

**Regular Meeting #16**  
**Monday, June 5, 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 7:01 p.m. and Girl Scout Troop 2693 presented the colors and introduced themselves. All were 4<sup>th</sup> graders from Hillcrest Community School.

**Roll Call**

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

**TIME WARNER  
SERVICE AWARD  
PRESENTATION**

Mayor Winstead introduced Yahya Chaudhary, a senior from Kennedy High School who was awarded an award from Time Warner Cable for his work volunteering with students and others in the community. He has worked to raise cultural awareness within the community. Mayor Winstead showed the plaque Chaudhary was presented at the awards ceremony and presented him with a certificate from the City and a letter of congratulations. Mayor Winstead mentioned that as he was unable to attend this year's event, Councilmember Nordstrom did on his behalf.

Lorinda Pearson, Human Services Manager provided more background on the Time Warner award.

Yahya Chaudhary stated he would like the \$500 he was awarded donated to the Human Rights Commission and presented a check to Sueling Chan Schardin, Chair of the Human Rights Commission. He added that he will be attending the Carlson School of Management in the fall.

Ms. Schardin thanked Chaudhary for the donation and for all he has done for Bloomington.

Photos from the Time Warner awards ceremony were shown.

**Acknowledged  
Abatement of Liquor  
Tax Penalties  
ITEM 3.1**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to acknowledge the abatement of liquor tax penalties for the following two restaurants: Kokomos Island Café and Famous Daves in the amount of \$258.67 and California Bar & Grill in the amount of \$230.97.

**Approved Budget  
Adjustments Relating  
to CDBG Fund  
ITEM 3.2**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the budget adjustments authorizing additional revenues and expenditures in the amount of \$631,487 in the Community Development Block Grant (CDBG) Fund for the year ending December 31, 2005, as listed in the agenda materials.

**Approved Driveway  
Permit Agreement  
Relating to The Point  
ITEM 3.3**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve a driveway permit agreement allowing driveway access over a certain portion of Ewing Avenue between The Point development and West Old Shakopee Road.

**Approved  
Participation  
Agreement with  
UCare Minnesota  
ITEM 3.4**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve a Participation Agreement with UCare Minnesota whereby the City will be reimbursed for services provided to UCare Minnesota enrollees by the Public Health Division.

No budget adjustment is necessary.

**Approved Items  
Relating to I-35W Early  
Acquisition Program  
ITEM 3.5**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the following items relating to the property at 1210 West 82<sup>nd</sup> Street (Phuong V. Le) in conjunction with the early acquisitions in the I-35W corridor under the Met Council's RALF (Right-of-Way Acquisition Loan Fund) program:

- A. RALF Loan Agreement: Met Council authorizes \$270,000 to the City for the purchase of the property and other associated costs.

**ITEM 3.5ABC  
continued**

- B. Purchase Agreement: City purchases the property for a price of \$236,000 (the City's certified appraisal value).
- C. Relocation: Authorizes staff to make required relocation benefit payments to Mr. Le that will consist of up to \$24,000 for the replacement housing differential payment and amounts not yet known for moving expenses, for increased debt service, and for incidental closing expenses on his replacement home.

**Approved Items  
Relating to I-35W Early  
Acquisition Program  
ITEM 3.6**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the following items relating to the property at 8500 Girard Avenue South (Bielke) in conjunction with the early acquisitions in the 35W corridor under the Met Council's RALF (Right-of-Way Acquisition Loan Fund) program:

- A. RALF Loan Agreement: Met Council authorizes \$265,000 to the City for the purchase of the property and other associated costs.
- B. Purchase Agreement: City purchases the property for a price of \$213,000 (the City's certified appraisal value).
- C. Relocation: Authorizes staff to make required relocation benefit payments to the Bielke's consisting of up to \$20,000 for the replacement housing differential payment and amounts not yet known for moving expenses, for increased debt service, and for incidental closing expenses on their replacement home.

**Approved Sale of  
City Vehicles  
ITEM 3.7**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the sale of 12 City vehicles at the Hennepin County Auction scheduled for June 17, 2006, as listed in the agenda. The vehicles have been replaced and are no longer needed.

**Approved Contract  
with Stevens  
Engineers, Inc.  
ITEM 3.8**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the contract with Stevens Engineers, Inc. for professional engineering services for the renovation of Rink Number One at the Bloomington Ice Garden in the amount of \$37,600 plus reimbursable expenses. Services covered by this contract include evaluation of soil borings to determine condition of sub-soil, preparation of a preliminary design for review by the City, preparation of final plans and specifications, and construction engineering/supervision.

