Avenue, East 80<sup>th</sup> Street, and International Drive as approved by the Planning Manager (Sec. 19.52).
3. All trash and recyclable materials be stored inside the principal building. (Sec. 19.51).
4. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4).

No public testimony was received.

Continued Indefinitely a  
Vacation Ordinance on  
Grand Avenue  
Item 4.7AB

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to continue indefinitely a vacation ordinance for a portion of Grand Avenue.

No public testimony was received.

Adopted an Ordinance  
Authorizing Transfer of  
Parcel 303A to the State  
of Minnesota and  
Continued to May 19 the  
Parcel for the I-494  
Third Lane Project  
Item 4.8  
O-2003-11

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt an ordinance authorizing the transfer of a small triangular parcel along East Bush Lake Road (described as Minnesota Department of Transportation (MnDOT) "Parcel #303A" to the State of Minnesota, for Minnesota Department of Transportation (MnDOT) highway projects (I-494 Third Lane Project) and postponed the other parcel (a strip of land along T.H. 169 north of Bloomington Ferry Road) to May 19, 2003.

No public testimony was received.

Adopted a Resolution  
Ordering the 2003-1  
Street Improvement  
Project  
Item 4.9A  
R-2003-47

Motion was made by Peterson, seconded by Elkins, to adopt a resolution ordering improvements, 2003-1 Street Improvement Project (Pavement Management Program - Reconstruct) including Mount Curve Road from East Bush Lake road to Lakeview Road. It was determined that the street would be constructed to a width of 26 feet with no parking allowed. Motion passed 6-1 (Harden opposing).

City Engineer Shelly Pederson explained that the 2003-1 Street Improvement Project (PMP) Reconstruct was approved on March 17, 2003, with the exception of a portion of Mount Curve Road from East Bush Lake Road to Lakeview. She reported on the April 1<sup>st</sup> meeting held by staff with six of the property owners to explain staff's proposal for the area. She stated that staff's original proposal was for a roadway width of 28 feet and that the residents had concerns with the 28-foot width and how it related in conjunction with the right-of-way. Moving the roadway closer to the wetland area would require a retaining wall and a guardrail system on the curved area in order to meet the design standards and would require additional cost. She stated that she and staff still believe 28 feet is the appropriate width for the following reasons:

1. It's a main entrance to the neighborhood.
2. Due to pedestrian use in the area, a 24-foot roadway would not allow much room for passing vehicles and pedestrians.

3. A sidewalk is not recommended, as staff believes it would deter from the natural beauty of the area.
4. A 28-foot roadway would allow parking on one side of the roadway if it was desired by the residents in the future. It is currently recommended for no parking on either side.
5. A 28-foot roadway would continue to utilize the naturally built-in traffic calming features in its design.

Schane Rudlang, Engineering continued by addressing some of the concerns for which the Council had requested additional information and provided more details relating to the proposed design features:

1. Regarding driveway impacts: At 28 feet with no retaining wall, the roadway matches well with the existing driveways, therefore, creating minimal impacts.
2. Regarding roadway alignment: Rather than being centered within the right-of-way, the proposed alignment would put it in the same place as it is currently, farther into the northern right-of-way in order to reduce the impacts to the pond and to minimize impacts to the residents' front yards.
3. Regarding the use of a retaining wall on the south side of the road: This would save a couple of more trees and would reduce the impact on the driveways, however, the cost would be roughly \$60,000 to do the wall and guardrail. The Council would have to determine the funding for the wall and whether the residents in this neighborhood should pay or the residents throughout the entire PMP Project (351 properties) should pay (\$40-\$50 per property).

Rudlang summarized that staff's recommendation is still for a roadway width of 28 feet, either aligned as the street currently is or moving the alignment to the south with the use of a retaining wall and guardrail. Regarding the parking issue, he clarified that the information provided by the Police Department and the Fire Department indicated no problems with police or fire calls on Mount Curve and that the problems actually occurred on Wood Cliff Road. However, parking on Mount Curve is a concern to staff due to pedestrian safety, etc. He stated that the current width is 22 feet and that per the Council-approved street width design policy, a width of 28 feet is recommended and complies with the policy. Regarding the loss of evergreen trees along the inside of the curve, he explained that at a width of 28 feet, five or six trees could be lost and that at a width of 24 feet, three may be lost but that trees are replaced on a one-for-one basis only not be as large as the mature trees that are there now.

