

Regular Meeting #28
Monday, October 9, 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 7:09 p.m. and led the audience in the pledge of allegiance to the flag.

Roll Call

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

**Eleven Who Kare
Award Recognition**

Mayor Winstead introduced Bloomington resident Ted Nemzek who was chosen as one of KARE 11's "Eleven Who Kare" from a group of 300 nominees. He thanked Nemzek for everything he has done for Bloomington stating he is the second Bloomington Human Rights Commissioner to receive this recognition. A video clip from the Eleven Who Care ceremony was shown. Nemzek is commander of the Memorial Rifle Squad at Ft. Snelling, a Korean War veteran, and a volunteer at the Learning Exchange. Nemzek stated the \$1,100 award he received will be donated between the Ft. Shelling Chapel and the Learning Exchange.

**Proclamation –
Disability Employment
Awareness Month**

Mayor Winstead introduced Melissa Persuad, Human Services and she and Maxine Peters recognized some special Bloomington companies for their employment of disabled workers. She described the Disability Employment Awareness Month committee and why she became involved.

Mayor Winstead read and presented a proclamation declaring October as Disability Employment Awareness Month to Melissa Wurst-Pursuad. He recognized the following two employers with plaques for their efforts in employing disabled workers: Cub Foods on France Avenue, which works with the Access to Employment organization and REI, which has been employing disabled workers for over 20 years through Lifeworks.

**Proclamation –
National Breast
Cancer Awareness
Month**

Mayor Winstead read and presented a proclamation declaring October as National Breast Cancer Awareness Month to Karen Zeleznak, Public Health Administrator. Zeleznak commented on the grant the City received from the State of Minnesota, which allows the City to provide mammograms to those women who wouldn't otherwise be able to afford it. She read a letter from someone grateful that this service is provided by the City.

**Approved Amendment
to Bioterrorism
Agreement with
Richfield
ITEM 3.1**

Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve an amendment to the Richfield Public Health Preparedness and Response to Bioterrorism Agreement and the corresponding adjustments to Public Health's 2006 Budget as indicated in the agenda materials. Richfield received additional funds from the Minnesota Department of Health, which are federal dollars that are to be used to enhance the capacity of the state and local health departments to respond to bioterrorism, infectious diseases, and other threats to public health. Through this amendment, the City would receive an additional \$7,000 for Public Health to provide the following services:

- Assist in completing the Centers for Disease Control Local Public Health Assessment, prepare a list of gaps and priorities, provide training or technical assistance to Richfield as time and/or funding allows, and assist as needed in drafting a pandemic flu exercise plan.
- Purchase education materials and Personal Protective Equipment for Richfield as agreed upon.

