

**Regular Meeting #11
Monday, April 17, 2006, 7:00 p.m.
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027**

**Call to Order and
Pledge to Flag**

Mayor Gene Winstead called the meeting to order at 7:04 p.m.

Roll Call

Present: Mayor Winstead, Councilmembers R. Axtell, S. Elkins, A. Grady, K. Nordstrom, and S. Peterson.

Absent: Councilmembers V. Wilcox.

**STOP IT NOW
PRESENTATION**

Ann Lindstrom, Outreach Education Coordinator for Stop It Now! Minnesota stated that she was invited to speak to the City Council about their campaign to prevent child sexual abuse in light of April being Child Abuse Prevention Month. They look at what can be done to prevent the sexual abuse of a child. A toll free confidential help line is available for people to call who might need help in determining whether or not a particular situation is considered child sexual abuse so that the appropriate steps can be taken to prevent the actual abuse. Their current ad campaign is targeted at people who might be having thoughts about children and child abuse so they can get help before they act on those thoughts.

**PROCLAMATION –
RESPECT FOR
LAW WEEK**

Mayor Winstead read and presented a proclamation declaring May 1-7, 2006, as Respect for Law Week in Bloomington to Jim Meyer, Optimist Club. He stated Sgt. Tom Plant was selected as the Police Officer of the Year by the Optimist Club and will be presented with a plaque thanking him for his 30 years of service to the Bloomington Police Department at an upcoming ceremony.

**MET COUNCIL
PRESENTATION**

Russ Susag, Met Council District 5 Representative presented Bloomington with a Certificate awarding the City with a \$2.2 million Livable Communities Demonstration Account Grant for “Central Park” in the Bloomington Central Station development.

**Adopted Resolution
Approving Agency
Agreement No. 89443
with MnDOT
ITEM 3.1
R-2006-53**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to adopt a resolution approving Agency Agreement No. 89443 between the City of Bloomington and the Minnesota Department of Transportation (MnDOT), which details the Federal funding mechanisms and timing of repayments for CP# 2005-201 (American Boulevard from Dupont Avenue to Nicollet Avenue).

Monthly payments to the Contractor are initially paid from City funds and then reimbursed by MnDOT through a voucher process, which takes 1-2 weeks. This agreement also puts the onus of the contract on the City in case MnDOT loses Federal funding, an unlikely prospect.

**Adopted Resolution
Approving Agreement
No. 89326-R with
MnDOT
ITEM 3.2
R-2006-42**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve the Cooperative Construction Agreement No. 89326-R between the City of Bloomington and the Minnesota Department of Transportation (MnDOT) for the costs associated with the relocation of the existing 36” and 42” diameter trunk watermain crossing under T.H. 62 and authorized the Mayor and Manager to sign the agreement and adopt the attached resolution for the agreement and authorized the Mayor to sign the resolution and forward it to MnDOT.

This agreement will be reprocessed as a bid-based lump sum agreement using the actual contractor’s unit prices from the actual bid at the time MnDOT awards the project.

**Approved Change Order #2 Relating to 2001-201 35W Bridge Project
ITEM 3.3**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve Change Order #2 (MnDOT SA #4) in the amount of \$159,457.83 for CP# 2001-201, which resulted from negotiations between the City, MnDOT, and the Contractor, Lunda Contracting, for compensation due to extended contract time, acceleration, wage adjustments, and delays caused by utility company relocations and weather. This Change Order was reviewed and approved by MnDOT and City staff.

Eighty percent (80%) of these modifications would be federally funded with the remaining 20% being funded by MnDOT (10%) and City Fund 810 (10%).

**Adopted Resoluitoin Authorizing Application for Met Council Livable Communities Grant
ITEM 3.4
R-2006-43**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to adopt a resolution authorizing an application to the Metropolitan Council’s Livable Communities Tax Base Revitalization Account due on May 1, 2006. The City requested \$400,000 of grant funds for removal of asbestos and hazardous materials from the building known as “Mod C” at Bloomington Central Station.

If the funds are awarded, McGough Development will demolish the building this summer. Once the building is removed, the site will be used for interim parking and construction staging until redeveloped as high-density housing in a later phase.

**Approved Contract with Kodet Architectural Group, Ltd.
ITEM 3.6**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve a contract with Kodet Architectural Group, Ltd. for architectural services for the stabilization and restoration of the Bloomington Old Town Hall in the amount of \$57,500.00 plus reimbursable expenses. Services covered by this contract include schematic design, design development, construction documents, bidding, and contract administration. The cost of the covered services will be \$57,500.00 plus standard reimbursables.

Funding is available in the Facility Replacement and Maintenance Fund 630, Activity 6908.

**Awarded Contracts to Palda and Sons
ITEM 3.7AB**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to award a contract to Palda and Sons for \$3,146,984.67 for the 2006-101 Pavement Management Program (PMP) Street Improvement Project and awarded a contract to Palda and Sons for the 2006-103 Street Reconfiguration Project, as part of the 2006-101 PMP Street Improvement Project, for the total amount of \$3,352,061.51.

**Approved Transfer of Funding for Old Town Hall Project
ITEM 3.8**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve the transfer of \$500,000 of Strategic Priorities money to the Facilities Fund where the Town Hall project will be managed per Council’s action on September 27, 2004. Transfer \$500,000 as follows:

From	420-0000-499.90-31
To	630-6908-391.58-01

**Accepted Donations
ITEM 3.9**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to accept the following donations made to Fire Prevention and approve the amendment to the revenue and expenditure budgets as noted in the agenda materials to facilitate the appropriate use of these funds: \$2,500 donated from Sam’s Club and \$150 donated from Knights of Columbus.