Funding for this contract is available in the 2006 Recreation Facilities Fund, Activity 550-8450-451-6221.

**Approved Minutes  
ITEM 3.10**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve the minutes of the January 30 (study) and May 15, 2006, (regular) meetings as presented.

**Adopted Resolution  
Correcting O-2006-17  
ITEM 3.11  
R-2006-67**

Motion was made by Axtell, seconded by Peterson, and all voting aye, to adopt a resolution correcting an erroneous documentary reference in City vacation Ordinance No. 2006-17 dated May 1, 2006. It corrects the Document Number referenced in the ordinance from 1919734 to 1919374.

**Accepted Donations  
ITEM 3.9**

Motion was made by Axtell, seconded by Wilcox, and all voting aye, to accept the following donations made to various City activities: \$1,000 donated by Wal-Mart Stores, Inc. to Police Reserves and \$150 donated by the Bloomington Retired Educators Association to the Pro-Active Police Services Unit.

**OPENED PUBLIC  
COMMENT PERIOD**

Mayor Winstead opened the public comment period for anyone wishing to address the Council on any items not on tonight's agenda. No one came forward to speak so Mayor Winstead returned to the regular agenda.

**Postponed to June 19  
Neighborhood &  
Freeway Commercial  
Zoning Districts &  
Standards  
Case 1000A-06  
ITEM 5.4A**

Mayor Winstead announced that Items 5.4A-D have been requested for postponement to the June 19, 2006, Regular City Council meeting, as these items are currently going through the Planning Commission process. Those in the audience interested in these items were invited to meet with Bob Hawbaker, Planning Manager out in the hallway.

- ITEM 5.4A continued** Motion was made by Grady, seconded by Elkins, and all voting aye, to postpone to the June 19, 2006, Regular City Council meeting, an application by the City of Bloomington to amend its City Code to establish new Neighborhood and Freeway Commercial Zoning Districts and Standards, Case 10000A-06.
- Postponed to June 19 Rezoning of 9200 Old Cedar Avenue Case 10002A-06 ITEM 5.4B** Motion was made by Grady, seconded by Elkins, and all voting aye, to postpone to the June 19, 2006, Regular City Council meeting, an application by the City of Bloomington to rezone the property at 9200 Old Cedar Avenue, Case 10002A-06, from B-3, General Business to B-2, General Commercial.
- Postponed to June 19 Rezoning of 8820 Lyndale Avenue Case 10002B-06 ITEM 5.4C** Motion was made by Grady, seconded by Elkins, and all voting aye, to postpone to the June 19, 2006, Regular City Council meeting, an application by the City of Bloomington to rezone the property at 8820 Lyndale Avenue South, Case 10002B-06, from B-3, General Business to B-2, General Commercial.
- Postponed to June 19 Rezoning of Parcels South of American Boulevard Case 10002C-06 ITEM 5.4D** Motion was made by Grady, seconded by Elkins, and all voting aye, to postpone to the June 19, 2006, Regular City Council meeting, an application by the City of Bloomington to rezone 20 parcels south of American Boulevard West between Queen Avenue & I-35W, Case 10002C-06 from B-2 Retail Business and B-3 General Business to C-1 Freeway Office & Service and C-5 Freeway Mixed Use.
- Approved Liquor License Amendment Sheraton Bloomington ITEM 5.1A** Motion was made by Grady, seconded by Peterson, and all voting aye, to approve an on-sale liquor license amendment for the Sheraton Bloomington Hotel located at 7800 Normandale Boulevard for an event they are hosting on June 7, 2006 from 6:30 p.m. to 9:30 p.m. in the East courtyard.  
No staff report was provided and no public testimony was received.
- Adopted Resolution Approving Conditional Use Permit for Seven Hills Classical Academy at 8600 Bloomington Avenue Case 8911A-06 ITEM 5.2A R-2006-70** No staff report was provided and both the Planning Division and the Planning Commission recommend approval of this application.  
Nordstrom inquired as to what services the applicant intended to contract with the Bloomington School District.  
Speaker #1: Jonathan Krown, Seven Hills Classical Academy  
He stated that they are a public school and intend to provide all of the usual services provided by a public school and that they intend to meet with the Bloomington School District to discuss these services.  
Wilcox inquired about the sidewalk connection mentioned in Condition #4.  
Krown replied that he was unsure about the need for a sidewalk and intended to talk with City Planners regarding this issue.  
Speaker #2: Dennis Batty, The Dennis Batty & Associates Group, Inc., Architects  
He stated he too is unsure as to the need for a sidewalk.  
Bob Hawbaker, Planning Manager explained that Condition #4 has to do with a previous approval for this property and that a sidewalk is still being proposed along 14<sup>th</sup> Avenue, therefore, the condition is still being required.  
Speaker #3: Pastor, Cedar Valley Church  
He inquired if the condition pertained to the new addition, which they are not planning to do.  
Krown added that they will not be using an entrance at that location.  
Hawbaker stated that the condition came from the Development Review Committee (DRC) and was later adopted by the Planning Commission.