- Adopted Resolution Approving Variance at 10320 Toledo Circle Case 10741A-06 ITEM 3.2 R-2006-120** Motion was made by Grady, seconded by Wilcox, and all voting aye, to adopt a resolution approving a variance to reduce the required rear yard setback from 30 feet to 26.4 feet for a covered three-season screen porch addition onto an existing single-family home at 10320 Toledo Circle, Case 10741A-06, for Mark and Cheryl Patterson subject to the following two conditions of approval as set forth by staff:
1. The variance will apply only to the plans shown in Case 10741A-06; and
 2. Exterior finish and materials will be compatible with existing building materials.
- Approved Acceptance of Law Enforcement Equipment ITEM 3.3** Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve acceptance of law enforcement equipment from 5.11 Tactical Corporation with an estimated value approximating \$60,000.
- Approved Agreement with Simple to Grand ITEM 3.4** Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve an agreement between the City of Bloomington and Simple to Grand Catering to serve liquor at the Textile Center of Minnesota event (private rental) at the Bloomington Center for the Arts on October 21, 2006.
- Adopted Resolution Accepting Petitions for 2006 Assessment Roll No. 1 ITEM 3.5 R-2006-121** Motion was made by Grady, seconded by Wilcox, and all voting aye, to adopt a resolution accepting the following petitions for inclusion in the Assessment District as 2006 Assessment Roll No. 1 for sewer and water connection charges:
1. Walser Real Estate, LLC (4401 American Boulevard W): \$14,562.19
 2. KM Building Company, Inc. (2700 East 82nd Street): \$1,536.15
 3. Steven Marlin Grant Homes, Inc. (1109 River Terrace): \$1,428.28
 4. Steven Marlin Grant Homes, Inc. (1101 River Terrace): \$918.18
 5. Steven Marlin Grant Homes, Inc. (1033 River Terrace): \$918.18
 6. Steven Marlin Grant Homes, Inc. (1029 River Terrace): \$1,122.22
 7. NHHI (9501 Garfield Avenue South): \$306.00
 8. Summit Hotels (2850 Metro Drive): \$3,315.00
 9. Verizon Wireless, LLC (10801 Bush Lake Road): \$26,851.50
- Approved Contract with Qwest Communications ITEM 3.6** Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve a contract with Qwest Communications for E911 PSAP Equipment and Maintenance Agreement for the Dispatch Center in the amount of \$67,311.00 for the three (3) year agreement.
- Adopted Resolution Amending Penalties for Liquor Law Violations ITEM 3.7 R-2006-122** Motion was made by Grady, seconded by Wilcox, and all voting aye, to adopt a resolution amending a policy for imposition of penalties related to violation of liquor laws by establishments licensed by the City for on-sale and off-sale intoxicating liquor and 3.2 beer. This resolution provides that the sanctions imposed on holders of off-sale 3.2 beer licenses will be the same as imposed on on-sale wine and 3.2 beer licenses. It also clarifies that the 5-year timeframe for applying the sanctions is computed based on the dates of the violations rather than the dates of the City Council action.
- Adopted Resolution Ordering Xcel Energy to Underground Distribution Lines ITEM 3.8 R-2006-123** Motion was made by Grady, seconded by Wilcox, and all voting aye, to adopt a resolution ordering Xcel Energy to underground the electric distribution lines situated within right-of-way for East Bush Lake Road and a portion of 84th Street east of East Bush Lake Road and a portion of Chalet Road south of East Bush Lake Road in conjunction with an approved street improvement project at the intersection of East Bush Lake Road & 84th Street.
- The cost for the undergrounding is estimated to cost \$234,595. Xcel Energy is expected to pursue a facility surcharge for the City rate payers. According to Section 5.3.A.5 and 6 of the Xcel Energy Electric Rate Book on file within the Minnesota Public Utilities Commission, if a determination is made that installation of facilities is “non-standard” or “special,” they can impose a surcharge on their electric customers.

Approved Amended Condition Related to Bloomington Central Station Preliminary Development Plan ITEM 3.9

Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve revised Condition #3 as stated below to replace the original condition (February 6, 2006) and the revised condition (July 10, 2006) that was included in the City Council's approval of the Revised Preliminary Development Plan for Bloomington Central Station, a transit-oriented, mixed-use development located at 8100 34th Avenue South:

- 3) A Transportation Management Plan shall be approved by the Director of Public Works which includes the following: trip reduction alternatives and programs, a schedule for implementation, a procedure for evaluation and revisions based on project phases, by March 1, 2007 or prior to issuing a building permit for the next phase of the final development plan, whichever occurs first.

Awarded Contract to General Safety Equipment Company ITEM 3.10

Motion was made by Grady, seconded by Wilcox, and all voting aye, to award a contract to General Safety Equipment Company of Wyoming, MN for the purchase of a new Spartan General 109RM aerial ladder fire apparatus in the amount of \$657,006.00. This unit will replace a 1985 Seagrave 100-ft. aerial ladder as a frontline apparatus.

Funding for this purchase is available in the 2006 Fire Equipment Replacement Budget, Activity 617-0619-499.70-42.

Approved List of Election Judges ITEM 3.11

Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve the lists of individuals as presented in the agenda materials to serve as election judges for the State General Election to be held November 7, 2006.

Approved Budget Adjustment for Public Works Cold Storage Building ITEM 3.12

Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve a Budget Adjustment of \$1,181,981.00 in Facility Fund 630-6904-449.70-21 to allow for the total approved funding sources to be spent on the Public Works Cold Storage Building.

Approved Budget Transfer from Facility to Equipment ITEM 3.13

Motion was made by Grady, seconded by Wilcox, and all voting aye, to approve a Budget Transfer of \$44,334 from Facility Fund 630-6904-449.90-31 to Equipment Fund 617-0618-391.58-01 to reimburse Equipment, as Facility is the department that needs this equipment.

Accepted Donations ITEM 3.14

Motion was made by Grady, seconded by Wilcox, and all voting aye, to accept the following donations made to various City activities by various donors: sandwich platters valued at \$105 donated by Bloomington Jimmy John's to Human Services/Parks & Recreation Halloween Party and an 8-foot Hibiscus tree valued at \$250 donated by Dale Simonson to the Bloomington Center for the Arts.