**Awarded a Contract to North Star Tree Care, Inc.
ITEM 3.10**

Motion was made by Nordstrom, seconded by Grady, and all voting aye, to award a one-year contract to North Star Tree Care, Inc. for an estimated contract amount of \$191,510.00 for public and private diseased tree removal in District #3. The contract will be used for the removal of Dutch Elm and Oak Wilt diseased trees from both public and private property located within Work District #3 (from the east side of France Avenue to the west side of Lyndale Avenue) as part of the 2006 Tree Removal Program.

Funding for this contract is available in the 2006 Park Maintenance Budget, Activity 7731.

- Approved Agreement Between City, Port Authority & Bloomington Central Station, LLC
ITEM 3.11** Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve an agreement between the City of Bloomington, Port Authority, and Bloomington Central Station, LLC regarding disbursement of grant funds earmarked for construction of the Bloomington Central Plaza. Grants totaling \$3.5 million dollars were approved by Hennepin County and the Metropolitan Council.
- Approved Minutes
ITEM 3.12** Motion was made by Nordstrom, seconded by Grady, and all voting aye, to approve the January 23, 2006, City Council minutes as presented.
- Continued to April 24 Contract with WSB & Associates
ITEM 3.5** Motion was made by Nordstrom, seconded by Peterson, and all voting aye, to continue to the April 24, 2006, Council study meeting, a Professional Services Contract with WSB & Associates for the hiring of a full time Contract Civil Engineer.
- 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.
- Adopted Resolution Approving Gambling Permit for Jefferson Quarterback Club
ITEM 5.1A
R-2006-44** Motion was made by Nordstrom, seconded by Grady, and all voting aye, to adopt a resolution approving a new Lawful Gambling Premise Permit for raffles and pull-tabs for the Jefferson Quarterback Club to be used at Majors Sports Café at 8331 Normandale Boulevard.
No public testimony was received.
- Approved Interim Use Permit for MOAC Land Holdings, LLC at 8000 24th Avenue
Case 6717A-06
ITEM 5.2A** Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a one-year Interim Use Permit for Special Events for eight events to be held on the property located at 8000 24th Avenue, Case 6717A-06, for MOAC Land Holdings, LLC subject to the following 20 conditions of approval as set forth by the Planning Division Staff and the Planning Commission. The events schedule begins in May and extends through September. Location of the event series is on the Mall of America Phase II site that is currently utilized for overflow parking.
1. A Special Event Series agreement with no more than eight events between May 1, 2006 through October 31, 2006, including all conditions of approval and providing for the submission of a monthly schedule of events, be executed by the applicant and the City no later April 28, 2006. No event maybe conducted until this requirement is satisfied;
 2. Individual event set up be in accordance with a site plan (including plans for the deposit and removal of soil) submitted 14 days prior to an event as approved by the Director of Community Development in accordance with the special event notification requirements in the Interim Use Agreement;
 3. Site security and traffic control plan, as deemed necessary by the Director of Community Development, be approved by the Bloomington Police Department and submitted to the Director of Community Development at least 14 days prior to an individual event;
 4. Permits for any tents or temporary structures be obtained and installed and used according to requirement(s) approved by the Fire Marshal and Manager of Building and Inspection;
 5. Advertising signs (temporary) be limited to an event boundary fence and area inside of the fence;
 6. Food service to be provided in accordance with the permit and requirements of the Environmental Health Services Division;
 7. Fire lanes on the site must remain open and be posted as approved by the Fire Marshal;
 8. All crowd queuing, loading and unloading, and site service shall occur on the site or on any portion of the public street that may be closed specifically for the event;
 9. Handicapped parking, access and accessible toilet facilities be provided in accordance with plans approved by the Director of Community Development;
 10. Site maintenance bond be provided and site restoration and surrounding site(s) cleanup be completed no later than 36 hours from the completion or termination of an event;
 11. Applicant shall reimburse the City for staff costs incurred as a result of the event;
 12. Electrical and gas installations shall be installed in accordance with the requirements and permits issued by the Building and Inspection Division and/or the Fire Marshal;

ITEM 5.2A continued

13. All alcoholic beverage service, if requested, be provided in accordance with a City of Bloomington special event license, City Code and State law;
14. Amplified music shall not extend beyond 10:00 p.m. and as listed on the special event license for each individual event, as appropriate;
15. Environmental Health Services Division staff to review any amplification plans and monitor volumes during events as appropriate. If deemed necessary to protect the public health, safety and general welfare, sound volume shall be reduced to a level directed by Environmental Health Services personnel of the City;
16. The applicant shall reimburse the City for all costs, at a rate of \$50 per hour plus postage, associated with the required notice to all property owners within 500 feet of any event;
17. Individual event attendance limits be approved by the Director of Community Development;
18. Any individual event occupying the property for more than 14 days shall require a separate Interim Use Permit approved by City Council subject to Section 19.40.08.01(e)(1),(2),(3),(4),(5) and (6); and
19. No on-site or off-site temporary residential use or camping as noted in Section 14.283(g), License Restrictions; and
20. The Director of Community Development is authorized to cancel any event if construction activities, including grading, have been permitted in order to avoid event-construction conflicts.

Speaker #/1: Joanna Vossen, Representing the Applicant

Announced her availability for Council questions but there were none.