**ITEM 5.2A continued**

Wilcox stated his concern with the entrance on the south side of the building that connects to 15<sup>th</sup> Avenue and requested Public Works staff look to see how traffic in that location could be slowed down, as cars coming down 15<sup>th</sup> Avenue go straight through their parking lot.

Mark Bernhardson, City Manager suggested the sidewalk connection could be considered separate from this application and instead be tied to Cedar Valley Church.

Bernhardson suggested that a traffic control device could be located on 15<sup>th</sup> Avenue or the entrance blocked off.

Winstead stated that Condition #2 could be enhanced to require the situation be reviewed by the Traffic Engineer.

Bernhardson concurred that it could be dealt with in Condition #2 and that staff would report back to the Council as to how the 15<sup>th</sup> Avenue entrance issue should be resolved, which could involve a stop sign.

Axtell inquired why the City would require the applicant to spend money on a sidewalk if they aren't going to use that side of the building and their entrance is on the other side.

Bernhardson stated that the Planning Manager would research how the public sidewalk should connect from the building.

Grady read from the Planning Commission minutes that indicated there were conditions relating to an addition that was never built and that they are not valid.

Wilcox stated that the condition regarding a sidewalk was tied to the plan for a double gymnasium at the church.

Bernhardson reiterated that staff would explore the situation.

A motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving a Conditional Use Permit for a public Charter School at 8600 Bloomington Avenue, Case 8911A-06, for Seven Hills Classical Academy subject to the following 6 conditions of approval and 1 Code requirement including an amendment to the verbiage in Condition #4 relating to the sidewalk connection from the building to 15<sup>th</sup> Avenue:

1. Student enrollment be limited to 250 students unless approved by the City Traffic Engineer and the Planning Manager;
2. A traffic management plan including access, circulation and parking plans be approved by the City Traffic Engineer;
3. All parking shall be on-site; no on-street parking/loading/unloading allowed;
4. Provide sidewalk connection from building to public sidewalk/street, if the need is determined by the Planning Manager;
5. Student loading/unloading plan and vehicle circulation to be approved by the City Engineer;
6. Security plan be approved by the Police Community Resources Division;

and subject to the following Code requirements:

1. Signage comply with the requirements of Chapter 19, Article X of the City Code.

**Approved Preliminary  
& Final Plat of  
Portland Addition at  
7801 Portland Ave. So.  
& 613 E. 78<sup>th</sup> Street  
Case 3841A-06  
ITEM 5.2B  
R-2006-68**

No staff report was provided for this application.

Motion was made by Peterson, seconded by Grady, and all voting aye, to approve the Preliminary Plat of Portland Addition located at 7801 Portland Avenue and 615 East 78<sup>th</sup> Street, which is being replatted to adjust a lot line that was conveyed by deed many years ago for FDH Development, LLP and adopted a resolution granting Final Plat approval subject to the following 6 conditions and 3 Code requirements as set forth by Public Works, receipt of the title, necessary documents and deposits and a review of all documents by the City Attorney:

**ITEM 5.2B continued**

1. Title opinion or title commitment shall be provided.
2. Connection charges are due prior to issuance of utility permits.
3. 40 feet of right-of-way shall be provided from centerline along Portland Avenue.
4. Standard drainage and utility easements 10 feet along street frontages and 5 feet along internal lot lines shall be provided.
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.

and 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). If the two water services in the frontage road will not be used in the future, they shall be abandoned at the main per City Code by the owner.

Speaker #1: Kimberly Kettleon, Salon Owner @ 78<sup>th</sup> & Portland  
She inquired how this plat would affect her property.

Bernhardson explained that this application only reconfigures the legal descriptions of the properties, but that as a tenant, she wouldn't be affected at all.

**Adopted Ordinance  
Vacating a Portion of  
Kingsdale Drive  
ITEM 5.4E  
O-2006-20**

Bernhardson explained that the City Council approved a subdivision and vacation on May 15, 2006, but no ordinance was adopted officially approving the vacation at that time and thus the need for this item.

Speaker #1: John Tschol, 4650 Nine Oaks Circle

He stated he was not aware of this item when it was initially approved by Council on May 15 and that he is opposed to switching dedicated land to the applicant, as it is located directly across from his house. He disagrees with allowing the applicant to take City land.