Grady also commented on the donation mentioned in Item 3.3 of tactical equipment valued at \$60,000 donated by the 5.11 Tactical Corporation to the Bloomington Police Department for coming in first place in a sanctioned law enforcement shooting competition.

Approved Minutes ITEM 3.15

Motion was made by Grady, seconded by Wilcox, to approve the September 25, 2006, Regular Council meeting minutes as presented. Motion passed 6-0-1 (Elkins abstaining).

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.

Approved Therapy Massage License for Life Time Fitness ITEM 5.1A

Motion was made by Grady, seconded by Peterson, and all voting aye, to approve a New Therapeutic Massage Enterprise License for LTF Club Operations Company, Inc. dba Life Time Fitness at 1001 West 98th Street.

No public testimony was received.

**Approved Revised
Final Site & Building
Plans for Dalsin
Industries, Inc. at
9111 Grand Avenue
Case 8742C-06
ITEM 5.2A**

Motion was made by Peterson, seconded by Grady, and all voting aye, to approve the Revised Final Site Plans and Building Plans for an addition to an industrial building and parking lot alterations for Dalsin Industries, Inc. at 9111 Grand Avenue, Case 8742C-06, subject to the following 18 conditions of approval and 7 Code requirements being satisfied prior to the issuance of any grading or building permits as set forth by the Planning Division Staff and the Planning Commission:

1. Connection charges shall be satisfied as determined;
2. A SAC questionnaire shall be completed and fees be satisfied as determined;
3. Exterior building materials shall consist of Fab-Con precast concrete panels with integral color as per the plans approved in Case 8742C-06;
4. Site plans shall show the provision of additional parking sufficient to provide a total of 185 on-site spaces with either all 185 spaces being provided or 175 spaces being provided and the difference labeled as "proof-of-parking" spaces;
5. A landscaping surety shall be provided to the Manager of Building and Inspection Division;
6. An erosion control surety shall be provided to the Manager of Building and Inspection Division;
7. Grading, drainage, utility and erosion control plans be approved by the City Engineer;
8. Approved erosion control measures shall be in place prior to issuance of grading permits;
9. Access, circulation and parking plans be approved by the City Traffic Engineer;
10. Common access/circulation agreement(s)/easement(s) with 9033 and 9053 Grand Avenue be provided as approved by the Traffic Engineer with proof of filing to be provided to the Manager of Building and Inspection;
11. Plans shall be reviewed and approved by Nine Mile Creek Watershed District;
12. NPDES permit be completed;

and subject to the following additional conditions:

13. All customer parking shall occur on-site and off of the adjacent public street(s);
14. All construction related parking, loading and unloading, staging, and material storage shall occur on-site and off of adjacent public streets except as may be approved by the Director of Public Works for a temporary period;
15. Alterations to utilities be at the developer's expense;
16. Approved and installed erosion control barriers shall be maintained in an effective and functional condition throughout the construction period and shall not be removed until all disturbed areas are stabilized in an approved manner and removal is authorized by the Issuing Authority;
17. All inventory or stock loading and unloading shall occur on site and off of public streets;
18. All exterior doors be renumbered as approved by the Fire Marshal;

and subject to the following Code requirements:

1. All rooftop equipment shall be fully screened (Sec. 19.52.01);
2. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
3. Unused water services shall be properly abandoned (Sec. 11.15, City Code);
4. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code 3802; Uniform Fire Code Ch. 10.306);
5. Fire lanes shall be posted as approved by the Fire Marshal (Sec. 8.73);
6. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and
7. All trash and recyclable materials be stored and screened inside the principal building. (Sec. 19.51).

No staff report was provided but Planner Bob Sharlin was available for Council questions.

No public testimony was received.

**Continued to Oct. 30
Preliminary & Final
Plat of NORMANDEALE
OFFICE PARK 5TH
ADDITION
ITEM 5.2B1**

Motion was made by Grady, seconded by Peterson, and all voting aye, to continue to the October 30, 2006, Regular Council meeting, the Preliminary & Final Plat of NORMANDEALE OFFICE PARK 5TH ADDITION located at 8200 Normandale Boulevard, 8251 & 8301 Norman Center Drive per Eva B. Stevens of 8200 Normandale Investment, LLC.