**Approved Temporary
Conditional Use
Permit for Snap
Fitness at 10800
Nesbitt Avenue So.
Case 9280A-06
ITEM 5.2B**

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a three-year Temporary Conditional Use Permit for an athletic training facility (fitness center) at 10800 Nesbitt Avenue, Case 9280A-06, for Snap Fitness, subject to the following 7 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. The Temporary Conditional Use Permit is limited to the 2,792 square feet of floor area as shown on the plans approved in Case 9280A-06;
2. Use of the facility will be limited to an individual or family use as no group or class exercise activities or programs are allowed and an occupant load sign be properly installed;
3. Applicant will resolve security issue of corridor access to the bathrooms with the Bloomington Police Department and Building & Inspection Division and implement required provisions within 30 days of City Council approval of the Temporary Conditional Use Permit;
4. The tanning bed/booth must be properly licensed and operated in strict compliance with City Ordinance and State law, or must be removed within 10 days of the City's orders;
5. A completed sign permit application for the existing business wall sign must be submitted within 10 days of City Council approval of the Temporary Conditional Use Permit;
6. No on-street parking is allowed; and
7. Any temporary signage shall be in compliance with the Sign Code.

Bob Hawbaker, Planning Manager provided the staff report and requested Council pay special attention to Condition #4, as there have been some operational problems with this applicant in the past. He stated there is an issue regarding the tanning bed, as this is a member-only facility whereby members access the facility using key cards without the aid of an attendant. However, tanning beds can only be operated while an attendant is on duty so this is an issue the applicant needs to clear up with the City's Licensing Division. The applicant will have to comply with the license requirement or not offer the service of a tanning bed.

Council expressed safety concerns given that it is a 24-hour facility without an attendant present at all times.

The applicant responded that they are working with City staff on the tanning bed and other issues.

Adopted Resolution Granting Preliminary & Final Plat Approval for SUMMIT HOTEL PROPERTIES at 2801 East 78th Street & 2850 Metro Drive Case 5713D-06 ITEM 5.2C1 R-2006-45

Motion was made by Grady, seconded by Elkins, and all voting aye, to approve the Preliminary Plat and adopt a resolution granting Final Plat approval of SUMMIT HOTEL PROPERTIES located at 2801 East 78th Street and 2850 Metro Drive, Case 5713D-06, for Eric Johnson of the Metropolitan Airports Commission subject to completion of the following 8 conditions and 2 Code requirements, receipt of the title, necessary documents and deposits, and a review of all documents by the City Attorney. The property is being replatted to combine two lots into one lot and an outlot for a new development.

1. Title opinion or title commitment shall be provided.
2. Connection charges are due prior to the issuance of utility permits.
3. 10-foot sidewalk/bikeway easement shall be provided along all street frontages.
4. Grading, drainage, utility, and erosion control plans shall be approved by the City Engineer prior to issuance of permits.
5. Temporary street signs, lighting, and addresses shall be provided during construction.
6. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.
7. A non-access (planting) easement shall be provided along American Boulevard.
8. Language shall be included on the plat pertaining to the dedication of right-of-way.

And subject to the following Code requirements:

1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).

Speaker #1: Pete Villard, Architectural Works Villard, Inc.

He announced a member of his design staff was available for Council questions but there were none. Excavation should start in July.

Adopted Ordinance Vacating Easements 2801 East 78th Street & 2850 Metro Drive ITEM 5.2C2 O-2006-14

Motion was made by Grady, seconded by Elkins, and all voting aye, to adopt an ordinance vacating sidewalk, bikeway, drainage, utility and traffic signal easements located at 2801 East 78th Street and 2850 Metro Drive for Eric Johnson of the Metropolitan Airports Commission. The vacation is being requested to replat the property.

No public or private utilities are affected by this vacation.

Adopted Resolution Granting Preliminary & Final Plat Approval for PA WALSER ADDITION at 4301 & 4401 American Boulevard West Case 81333A-06 ITEM 5.2D R-2006-46

Motion was made by Grady, seconded by Nordstrom, to approve the Preliminary Plat and adopt a resolution granting Final Plat approval for PA WALSER ADDITION located at 4301 & 4401 American Boulevard West, Case 8133A-06 for R.J. Walser, LLC subject to completion of the following 10 conditions and 2 Code requirements, receipt of the title, necessary documents and deposits, and a review of all documents by the City Attorney. Motion passed 5-0-1 (Peterson abstaining).

1. Title opinion or title commitment shall be provided.
2. Connection charges are due prior to the issuance of utility permits.
3. Standard drainage and utility easements shall be provided 10 feet along street frontages and 5 feet along internal lot lines.
4. 10-foot sidewalk/bikeway easement shall be provided along all street frontages.
5. Grading, drainage, utility, and erosion control plans shall be approved by the City Engineer prior to issuance of permits.
6. Temporary street signs, lighting, and addresses shall be provided during construction.

ITEM 5.2D continued

- 7. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.
- 8. A non-access (planting) easement shall be provided along American Boulevard except for the location of one driveway access.
- 9. A revised street modification agreement shall be executed with the City by the developer/applicant/owner.
- 10. Language shall be included on the plat pertaining to the dedication of right-of-way.

And subject to the following Code requirements:

- 1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
- 2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).

Peterson stated his abstention from this item due to its proximity to his parent’s home.

No public testimony was received.

**Adopted Resolution
Granting Final Plat
Approval for DEVOLD
2ND ADDITION at 10837
Irwin Avenue & 10832
Harrison Avenue
Case 10456-06
ITEM 5.2E
R-2006-47**

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt a resolution granting Final Plat approval for DEVOLD 2ND ADDITION located at 10837 Irwin Avenue & 10832 Harrison Avenue, Case 10456A-06 for Richard & Karen Blue subject to completion of the following 4 conditions and 1 Code requirements, receipt of the title, necessary documents and deposits, and a review of all documents by the City Attorney. The property is being replatted for a lot line adjustment.

- 1. Title opinion or title commitment shall be provided.
- 2. Connection charges are due prior to the issuance of utility permits.
- 3. 10-foot sidewalk/bikeway easement along all street frontages shall be provided.
- 4. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.

And subject to the following Code requirement:

- 1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).