Abrams commented that although the street width policy approved by Council recommended streets currently existing at 28 feet or less be constructed at a width of 28 feet, it also had room for flexibility if circumstances dictated and mentioned that 24 feet was recommended for some streets in the same neighborhood. With regard to the need for emergency vehicle access to the neighborhood, stated that the fire trucks would come from the Fire Station at 86<sup>th</sup> & Lakeview Road and would not access the neighborhood from Mount Curve.

Rudlang explained that the differences between Lakeview Road, Izaak Walton, and Mount Curve and why Lakeview and Izaak Walton were approved at 24 feet.

Bernhardson explained that trucks from Fire Station #5 and possibly Station #2 would access the neighborhood from Mount Curve if multiple trucks needed to respond.

Abrams stated that he is unconvinced that 28 feet is needed for Mount Curve, as there were no reported problems with emergency vehicles or pedestrians in the past 15 years and sees no benefit for the residents, greater neighborhood, or the city as a whole based on hypothetical situations that have not occurred in the street's 15-year history.

Elkins inquired if fire trucks would be situated on the street with their outriggers out due to the far distance of the houses from the street.

Pederson replied that fire trucks would stage their equipment down on the street and would not try and to pull them up into the driveways to avoid the engines getting trapped up in the driveways.

At the request of Harden, Rudlang showed the cross-section of the driveway at 7110 Mount Curve Road to show how it would align with the proposed roadway.

Speaker #1: Terry Severson, 7200 Mount Curve Road

He stated that 100 percent of the property owners on Mount Curve Road attended the April 1 City informational meeting and are in attendance tonight.

Speaker #2: Terry Lundcraft, 7110 Mount Curve Road

Speaking for the neighborhood, Lundcraft provided the following comments to Council:

1. Confirmed that no parking tickets have been issued on Mount Curve Road.
2. No fire truck issues - only ones were actually reported on Wood Cliff and not on Mount Curve.
3. As she has a steep driveway, she expressed concern with the prospect of losing 40 feet of her driveway if the roadway is constructed to 28 feet wide.

Speaker #3: Mark Saliterman

Stated that in 1996 when he built his home, the City had great concern at that time regarding the dangerously steep grade of his driveway. He stated that at the time, in order for him to locate his house back on his lot, he was requested by the City's Planning Division to sign a letter acknowledging that his driveway was unsafe due to its length and steep grade but that the letter is not on file with the City according to Rudlang. He stated that he sees his options as having his already steep driveway shortened by four feet or seeing the pond being filled in with the addition of a guardrail in a beautiful nature area. He stated the road has been working for 15 years at 22 feet and doesn't believe it would work better at 28 feet.

Severson commented that he found information on a website that recommended a 24-foot wide street with one side of parking. He stated that it was the City who wanted no parking on both sides of Mount Curve to keep Bush Lake users from parking there and walking to Bush Lake.

Winstead clarified that it's the Park District who puts together the plan for the Bush Lake parking lot.

Severson stated that the neighborhood would support a 14% wider roadway to 24 feet with no parking, as it's worked that way for years at 22 feet. Regarding the fire trucks, he stated that after measuring the widths of two fire trucks and checking with the Lakeview Fire Station, it doesn't have a ladder truck so the 8-9 foot trucks would most likely be responding to their area. He stated that he spent a week counting and videotaping the traffic on Mount Curve Road between 6:30 - 8:30 a.m. and he counted 51 cars total between Monday and Friday and that 10 of those trips were Mark Saliterman and his father, and three were garbage trucks. He never saw two cars passing at a time compared to the 460 vehicles on East Bush Lake Road between 7:10 - 7:40 a.m. and over 1,700 cars traveled on East Bush Lake Road on a Wednesday during that time period.

Lundcraft commented that she didn't want to lose five or six evergreen trees and that it would cost \$5,000 to replace them. She stated that the neighbors are unified and would support a 24-foot wide road without a guardrail and a wall. She also stated that if the 24-foot width is not an option, then the neighborhood would like to be able to opt out of the improvements, as the road isn't in bad shape.

Winstead stated that he supports Engineering's recommendation for a 28-foot roadway.

Abrams indicated his support for a 24-foot roadway.