**Continued to Oct. 30
Vacation of Drainage &
Utility Easements at
8301 Norman Center
Drive
ITEM 5.2B2**

Motion was made by Grady, seconded by Peterson, and all voting aye, to continue to the October 30, 2006, Regular Council meeting, a vacation of the drainage and utility easements at 8301 Norman Center Drive per the request of the applicant Eva B. Stevens.

**Adopted Ordinance
Establishing New
Rapidly Changing
Sign Standards
O-2006-45
ITEM 5.4A1**

Planner Michaela Ahern presented the staff report. She stated the City Council requested staff prepare an ordinance to address the newest technology in moving signs. She explained what the current ordinance prohibits and the rationale for adopting something more comprehensive. She explained the four categories of signs the new ordinance addresses by showing examples of each. She described a fifth type of sign, which is a vehicle sign explaining that it's prohibited when a vehicle is being used as a sign – an unlicensed vehicle or a vehicle that is not actively being used as a vehicle.

Council inquired about cars that contain lots of advertising.

Ahern replied that if the vehicle is licensed and is being used lawfully and is parked legally, the advertising would be allowed.

There was some discussion by Council regarding the restrictions relating to the color used in electronic signs in residential areas and that it's limited to the color amber. There was also discussion regarding (E) under the Definitions Section relating to a vehicle sign and it was stated staff would look to clarify it. Council inquired about the participants in the focus group and their input regarding the proposed ordinance.

Ahern stated sign industry professionals participated in the group and no one had any great objections to having a set of standards by which to abide in Bloomington. In fact, they thought it would actually be more helpful to have that information available.

Axtell inquired if there was any place in Bloomington that allowed a video display.

Ahern replied it would be allowed within the interior of a business courtyard or within the Mall of America.

During discussion of this item, Associate City Attorney Sandra Johnson drafted and Council concurred that the following edit be made to the last sentence in the definition paragraph of Vehicle sign on Page 4 of the ordinance: "A vehicle sign may be defined as a vehicle that functions primarily as a sign rather than a transportation device as determined by consideration of any combination of the following factors:"

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt an ordinance establishing new electronic message board, vehicle sign, video display sign, and time and temperature sign standards thereby amending Chapters 14 and 19 of the City Code.

No public testimony was received.

**Adopted Resolution
Directing Summary
Publication of
O-2006-45
ITEM 5.4A2
R-2006-125**

Motion was made by Peterson, seconded by Grady, and all voting aye, to adopt a resolution directing summary publication of Ordinance 2006-45 as described above.

**CLOSED PUBLIC
COMMENT PERIOD**

The Mayor asked if anyone 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.

**Postponed to Nov. 6
Country Inn, Inc.
at 10500 & 10550
Lyndale, 10501
Bloomington Freeway
& 800 West 106th St.
Case 9377ABC-06
ITEM 5.4B1,2,3**

Motion was made by Elkins, seconded by Nordstrom, and all voting aye, to postpone the applications by Country Inn, Inc. relating to 10500 & 10550 Lyndale Avenues 10501 Bloomington Freeway and 800 West 106th Street, Case 9377ABC-06 for a rezoning, a Preliminary & Final Development Plan, and a Preliminary & Final Plat approval to the November 6, 2006, Regular Council meeting per the applicant's request.

**Adopted Ordinance
Vacating Easements at
8030 Humboldt Ave.
ITEM 5.4C
O-2006-44**

Motion was made by Grady, seconded by Nordstrom, and all voting aye, to adopt an ordinance vacating drainage and utility easements located at 8030 Humboldt Avenue South for Linda McGinty of Hansford Agency, LLC for the purpose of clearing the property of unneeded easements for development that has been approved for construction. No public or private utilities are affected by this vacation.

No public testimony was received.

**Consensus to Proceed
with Alternatives A, B
and the No Build
Concept in the
Normandale Lake
Area Study
ITEM 5.5A**

Planner Bob Sharlin presented the staff report explaining that the City retained SRF Consulting Group, Inc. to study existing and proposed land uses and the potential roadway and traffic improvements necessary to accommodate future development in the Normandale Lake Study Area, which encompasses the area north of West 84th Street and east and west of Normandale Boulevard and that the study will provide a comprehensive framework for evaluating future development proposals and implementing infrastructure improvements in the area. He stated after many meetings, four alternatives for roadway improvements were presented to the various commissions and that the recommendations of those commissions was to move on Alternative A, Alternative B and on the No Build Alternative. He introduced Beth Bartz from SRF Consulting Group, Inc. who detailed the study process. Her presentation included the following:

- A brief overview of what was presented to the commissions.
- Overall structure of the study process.