No public testimony was received.

**Adopted Resolution
Granting Final Plat
Approval for NORMAN
POINTE BUSINESS
CENTER 1ST ADDITION
5600 & 5700 Green
Valley Drive
Case 5891A-06
ITEM 5.2F1
R-2006-48**

Motion was made by Peterson, seconded by Grady, and all voting aye, to adopt a resolution granting Final Plat approval of NORMAN POINTE BUSINESS CENTER 1ST ADDITION located at 5600 & 5700 Green Valley Drive, Case 5891A-06 for Duke Realty Corporation subject to completion of the following 7 conditions and 3 Code requirements, receipt of the title, necessary documents and deposits, and a review of all documents by the City Attorney. The property is being replatted for a lot line adjustment to consolidate bus stops.

- 1. Title opinion or title commitment shall be provided.
- 2. Standard drainage and utility easements shall be provided 10 feet along street frontages and 5 feet along internal lot lines.
- 3. Grading, drainage, utility, and erosion control plans shall be approved by the City Engineer prior to issuance of permits.
- 4. Temporary street signs, lighting, and addresses shall be provided during construction.

ITEM 5.2F1 continued

- 5. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.
- 6. A non-access (planting) easement shall be provided along American Boulevard.
- 7. Park dedication shall be paid in cash prior to releasing the plat to the applicant.

And subject to the following Code requirements:

- 1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
- 2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).
- 3. Unused water services shall be properly abandoned (Sec. 11.15).

No public testimony was received.

**Adopted Ordinance
 Vacating Easements at
 5700 & 5600 American
 Boulevard West
 ITEM 5.2F2
 O-2006-15**

Motion was made by Peterson, seconded by Grady, and all voting aye, to adopt an ordinance vacating sidewalk, drainage and utility easements located at 5700 & 5600 American Boulevard West for David Bade, P.E. for Duke Realty L.P. The vacation is requested to replat the property.

No public or private utilities are affected by this vacation.

Elkins inquired about the gap in the sidewalk in the location where the easements will be vacated.

Shelly Pederson, City Engineer replied that some of the sidewalks will be constructed when work begins on Phase 2 of Duke’s next building. Additional sidewalk work is planned for the spring of 2007 when the City does some intersection work.

No public testimony was received.

**Adopted Resolution
 Granting Preliminary &
 Final Plat Approval for
 POST PENLAND
 ADDITION at 11068
 Glen Wilding Lane
 Case 10696A-06
 ITEM 5.2G
 R-2006-49**

Motion was made by Nordstrom, seconded by Peterson, and all voting aye, to approve the Preliminary Plat and adopt a resolution granting Final Plat approval for POST PENLAND ADDITION located at 11068 Glen Wilding Lane, Case 10696A-06 for Gary Post subject to the completion of the 7 conditions and 2 Code requirements, receipt of the title, necessary documents and deposits, and a review of all documents by the City Attorney. The property is being replatted to combine one platted lot and one unplatted parcel into one lot.

- 1. Title opinion or commitment shall be provided.
- 2. Connection charges due prior to the issuance of utility permits.
- 3. 10-foot sidewalk/bikeway easement shall be provided along all street frontages.
- 4. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.
- 5. Encroachment agreement shall be provided for existing wall in drainage and utility easement.
- 6. Grading, drainage, utility and erosion control plans shall be approved by the City Engineer prior to the issuance of permits.
- 7. All retaining walls 4’ or higher require a MN Licensed Engineer’s signed plan.

And subject to the following Code requirements:

- 1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
- 2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).

ITEM 5.2G continued

Londell Pease, Planner stated that after many trips to Council, this application is now acceptable to all parties involved. He stated that due to some potential drainage issues relating to the elevation of the basement and grade to the street, the applicant is shifting the house approximately three feet to the west, which creates a greater setback. He stated that since the property slopes from north to south significantly, a grassy area, not a driveway, will be graded and indicated where the lower garage can be accessed. Unlike the applicant’s original application for some variances that he brought to Council in 2005, the applicant now intends to remove the existing home and construct a new one. He stated that as the proposed new home has greater setbacks than what was originally approved by a variance, the applicant wasn’t required to go back through the variance process as the changes were proposed. He stated the original plan had a massing of approximately 58 feet, which would have required a 58-foot retaining wall facing the applicant. The new plan, however, reduces the massing from 58 feet to 44 feet, decreasing the house location from north to south. It was stated the applicant plans on providing landscaping for screening purposes in addition to what the City has planned for screening along Humboldt Avenue in conjunction with their street project.

Speakers #1 & #2: Gary Post, Applicant and Brian Saevig, Property Owners Across Street Saevig commended the Posts for making some difficult decisions in trying to make their project work for the neighbors. He stated his support of the process having received reassurances relating to the screening proposed by the applicant.

Post thanked the City Council for their patience in what has been a long process.

Continued to May 1 Preliminary & Final Plat of THE POINT on West Old Shakopee Road, France Avenue, & Ewing Avenue Case 10713A-06 ITEM 5.2H1,2

Motion was made by Grady, seconded by Peterson, and all voting aye, to continue to the May 1, 2006, Regular Council meeting, the Preliminary & Final Plat of THE POINT located at 3800 & 3816 West Old Shakopee Road; 10549, 10601 & 10617 France Avenue; 10548, 10600 & 10608 Ewing Avenue. Case 10713A-06 for Regina Harris of the Bloomington Housing & Redevelopment Authority and an ordinance vacating street, drainage, utility, sidewalk, bikeway and emergency access easements over and across portions of this property.

No public testimony was received.

CLOSED PUBLIC COMMENT PERIOD

Mayor Winstead asked if anyone else wanted to speak on any items not on tonight’s agenda. No one came forward to speak so he closed the Public Comment Period.