Elkins stated his support for a 24-foot roadway.

Item 4.9A continued

Motion was made by Elkins, seconded by Abrams, to add Mount Curve Road to the 2003-1 Street Improvement Project (PMP) at a width of 24 feet with no parking allowed on either side. Motion failed 3-4 (Wilcox, Winstead, Harden, and Peterson opposing).

Motion was made by Peterson, seconded by Elkins, to add Mount Curve Road to the 2003-1 Street Improvement Project (PMP) at a width of 28 feet with parking. No vote taken.

Abrams made a friendly amendment to the motion to change the width to 26 feet with no parking.

Peterson and Elkins accepted the amendment.

The motion was called for 26 feet with no parking. Motion passed 6-1 (Harden opposing).

Set Bidding Schedule and Approved Plans for the 2003-101 Street Improvement Project  
Item 4.9B

Motion was made by Peterson, seconded by Elkins, and all voting aye, to set the bidding schedule and approve the plans for the 2003-101 Pavement Management Program (PMP) Street Improvement Project. The projects includes street reconstruction and utility maintenance that was ordered for construction by Council. The improvements would be funded in accordance with the PMP policy, budgeted utility maintenance funds, and assessments.

<Mayor Winstead recessed the meeting for a five-minute break.>

Selected Proposal by Gregory Real Estate Company (GRECO) for Existing City Hall Site  
Item 7.3

Motion was made by Peterson, seconded by Abrams, and all voting aye, to select the proposal put forth by Gregory Real Estate Company (GRECO) for the existing City Hall site. The GRECO proposal offers a purchase price of \$2,910,000, an estimated market value of \$59,185,200 and estimated tax generation of \$711,084 per year and proposes condos from \$187,000 to \$294,000 and townhomes from \$367,500 to \$567,000.

Housing & Redevelopment Authority Administrator Regina Harris explained that 11 residential redevelopment proposals were submitted for the existing city hall site and that a committee narrowed the developers down to 3 who presented their proposals to Council at a previous meeting. She complimented the three developers on their proposals and for responding to the questions generated by Council, adding that they did receive the summary memo she had provided to Council. She summarized the three proposals as follows:

1. Gregory Real Estate Company (GRECO): A total of 194 units or 26.8 units per acre, consisting of 148 condos starting at \$185,250 with underground parking, 46 townhomes starting at \$362,250 with individual at-grade garages. All of the units will be "for sale" and their purchase offer was \$2,910,000 with an estimated Assessor's market value of \$59,185,200 and estimated annual property tax generation of \$711,084. Buildings would be set back 25 feet from the right-of-way, allowing for some landscaped area along the roadway. All of the garage entrances are on the internal drive, away from the street. Buildings would be set back approximately 25 feet from the park right-of-way line (hugging the curb of the existing back parking lot). Development would have walking access down into the park from Old Shakopee Road.
2. Lauka/Jarvis/LaSalle/Presbyterian Homes: A total of 184-256 units (depending on market conditions) or 25.2 to 35 units per acre, consisting of 104-176 "for sale" condominiums starting at \$235,000 to \$275,000 and 80 senior cooperative or rental units (developed by Presbyterian Homes similar to the Summer House development at 98<sup>th</sup> & Lyndale Avenue South). All parking would be underground. Their purchase price is \$2,900,000 with an estimated Assessor's market value of \$47,600,000 and an estimated annual property tax generation of \$639,367. All parking and circulation is towards Old Shakopee Road and the buildings are within 25 feet of the property line towards the park and the buildings along the roadway would be set back approximately 60-100 feet. Development would have walking access down into the park from Old Shakopee Road.

3. Sherman Associates: A total of 112 units or 15 units per acre consisting of 80 condominiums starting at \$299,000 to \$350,000 with underground parking and 22 rowhouses or townhouses starting at \$450,000 each with underground parking and all units would be “for sale.” Their purchase is \$2,425,000 with an Assessor’s market value of \$35,860,000 and an estimated annual property tax generation of \$437,952. Development would have walking access down into the park from Old Shakopee Road. (She also described their “C” proposal.)