Winstead explained that this involves two big parcels and that on May 15, the Council approved the taking of a small sliver to correct the street and gave a small sliver of land in return.

Peterson remarked that disapproval of this vacation wouldn't prevent the location of one of the proposed driveways.

Shelly Pederson, City Engineer explained that the plat and subdivision have already been approved and that the developer dedicated the area to the City to smooth out the right-of-way for its road and that the City vacated an even trade to clean up the platting and title work. A minor housekeeping item that doesn't really change anything.

Peterson explained that in areas where the City has a lot that extends into a driveway, it's very routine for the City to try and square it off.

Tschol thanked the Council for the explanation and added that he really appreciates the City's annual curbside cleanup program.

Speaker #2: A Concerned Citizen

He mentioned that since this process started, the applicant purchased two lots and tore down two houses and did it on speculation. Using a map, he indicated that the gray portion is part of the watershed area, which is preserved. He showed where the existing driveway is today stating that it doesn't go over any parkland and inquired if an easement for the developer over this land had been guaranteed to him.

**ITEM 5.4E continued**

Hawbaker clarified that the triangle piece of land is not parkland, it is part of Kingsdale Drive and is approximately 15-20 feet of public right-of-way.

The citizen stated that when he asked the property owner about his plans for the land, he was told only that it was going to be subdivided into five lots.

Winstead explained that the Council's action on May 15 approved a subdivision for single-family homes and not for a townhome development and that the developer had indicated that they were going to be building expensive single-family homes to justify the land costs. He stated that they will be big but not huge and that the lots will be Code conforming.

On a different subject, Grady requested Tschol's opinion of the restriping of Poplar Bridge Road.

Tschol replied that the restriping has not slowed him down and is not causing him any problems so he can live with the Council's decision to restripe it but he prefers four lanes.

Motion was made by Peterson, seconded by Grady, and all voting aye, to adopt an ordinance vacating a portion of Kingsdale Drive adjacent to 4801 Kingsdale Drive for Arnie Gregory of Greco LLC. The vacated street will accrue to Outlot A, Southmore Hill, which is owned by the City of Bloomington. The City will deed the area of the vacated street to Greco LLC in exchange for dedicated right-of-way on the approved plat of Kingsdale Addition (approved by the City Council on May 15, 2006, as agenda item 5.2D).

**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 so the public comment period was closed.

**Adopted Ordinance  
Vacating a Portion of  
10932 & 10936 Glen  
Wilding Place  
ITEM 5.4F  
O-2006-21**

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt an ordinance vacating a portion of a road easement at 10932 & 10936 Glen Wilding Place, which is being requested to add the vacant road easement to the property.

No public or private utilities are affected by this vacation. A drainage and utility easement has been obtained over the vacated area.

No public testimony was received.

**Ordinance Adopted  
Amending City Code  
Relating to an Update  
of Reference Numbers  
ITEM 5.4G  
O-2006-22**

Dave Ornstein, City Attorney explained that this item is merely a housekeeping item.

Motion was made by Wilcox, seconded by Axtell, and all voting aye, to adopt an ordinance amending Section 2.98.62 of the City Code to correct City Code reference numbers that have changed over the years.

No public testimony was received.

**Accepted External  
Auditor's Report  
ITEM 5.5A**

Lori Economy-Scholler, Chief Financial Officer introduced Dave Moll, a partner at HLB Tautges Redpath, Ltd. who presented the results of the external auditor's review of the City's year-end financial position and results of its fiscal operations for calendar year 2005.

Moll began his presentation by explaining that the external auditor works with the Finance staff during their review but actually works for the City Council. He stated they presented a preliminary review to Council on May 22. He described the five areas their financial review focused on: Comprehensive Annual Financial Report (CAFR), internal controls, compliance, state & federal controls, and the audit letter. He explained that the City is responsible for preparing the CAFR and that HLB Tautges Redpath, Ltd. has issued a clean opinion on the City's year-end financial position. His presentation highlighted the following:

- Bloomington submitted its CAFR, which has been recognized by the federal government 30+ times for being an excellent document in the past, which demonstrates the staff's diligence to conform to federal accounting standards.
- Report on internal controls required by audit standards. Based on their observations and testing, there were no reportable conditions noted in the 2005 Internal Controls Report.