Provided Direction Relating to Option #3 for the Northeast Penn Lakes Drainage Area ITEM 5.3A

Motion was made by Grady, seconded by Axtell, and all voting aye, to direct the staff to identify funding to implement Option #3 by tying it into the work that is to be done on 80½ Street & Fremont Avenue this summer, and to contact the Minnesota Department of Transportation to begin work on a regional solution for the problem.

ITEM 5.3A continued

Scott Anderson, Storm Drain Engineer provided the staff report explaining that Council directed staff to explore options to address stormwater issues in the Northeast Penn Lakes Drainage Area in 2005. He stated the main concern in the area is temporary flooding of intersections and low points, such as American Boulevard & Knox, American Boulevard east of Dupont Avenue, and a portion of the parking area occupied by GN Resound. He stated this area has been studied at least two other times in the past and in both instances, it was recommended that the capacity to the existing storm system via a new trunk main line approximately from American Boulevard & 35W all the way to Upper Penn Lake be increased in conjunction with improvements to 35W. He reported that studies to determine what impact the Lyle Berg Bridge has had on high stormwater levels identified no significant increase in high water levels. As a result, additional studies were performed to explore additional alternatives to lower high water levels in the area and to provide water quality treatment on a regional basis, including regional ponding and infiltration. He stated that in reviewing the options that resulted, none of them appeared to be cost effective given the level of benefit provided. Most would provide very limited regional benefit or very sight specific benefit and the costs to implement many of the alternatives would be quite high. As a result, staff is continuing to work with the Minnesota Department of Transportation (MnDOT) to explore a feasible alternative/solution in cooperation with improvements to the I-35W/494 interchange in the future. He stated if Council desires, staff could program maintenance on the existing pond on Fremont Avenue in an effort to maximize the volume of stormwater storage. He stated that all of the engineering firms that have performed analyses of the stormwater issues in this area have concluded that there is a need for additional stormwater capacity in the main line system or some water storage on a regional basis in order to address the problems specific to the GN Resound area. He stated that Option #10 would be most effective in addressing the high water levels in the entire Northeast Penn Lakes Drainage Area – east and west of 35W but it is also the most expensive.

Winstead stated that the Lyndale Avenue Bridge project will be the first one in which MnDOT will need to address the stormwater issue. However, it was indicated that the bridge project alone wouldn't impact this area directly.

In response to an inquiry as to the value of doing Option #2, Anderson replied that Option #2 is primarily a maintenance option, not unlike the routine maintenance the City performs on other stormwater ponds but it is doubtful that Option #2 alone would provide noticeable improvements to any of the areas or the GN Resound parking lot.

Mark Bernhardson, City Manager stated the maintenance option would help some but not a lot and as the City would need to do some routine maintenance on it eventually, doing it sooner rather than later would be best while moving to push MnDOT on a long-term solution makes the most sense.

Speaker #1: Linda Fisher, Representing GN Resound Property Owner Bentley Forbes
She introduced the individuals who accompanied her to the meeting: A Bentley Forbes executive from California, a consulting civil engineer, and the Facilities Manager from GN Resound. She stated they have worked diligently with City staff to review the technical modeling and evaluate the various alternative solutions that staff presented.

Speaker #2: Facilities Manager, GN Resound

He showed photos from recent as well as past floods in the area to try and convey GN Resound's sense of urgency in getting this issue resolved for their employees. He stated last year there were 27 reports of vehicles damaged by high water levels in their parking lot. He stated the water levels have been between 2 to 2½ feet deep. He stated the flooding goes out into the 80½ Street & Fremont Avenue area. He stated in the past, their employees have had to move their personal vehicles to the surrounding residential area in order to minimize the impacts to their cars from the water. But that is no longer an option. He showed a photo of the flooding that resulted in their parking lot from the April 6, 2006 storm, which is greater than what the models predicted. He stated during storms, water has shot out of the storm drains as high as six feet.

ITEM 5.3A continued

Speaker #3: Brian Munstock, Civil Engineer, Sunde Engineering

He stated Sunde Engineering specializes in grading, drainage and stormwater management design. After looking at the source of the flooding in the GN Resound area, Sunde has determined that the runoff from the 5-acre GN Resound site alone results in only minor flooding. However, when the runoff from the much larger regional area is included, the resulting flood elevations are 3 feet higher. They believe the source of the water causing the extreme flooding on the GN Resound property is the regional system and not the runoff from the Bentley Forbes property. He stated they believe the GN Resound parking lot floods due to a lack of regional stormwater storage in the area and a lack of downstream stormwater pipe capacity. He urged the Council to implement a plan that would reduce the flood level on the Bentley Forbes site by increasing downstream pipe capacity, provide additional stormwater storage, or both. He stated that proceeding with Option #2 alone would not provide much if any relief and that it would help if the storm sewer pipe between 80½ Street & Fremont Avenue and the existing stormwater pipe were enlarged (Option #3). They would like to see a larger diameter mainline pipe be constructed to Penn Lake or some other storage option put into place to increase capacity.

In response to an inquiry from Council regarding whether or not Penn Lake could handle the additional storage, Anderson replied that it would not be necessary to acquire any homes in order to get such a pipe to Upper Penn Lake and that with some additional excavation of the hockey rink area, for example, it should be able to handle it.