Bartz introduced Craig Vaughn, SRF who proceeded to describe in detail the various improvement concepts A-D relating to the intersection at 84th & Normandale Boulevard specifically: Concept A (an at-grade design), Concept B (a grade separated intersection), Concept C (a different grade separated concept), and Concept D (an at-grade urban arterial movement).

Denny Eiler, SRF presented a 3D video to show how the various alternatives would operate.

Council discussed the various alternatives and it was stated that Alternative C is the most expensive with shorter spans and is a more complex design. Alternative D is an enhanced at-grade alternative that includes a pedestrian bridge. A question was raised as to why Alternative D doesn't compare as well as Alternatives B & C.

Bartz added that no aesthetics were taken into consideration when these alternatives were developed.

Craig Vaughn provided an Analysis Summary.

Bartz provided the concept-level cost estimates as follows: A (\$15 million), B (\$28 million), C (\$41 million), and D (between \$15-29 million).

Monique from SRF presented the Evaluation Summary stating that Alternatives B & C ranked the lowest with regard to the neighborhoods, Alternatives B & C ranked lowest with regard to a connection to parkland, and that Alternatives A & D were ranked the worst. With regard to the environment, she stated all of the concepts fared about the same. With regard to the commercial neighborhoods, she stated Concept D was the worst and that with regard to implementation and cost, Concept C was the most expensive. It was explained that the joint commission recommendation was to forward Concepts A & B and the No Build Concept while encouraging a stronger connection to American Boulevard. The next steps and the schedule were reviewed.

ITEM 5.5A continued

Winstead inquired about Alternative D and the Stanley Avenue neighborhood and requested feedback regarding the public comments received.

City Engineer Shelly Pederson stated the Stanley Avenue property owners don't believe any of these alternatives will help with the cut-through traffic in their neighborhood and believes more work needs to be done to address the east/west traffic on Stanley.

Sharlin stated staff has received 30-35 comments to date.

Council requested more of a park like route be designed as the road approaches the park.

Sharlin replied that staff would look at park context designs and that the Minnesota Department of Transportation (MnDOT) has provided some positive feedback with regard to this.

Winstead reiterated that more traffic needs to get up to American Boulevard.

Bartz restated that the joint commissions recommended looking at Alternatives A, B and the No Build with encouragement of a stronger connection to American Boulevard through a local roadway realignment without diverting 84th Street.

Winstead restated that an effort needs to be made to solve the situation at 84th Street & Stanley Avenue and began taking public comment on the various alternatives.

Speaker #1: Terry Houle, 8331 Little Circle

He mentioned measuring green house gases and quoted from some of the commissioners' comments. He stated the City needs to find some other options relating to met transit and that he's been fighting this for a long time. He proposes the No Build Alternative and suggested companies implement staggered work times and that the Council should listen to the voters.

Speaker #2: Linda Fisher, Representing United Properties & Teachers Insurance

She stated Teachers Insurance owns Normandale Lake Office Park and that it is the premier office park in the area. She stated United Properties owns Norman Center Drive office and the 8200 Norman Center Drive site and the former Josten's site. She stated 84th & Normandale was identified as a problem area almost 30 years ago and that United Properties and Teachers Insurance have attended the meetings, workshops and have participated in the process. She mentioned the project for the fifth office building and that staff should consider interim improvements and that the efforts for the Traffic Demand Management plans should be ramped up. She expressed concern with their ability to evaluate the four alternatives due to the lack of a detailed traffic study being disseminated to the public prior to the meeting. She stated it's hard to evaluate the concepts without all of the data. She stated the City conditioned building #3 upon completion of the transportation improvements at 84th Street & Normandale and that her client's application would be affected by these conditions. If the City adopts the No Build concept, it would result in a level of service E or F and Fisher inquired if that would satisfy the level of service needed for more development. She stated Teachers & United would like to see some improvement that would alleviate the traffic situation that has existed for some time and believes Concept B is worthy of additional study. She inquired about Concept C even though it would be expensive and would have property impacts.

Speaker #3: Ken Vinge, Kraus-Anderson Realty, Manager/ Owner- Normandale Shopping Center
He stated he attended the September 20th meeting and was disturbed with Alternative Concepts C & D going through his shopping Center and was glad to see the focus was on Alternatives A & B. He is not in favor of any roadway improvements dissecting his shopping center.

Bartz stated two concepts would be studied further along with the No Build Concept and that a preferred alternative would be identified after more commission and public input was received.