Harris stated that the condo and townhouse market as well as senior rental were strong markets, therefore, all three proposals would be marketable. The Lauka/Jarvis proposal is the only proposal that appeals directly to seniors, however, the other proposals may appeal to them as well. The GRECO proposal offers the lowest starting price of \$200,000, however, Lauka/Jarvis has indicated that their pricing will be determined by the market at the time they develop. From an experience standpoint, she stated that all three proposers would be excellent developers. Due to its lower density, she stated that the Sherman proposal responds best to the elevation changes on the site, which would reduce the need for retaining walls. GRECO proposal is within 25 feet of the right-of-way to the park. The Lauka proposal is set back 25 feet from the property line, includes the use of retaining walls, and would be the most technically challenging to build that close to the park. All proposals would require significant site grading. All three proposals show park access on foot but none would provide public parking for access to the park. Users would have to park at nearby Harrison Park. Regarding how each proposal addresses Old Shakopee Road, the Lauka proposal is the most traditional with driveways and parking between the buildings and the street, the Sherman proposal is somewhere in the middle, and the GRECO proposal has the buildings closest to the street and is the most urban of the proposals. Both the GRECO and the Sherman proposals have their buildings framing the entrance at Penn Avenue and Old Shakopee Road and the Lauka proposal includes a decorative arch framing that entrance. All three proposals would have right-in and right-out access. The GRECO proposal is the only one showing above-grade parking for the townhomes. Regarding the economic benefit to the City, the GRECO proposal purchase price is the largest and has the highest estimated value followed by the Lauka proposal and then the Sherman proposal.

Winstead relayed a question that was presented to him by a long-term property owner who owns an acre adjacent to the site regarding whether or not there would be any opportunity for the developer to acquire that one acre for the site for fair compensation to the owner (i.e. obtain, trade, acquire) for something comparable in the development so that this property owner could continue to enjoy the amenity of the place in which they have lived for a very long time.

Harris stated that it would be appropriate for the developers to look at the inclusion of the one-acre site to see how it might enhance the city hall site. She described the process going forward: a development agreement would be made with the developer and that relationships with the surrounding properties would be addressed through that, then the final site and building plans and rezoning would be approved, followed by Comprehensive Plan public hearings to address specific concerns.

Peterson stated that he would support a proposal that looked at combining an adjacent neighbor’s properties to have it rezoned into a complete parcel.

Wilcox commended Harris and her staff for the excellent proposals that were submitted but questioned how much density the site can handle.

Harris replied that staff has some concerns with the Lauka proposal in terms of density and that the Sherman proposal treats the site the best.

Harden indicated her support for the Gregory proposal as it offers some units under \$200,000, therefore addressing the affordable housing issue and it has the highest property tax generation for the City. She stated that she is not as concerned about having senior housing on this site, as it’s not very pedestrian friendly.

Peterson stated that he would support the Sherman proposal and how it impacts the neighborhood in terms of the intensity of the use and how it fits into the area next to the park.

Elkins stated his support for the Gregory proposal and the resulting streetscape of their proposal, the gateway it provides into the park from the intersection, and it provides the best return.

Fossum supported the GRECO proposal, as it's a classic mixed-use development with condominiums, townhomes, and a small commercial component across the street and with it being all owner occupied it would provide a good tax benefit to the City. He stated it would fit in with the high density along Old Shakopee Road.

Abrams stated that he is leaning towards the Sherman proposal adding that they have done some very nice projects in the area recently and has the best feel for what would be a nice addition to the neighborhood on this site.

Wilcox stated that he is between the GRECO proposal and the Sherman proposal and that his own experience tells him that the GRECO proposal would probably have to be ratched down and the Sherman proposal would have to be ratched up, which might be better on the site. He stated that the GRECO is a little too dense for the site.

Speaker #1: Bob Hofmeister, 2345 West Old Shakopee Road

He stated that he personally took over a \$1 million rap on his property on Logan Avenue and inquired what impact the proposed development would have on his residential property, what kind of people will move in, etc. Regarding the taxable value of the current city hall property, inquired if it would add to or subtract from the City's General Fund when it's all said and done. His concern is that this area currently has one of the lowest crime rates in Bloomington and inquired if the influx of more people in the area would change that.