Speaker #4: Linda Fisher, Representing Bentley Forbes

She stated her client agrees with the City's conclusion that this is a mixture of a regional problem with a significant localized impact on one piece of property with a number of solutions. She stated the stormwater situation creates a potential personal injury situation that has not yet occurred but has resulted in a disruption in productivity when employees need to go out and remove their cars from the parking lot when it floods. She stated the flooding problem is going to affect the duration of the tenancy of GN Resound and the long-term value of this property if the problem is not corrected. She requested the City's assurance that it will work with Bentley Forbes on a long-term solution to the stormwater issues. She stated Option #2 does nothing so urged the Council to proceed with Option #3, to expand the City-owned pond including a new pipe to 80½ Street, which could result in a one-half foot reduction in the amount of water that floods GN Resound's parking lot. She requested the Council seriously consider Options #6 and #8 to purchase the office complex to the south, which would provide a long-term solution to the regional stormwater ponding. At a minimum, Bentley Forbes would like to see the City pursue Option #3 while revisiting Options #6 and #8, and that if Option #10 is undertaken that Bentley Forbes be provided with some clear benchmarks that they can take to other tenants down the line that explains the City is moving forward to implement this type of solution and this is potentially how it would take place.

Dave Ornstein, City Attorney was asked to respond to the liability issues presented by Bentley Forbes' attorney. He stated that as a general rule, the City does not have any legal obligation to construct a stormwater drainage system that is capable of handling all of the water and is capable of preventing flooding of property within the city. He stated the courts have in several instances, granted a city discretionary immunity where it has shown that the flooding was not attributable to any negligence or any other action on the part of the city. He stated after discussing this situation with Scott Anderson and Charlie Honchell, Public Works Director, a review of the hearings that were held, a review of the analyses that were performed by several consultants, there is no evidence in the record that indicates anything that the City has or hasn't done as far as negligence has caused the flooding of this parking lot. He stated that absent any information that the City is part of the problem, he doesn't see any liability for either a permanent flooding that would constitute a taking or a temporary flooding that may have an action of trespass or nuisance. If the Council decides to move forward with the exploration of a regional solution, it will have to ultimately weigh the cost benefits of that particular proposal with MnDOT's participation.

ITEM 5.3A continued

Charlie Honchell responded to an inquiry relating to Options #3, #8 or a longer term solution as follows:

- Option #3: Could be done in conjunction with the work that is going to be done on Fremont in 2006, which would require a change order to include a certain type of pipe, which wouldn't create an extensive cost or time delay.
- Option #6: Would be extremely expensive - buying out one private property to benefit another private property.
- Option #8: Is an underground solution, which would be very expensive and is questionable as to whether or not it would give extensive benefits even beyond the half-foot potential that would come from doing Option #3.

Winstead stated his support for pursuing Option #3 while trying to get MnDOT and the State to look at the problem from a regional standpoint

**Closed Public Hearing
on Development at
10701 Lyndale Ave. S.
Case 8192ABC-06
ITEM 5.4A1**

Motion was made by Grady, seconded by Peterson, and all voting aye, to close the public hearing on the applications relating to the Laukka-Jarvis, Inc. development at 10701 Lyndale Avenue South, Case 8192ABC-06.

Londell Pease, Planner provided the staff report and described the proposed redevelopment of 148 condo units, 17 villa homes, and 42 townhomes on the 27.25 acre site. He explained the applications presented for approval stating that the Development Plan is preliminary and that a Final Development Plan would also require a full public hearing before both the Planning Commission and the City Council. He stated that after tonight's discussion, there shouldn't be any significant changes between the Preliminary and the Final Development Plans. He stated the Final Development Plan will address specific building elevations, roof lines, and construction materials and that the general site plan shouldn't change very much. He described the three phases of the development:

- Villas: Proposed to be built above the 800 ft. contour line with no over the bluff stormwater discharge and access from a single entrance.
- Townhomes: Located in center of property with a water feature utilizing the same access. An unmanned gate house is proposed. Emergency vehicle access designed to look like a bike path is planned.
- Senior condos: Two options being considered – 2 buildings or a single building.

Pease stated after hearing comments from the neighborhood at the Planning Commission meeting, staff is requesting Council's direction regarding what dimension separation would be acceptable between a four-story building and a three-story building. He mentioned that there would be minimal removal of trees along the bluff line for the condominiums. He stated additional traffic generated from this new development was a major topic of discussion. He compared the trip generations for the property as it is currently zoned to what it could be with the new proposed residential development. The proposed residential development should result in approximately 503 less trips per day as compared to what could be generated if the building were occupied to its potential. He stated staff recommends approval of the Comprehensive Land Use Plan and the rezoning and the Preliminary Development Plan with one condition.

Council mentioned that if the site were to develop as it is currently zoned, it would likely be an office/warehouse type of development.

In response to Council's inquiry, Chad Smith, Traffic & Transportation Engineer stated that the accident data for the signalized and unsignalized intersections at Lyndale and 106th Street and at 35W & 106th Street are low and even perhaps below average.

**ITEM 5.4A1,2,3
continued**

Speaker #1: Partners Peter Jarvis & Larry Laukka, Laukka-Jarvis, Inc.

They stated that they intend to be more sensitive to the neighbors to the north of their development, especially regarding the 148 condominium units that will be constructed in either a three or four-story configuration. They are still looking at options that would pull the boundary of the building away from their northern boundary and to a different scale. Jarvis stated that they intend to sit down privately with their builder and the two adjacent neighbors to the north separately before they present their Final Development Plan at the Planning Commission.

Peterson stated he would like to see the condo buildings not present any more of a profile to the neighbors to the north than that of a two-story house.

Elkins inquired as to why four-story buildings are being proposed rather than three-story buildings.

Jarvis & Laukka replied that it's a matter of efficiency both in the building and as a site plan. The one-level condo units are intended to be purchased and will range between \$250,000 - \$400,000. He stated they intend to build the condominiums but will most likely get two different builders to build the townhomes and the villa homes. They stated that although there will be an overall theme to the development, the three products will still be unique. Despite the current residential market, they believe there is a desire by seniors in Bloomington to have an affordable and accessible housing option in their own neighborhood.