**ITEM 5.5A continued**

- State Legal Compliance Report: OSA established a task force to develop a guide for legal compliance. The audit guide covers seven categories. There were no findings of noncompliance.
- Single Audit Report: Required by federal monies for projects that exceed \$500,000. Bloomington is considered a low risk. After testing major programs, there were no findings of noncompliance.
- Audit Committee Letter: A required communication. HLB Tautges issues a letter on all the audits they perform. The following three items were identified: Workers compensation, depreciation, and land for resale. Six adjustments were identified. They had no disagreements with management.
- One conference call was conducted between Moll, Economy-Scholler, and the City's previous external auditor.
- HLB encountered no difficulties working with staff during their audit other than typical first-time audit issues.
- Reviewed the items that didn't rise to the level of an internal control letter.
- Reviewed recently issued accounting standards that might affect the City in the future and stated the statistical section will change dramatically next year.

Winstead explained that the auditors work for the City Council and are responsible for looking into the depth necessary to complete an internal audit of the City's finances and that nothing significant was identified.

Axtell complimented staff for having only six statement adjustments.

Winstead agreed adding that the City is a \$100 million municipal organization.

Axtell added that staff should also be commended for having a strong separation of duties and for having no issues with internal controls.

Motion was made by Axtell, seconded by Peterson, and all voting aye, to accept the results of HLB Tautges Redpath, LTD of the City's year-end financial position and results of its fiscal operations for calendar year 2005.

Bernhardson thanked Mr. Moll for his professional staff through a major transition by the City in external auditors. He also thanked Economy-Scholler and her staff for the assistance they provided the auditors throughout the audit, department heads and executive staff for being one of only 20 cities recognized nationwide for having a AAA rating, and the Council for their continued support.

**Adopted Resolution  
Giving Host Approval  
to City of Roseville  
ITEM 5.5B  
R-2006-69**

Economy-Scholler explained that Bloomington is acting as a host city for the issuance by the City of Roseville for Health Care Facilities Revenue Obligations in order to finance the cost of their project located within Bloomington. The City of Roseville will sell the debt to pay for a \$500,000 renovation of a six-bed facility.

John Uttley, Kennedy & Graven was present and available for Council questions.

Nordstrom inquired as to the type of patients to be located in this facility.

Speaker #1: Pat Moore, Executive Director of Wingspan

She responded that the facility is located at 91½ Street for elderly persons with developmental disabilities.

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution giving host approval to the issuance of health care facilities revenue obligations for a project by Wingspan Life Resources located in the City of Bloomington, MN, under Minnesota Statutes, Sections 469.152 through 469.1651.

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

Bernhardson stated that Council received the monthly update in last Friday's City Manager's Information (CMI).

**Additional Council  
Issues/Comments**

Upon learning that the Barracuda swim clubs have possibly been subletting and charging other clubs fees for use of the City's pool, Wilcox requested the City look into this situation stating the pool was never intended to be an income source for the Barracudas.

Bernhardson replied that he had just become aware of the subletting in the past week and that staff would investigate to see if was just pass-through fees or if they have actually been generating an income. Staff to report their findings to Council.

Winstead also commented that a situation now exists where there is an internal arm wrestling for Valley View Pool time and requested staff look into that matter also. He stated the Barracuda Swim Club has merged with a Shakopee swim club and other clubs that don't have any Bloomington residents are fighting for Bloomington pool time. He requested staff look at rates, times, and how much time is allotted to outside groups, etc. and report back to Council.

Wilcox remarked that any income stream should be coming to the City and not to the Barracuda Swim Club, as no one should make a profit off of a City-owned facility.

Nordstrom inquired about the \$300,000 need at the Hyland Ski Jump to address some huge erosion problems and inquired if the City should help them.

Bernhardson replied that staff would provide Council with some background on the Ski Jump but that they didn't talk to the City this year regarding their plans.

Elkins inquired about the situation on Norman Ridge and the sale that fell through.

Ornstein replied that the subdivision is still in force and in effect and that the applicant is asserting some proprietary rights that may or may not affect the owner's ability to subdivide and sell the property. He stated one or more developers are interested in developing this property but that it could be a while before it gets resolved.

Winstead added that there are required conditions that would pertain regardless of which developer ends up subdividing the property.

Ornstein stated that the Final Plat needs to be filed and that no further action is needed by the Council unless the plat is revised and that the applicant has a year in which to file it.

Elkins remarked that staff did a nice job of covering the Normandale Lake Traffic Study in CMI.

Winstead suggested that perhaps the Department of Natural Resources (DNR) has something that could help Normandale Lake.

Elkins replied that the City could contact them about possibly using the DNR's Allen Treatment Plan upstream from the lake to help capture phosphorous before it enters the lake.

Staff to explore this with the DNR.

**Adjourn Meeting**

Mayor Winstead adjourned the meeting at 8:17 p.m.

Barbara Clawson  
*Council Secretary*