Winstead replied that Hofmeister would be getting a neighbor spending approximately \$200,000 to \$500,00 per individual unit property, as compared to a municipal building and that any residential property would most likely desire to be next to a residential property that is relatively high priced. He replied to the tax question by explaining that the current municipal building does not pay itself property taxes, therefore, the new development will add between \$150,000 to \$240,000 per year in property taxes, which will be offset by the area where the new city hall is located that will not be generating property taxes any more. He stated that the net effect, however, is positive for the City's coffers.

Speaker #2: E. Melum, 2339 West Old Shakopee Road

She is concerned about the amount of green area that will be left between her property and the new development.

Winstead explained that it has been taken into consideration and that it varies with the different developers with construction set fairly close to the setback portion of the lot line. Some have housing units closer to the property line and others have a stormwater pond and green space closer to her property line than the existing parking lot. He also stated that he supports the GRECO proposal, as it meets the needs and returns well to the City with the widest range of variety in housing.

Adopted a Resolution of Partial Approval and Partial Denial for Concord Green at 9201 Nicollet Avenue South  
Item 4.10  
R-2003-40

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to adopt a resolution approving an application by Concord Green (9201 Nicollet Avenue South) for a variance to reduce land area from 374,900 square feet to 354,200 square feet to construct eight (8) additional apartment units, approving final site and building plans for the additional units and denying a request for a variance to reduce garage parking spaces from 128 to 55 garages.

No public testimony was received.

<p>Adopted a Resolution Declaring Adequacy of Petition and Ordering Utility Improvements Be Included in the 2001-301 Street Improvement Project Item 4.11 R-2003-41</p>	<p>Motion was made by Peterson, seconded by Fossum, and all voting aye, to adopt a resolution declaring adequacy of petition and ordering utility improvements be included in the 2001-301 Street Improvement Project. The petition requests the installation of sewer and water utilities along American Boulevard East between 20<sup>th</sup> Avenue South and 24<sup>th</sup> Avenue South to serve the Mall of America 5<sup>th</sup> Addition.</p> <p>No public testimony was received.</p>
<p>Boards/Commissions Communications Item 7.1</p>	<p>There were no boards/commission communications reported.</p>
<p>Status of Action Items Item 7.2</p>	<p>Status of Action items were provided to Council and the City Manager reminded Council that the Charter Commission is holding an open house meeting on April 8 at 6:30 p.m. in Council Chambers to take public input on the Charter's review of Section 12.12, Subd. 5 of the City Charter relating to the distance requirement for on-sale and on-sale club liquor license establishments from churches and schools.</p>
<p>Referred an Amendment to Section 6.06 of the City Charter to the Charter Commission Item 7.4</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to refer to the Bloomington Charter Commission a proposed amendment to Section 6.06 of the City Charter that would eliminate the requirement that the mayor sign those contracts which can be approved by the city manager and for which no City Council action is taken. Upon review by the Charter Commission, it would make a recommendation to the Council.</p>
<p>Appointed Harden to Bloomington Council of the Minneapolis Regional Chamber of Commerce Board Item 3.1</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to appoint Councilmember Heather Harden to the Bloomington Council of the Minneapolis Regional Chamber of Commerce Board, expiring on October 31, 2004.</p> <p>Winstead explained that this appointment was set in motion two years ago when Fossum was appointed to serve a two-year term.</p>
<p>Reappointed Bernhardson to the Association of Metropolitan Municipalities (AMM) Board Item 3.2</p>	<p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to reappoint City Manager Mark Bernhardson to another two-year term on the Association of Metropolitan Municipalities (AMM) Board from May, 2003 to May, 2005.</p> <p>Winstead stated that Bernhardson has done a good job of representing the City while on the Board.</p>
<p>Appointed Alison Riveness to a Youth Position on the Human Rights Commission Item 3.3</p>	<p>Motion was made by Fossum, seconded by Peterson, and all voting aye, to appoint Alison Riveness to fill the vacated youth position on the Human Rights Commission, expiring on August 31, 2003.</p>
<p>Approval of Minutes</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the minutes of the February 24, 2003 Council Study and March 3, 2003, Council Regular meetings, as presented.</p> <p>Motion was made by Peterson, seconded by Wilcox, to approve the minutes of the March 17, 2003, Regular Council meeting as presented. Motion passed 6-0-1 (Harden abstaining).</p>
<p>Adjourn Meeting</p>	<p>Mayor Winstead adjourned the meeting at 11:46 p.m.</p>

Barbara Clawson  
Council Secretary