Speaker #2: Jason Loom, 10753 Hopkins Circle

He expressed concern with the grade of the proposed development in relation to the neighborhood to the east. He stated the development will overlook the homes to the east, as they are already situated at a lower elevation. He believes the development will be geared more towards adults than families, as it will include a water feature rather than a park. He believes as this development will house more seniors, more vehicle trips will be generated throughout out the entire day, not just during peak morning and evening hours. He believes the addition of many more seniors to this neighborhood could result in more accidents in the vicinity of 35W @ 106th Street.

Speaker #3: Betty Garvey, 10777 Hopkins Circle

She encouraged the Council to consider the neighborhood when making a decision on this project, as the neighborhood is low density and this proposed development will create 148 additional dwellings. She requested the Council respect the wetlands and the environment. She stated she doesn't appreciate hearing comments from the Council and the applicant such as if this proposal doesn't get approved, something worse for the neighborhood could be built there instead.

Peterson stated he would rather be criticized for looking at all the possible uses of a property than to say no to a particular development and then when something worse gets built then have people inquire why the Council didn't say something to the neighborhood.

Winstead commented that the City Council looks at the residential needs of the community and that a mix of affordable, low-income, and subsidized housing is needed in Bloomington.

Speaker #4: Bob Caligiuri, 10609 Hopkins Road

He stated he is a 19-year resident at that address and believe this proposed development will impact him greatly, especially with regard to the height and requested the Council be sensitive to the existing neighborhood in making this decision. Keep the aesthetics of the neighborhood in mind.

Speaker #5: Michelle Garvey, 10777 Hopkins Circle

She believes a medium density housing project is unnecessary in this location and is harmful to the neighborhood's quality of life. She believes it will permanently destroy the lives and vital habitats of the wetland and prairie plants, animals, birds, reptiles and insects. She requested the Council require the developer to utilize green design and conservation development philosophies in their project. She suggested the developer place their land into a conservation easement or that the Council prevent this development altogether.

**ITEM 5.4A1, 2, 3
continued**

Grady inquired if the height of the condo buildings could be placed on the site such that the taller elevations face Lyndale Avenue rather than the adjacent neighborhood.

Speaker #6: Gary Tushie, Montgomery Architects

He stated they are looking at alternatives to centralize the buildings so that there is less impact all the way around, not only to the neighbors to the east and north but to their new neighbors to the south. He stated the next plan will be more sensitive to all of the surrounding neighbors. He stated the placement of the buildings is somewhat dependent upon the only access into the site, which is located immediately across from the two existing buildings on Lyndale Avenue.

Speaker #7: Belinda Caspari, 10785 Hopkins Circle

She stated she is concerned with the noise she'll experience living right next to this development. She stated this development is not family oriented, it is geared to seniors. She would prefer to see a development that would blend better into their neighborhood, as the single-family homes have land but there will be little land associated with the proposed units. She does, however, prefer a residential development on this site as opposed to a commercial one. She expressed concern with the impact this development will have on the wildlife in the area and inquired how this development will impact her property taxes.

Peterson stated by having senior housing developments in Bloomington, seniors can remain in their community and the homes they leave behind provide an opportunity for younger families to purchase them, which keeps the community vibrant. He added that according to the School District, the number of school-age kids living in Bloomington is slightly increasing.

Speaker #8: Dr. Robert Bugenstein, 10757 Hopkins Circle

He stated although this development does not directly impact him, he wondered how it will impact the population density of this area.

Pease replied that it is estimated it would bring 400-500 new residents into the neighborhood.

A resident asked whether or not the Council would in the future ever allow ingress/egress via Hopkins Road.

Winstead stated that the plan only provides access from Lyndale Avenue but that the City, for fire, life, and safety reasons likes having a secondary access for emergency vehicles in case the one off of Lyndale Avenue is blocked.

Pease added that the applicant is talking about possibly constructing an 8-foot high tall concrete barrier with landscaping basically from end to end except for the entrances, in order to make it as aesthetically pleasing to the surrounding neighborhood as possible.

Speaker #10: Jason Loom

He expressed a concern that the seniors that will live in this development who tend to vote in every election might not support needed future school referendums, as they won't have any kids in school.

Winstead commented that when school enrollment was at its lowest in Bloomington, the largest bond referendum for capital improvements to schools in the state was passed and it was supported by many seniors and empty nesters.

The Council closed the public hearing to begin their own discussion.

**Adopted Resolution
Amending Comp Plan
for 10701 Lyndale
Avenue
Case 8192A-06
ITEM 5.4A1
R-2006-50**

Motion was made by Peterson, seconded by Axtell, and all voting aye, to adopt a resolution amending the Bloomington Comprehensive Plan to reflect a change in land use designation of the 26.77 acres of land at 10701 Lyndale Avenue South, Case 8192A-06, from Office to Medium Density Residential for Laukka-Jarvis, Inc. with a condition that reads, "Implementation is subject to approval of Final Development Plan."

Grady stated she believes this development is classic good planning as it makes great use of the area, provides a nice transition from single-family residential to the commercial area west of Lyndale Avenue. She stated it's a beautiful and quiet area along the bluff and believes it will work out well, especially given the developer's promise to continue working on the aesthetics of the project in relation to the buildings to the north.

Nordstrom liked the access to the development off of Lyndale Avenue and believes it will be a nice development.

Peterson likes the south side of the development but would like to see more detail regarding the development on the north end before Council gives final approval. He would like to get a complete picture of what the neighbors to the north and east of the site will be looking at before Council decides, as they have the most discretion when it comes to the Comp Plan and rezoning.

Axtell believes this proposal is a great reuse of the property and encouraged the developers to work closely with the neighborhood to alleviate some of the issues and concerns expressed by the residents. He stated this development will provide a nice alternative for those residents hoping to stay in Bloomington when they are ready to move out of their single-family homes.

Elkins stated he too has concerns with the northern end of this development. He believes this site is workable due to the grade changes and the developer's willingness to reposition the buildings in order to minimize the impacts on the adjoining neighborhood.

Winstead stated the City has always zoned this property for development and that this proposal is a nice transition from single-family residential to the commercial area to the west. He stated the City has always been very diligent with regard to bluff protection, etc. and will with this development. He stated these are quality developers who build quality developments. He stated he can support the project and believes the developers will mitigate the condo buildings on the north end to the greatest degree possible.

Ornstein explained that the Comprehensive Plan requires five votes and that based on Council's discussion, Council could condition the Comp Plan amendment and the rezoning on approval of the Final Development Plan.

Bernhardson suggested that with the applicant's concurrence, the application could be bisected between the north and the south end so that the Comp Plan approval, rezoning, and the Preliminary Development Plan on the south end can be acted upon and condition the Comp Plan, rezoning, and Preliminary Development Plan on the north end on the Final Plan being approved.

**Adopted Ordinance
Rezoning 10701
Lyndale Avenue South
Case 8192B-06
ITEM 5.4A2**

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt an ordinance amending the Zoning Map to rezone certain property located at 10701 Lyndale Avenue South, Case 8192B-06, from Institutional (IN) to Single-Family Residential Planned Development R-1(PD) for Laukka-Jarvis, Inc. subject to the same condition as mentioned above that reads, "Implementation is subject to approval of the Final Development Plan."

**Approved Preliminary
Development Plan for
Laukka-Jarvis, Inc. at
10701 Lyndale Ave. S.
Case 8192C-06
ITEM 5.4A3**

Motion was made by Peterson, seconded by Axtell, and all voting aye, to approve a Preliminary Development Plan for a residential development of 17 villa homes, 42 townhomes and up to 148 condominium units at 10701 Lyndale Avenue, Case 8192C-06, for Laukka-Jarvis, Inc. subject to the following condition being satisfied prior to Grading, Footing, and Foundation permits:

1. Final Development Plan be reviewed by the Planning Commission and approved by the City Council and a site 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.

**Adopted Ordinance
Relating to Nuisance
Service Calls
ITEM 5.4B1
O-2006-13**

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt an ordinance imposing civil penalties for excessive nuisance service calls and expanding public nuisance abatement.

Sandra Johnson, Associate City Attorney provided the staff report. She indicated it was a good idea to publicize this ordinance so that the public could comment on it before its adoption. She stated that the input she received from the public was positive and that residents were happy to see the City move forward with this initiative. She summarized the changes that were suggested by Council at its study meeting in January as follows:

- Three strikes and the property owner is charged with a nuisance service call fee.
- Utilize a 365-day look back period that floats, not a calendar year. (Property owner must have had two prior violations within 365 days and a written abatement notice, a warning notice that the fee will be imposed.)
- Existing staff will be used to enforce this ordinance.
- Ordinance addresses nuisance conduct and nuisance property conditions.
- It's needed, as the court system is over burdened with more serious offenses.

Johnson reviewed the steps involved in the enforcement of this ordinance. She stated that someone suggested that a letter from the City explaining the new ordinance could be sent to those properties likely to violate the ordinance as a sort of warning.

No public testimony was received.

**Adopted Resolution
to Summary Publish
O-2006-13
ITEM 5.4B2
R-2006-51**

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt a resolution directing summary publication of O-2006-13.

No public testimony was received.

**Adopted Ordinance
Relating to MN State &
International Building
Codes
ITEM 5.4C
O-2006-16**

Motion was made by Peterson, seconded by Grady, and all voting aye, to adopt an ordinance amending Section 15.01 of the City Code to correct a numerical error regarding adoption of the Minnesota State Building Code and International Building Codes.

Staff explained this is just a housekeeping item.

No public testimony was received.

**Adopted Resolution
Readdressing Health
Partners to 8170 33rd
Avenue South
ITEM 5.5A
R-2006-52**

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt a resolution concerning the new 33rd Avenue and the re-addressing of the HealthPartners' site from 8100 34th Avenue South to 8170 33rd Avenue South. As part of the Bloomington Central Station Project, 33rd Avenue will be constructed between American Boulevard and East Old Shakopee Road, which will require the building to be addressed off of the new street.

No public testimony was received.

**City Council Policy &
Issue Update
ITEM 6.1**

The monthly update was provided on April 3.

Bernhardson stated that staff would be providing Council with a draft narrative to review prior to its inclusion with the City's submittal of an application to Blue Cross Blue Shield for an Active Living grant. He stated that Edina and Richfield won't be participating in this grant application process and that the City would use the funds to bring someone on board to develop connections for an Alternative Transportation System Plan across the community and update the City's 33-year old plan. This would be used as a basis to ultimately look for funding possibly from the Oberstar grant to make those connections.

Grady commented on the e-mail the City received from a resident who feels the sidewalk plows do more damage than good when plowing City sidewalks and inquired why the City plows the sidewalks that aren't located along streets but provide an access to a park through a residential property. She inquired if the City should be spending money on providing that service when it ends up causing problems for property owners.

Bernhardson replied that the situation described by Grady is somewhat limited and that although most sidewalks are located along streets, the majority of people desire to see all of them plowed. He stated sidewalks in the city are of varied widths, which causes problems for the various sidewalk plows and that the freezing and thawing last winter made it hard on the sidewalk plow drivers.

Winstead suggested the Council have a future discussion regarding sidewalk plowing.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 10:37 p.m.

Barbara Clawson
Council Secretary