Bernhardson stated that even if everything aligned, significant construction wouldn't start until 2011 or 2012, at which point significant money could be available.

ITEM 5.5A continued

Grady stated she supports the recommendation of the joint commissions. Alternative A is the cheapest alternative but only provides a service level "F." Alternative B provides some relief and Alternative C is out of the question cost-wise.

Elkins agreed with Grady but stated American Boulevard must be maximized while Stanley is minimized.

Wilcox agreed with Grady also but didn't agree with the alignment options on 84th Street.

Axtell commented that whatever the decision, the property owners need to know in what direction the City is headed as soon as possible.

Nordstrom stated that Alternative B appears to be the best alternative while Alternative D could add more travel time.

Elkins added that pollution should also be considered and that there is a correlation between increased travel times and more pollution.

Bartz stated that air quality issues increase with more traffic congestion and idling cars are worse than greater travel times.

Winstead commented that Council consensus favors Alternatives A and B and that alternative plans for the neighborhoods need to be interjected into the discussion.

Bernhardson summarized by stating that the Council is trying to balance transportation capacity, land use development, and the ability to finance interim and long-term improvements together with the environmental impacts to the area. He stated moving forward with the recommendation of the commissions would allow staff time to consider the 84th & Stanley neighborhood. In addition, he stated south of Nine Mile Creek Parkway needs to be part and parcel of this and that there needs to be a way to address Nine Mile, Stanley and 84th Street as well as France Avenue and American Boulevard.

Elkins stated the key is trying to make American Boulevard the path of least resistance for most motorists.

Motion was made by Grady, seconded by Wilcox, and all voting aye, to proceed per the recommendation of the joint commissions to study further Alternatives A, B and the No Build Concept, which will be brought back to Council as soon as more details relating to cost, etc. are available.

**Adopted Ordinance
Prohibiting Use of
Tobacco Products
Within City Parks,
Open Spaces &
Recreation Areas
ITEM 5.5B
O-2006-43**

City Attorney Dave Ornstein summarized the alternative ordinances for Council consideration on the prohibition of the use of tobacco products within City parks, open spaces and recreation areas. He stated both the Advisory Board of Health (ABH) and the Parks, Arts & Recreation Commission (PARC) considered expanding the banning of tobacco products and a Staff Administrative Study Group recommended that the prohibition of tobacco be applied to all City open space park areas and the Bloomington Ice Garden's external area, athletic and spectator areas where adult sports are conducted, and in City-owned picnic shelters. He stated the ordinance, as proposed, would allow the park director to exempt smoking and the use of tobacco if it is deemed integral to a particular type of event, i.e. a cultural event.

Ornstein explained that Option A also prohibits the use of tobacco on City-owned golf courses while Option B does not extend to the golf courses. He stated the Administrative Study Group did not recommend including golf courses in the ordinance but the ABH and the PARC did. He stated both ordinances are identical except that Option A doesn't allow smoking on the golf courses while Option B does.

Nordstrom commented that it appears other cities are banning smoking on golf courses so why shouldn't the City of Bloomington.

Ornstein added there appears to be no rigid enforcement of the smoking ban on some golf courses.

ITEM 5.5B continued

Axtell stated he supports the recommendation of the Staff Administrative Study Group in banning smoking everywhere except on the golf course.

Wilcox commented that the Police Department has enough to do without trying to enforce a smoking ban on the golf course and that people don't need this much intrusion in their lives.

Winstead stated that he's talked with the staff at Braemar golf course and they admitted their ordinance isn't enforced but they haven't received any complaints either. He supports the recommendation of the Staff Administrative Study Group to exempt the golf courses.

Nordstrom commented that as adults are role models for kids while they're on the golf course, golfers should be prohibited from smoking on the golf course as well.

Elkins stated he could go with either option.

A motion was made by Axtell to support the recommendation of the Staff Administrative Study Group but the motion died for lack of a second.

A motion was made by Grady, seconded by Nordstrom to adopt ordinance Option A to prohibit the use of tobacco products on City golf courses, the exterior premises of the Bloomington Ice Garden, spectator areas at City athletic fields during organized adult recreational events, City picnic shelters during private rentals, City conservation areas and open spaces, and City-sponsored cultural programs such as Arts in the Park and Summer Fete. Motion passed 4-3 (Winstead, Wilcox and Axtell opposing).

**Adopted Resolution
Approving the 2006
Assessment Roll No. 4
for the 2006-101 PMP
Street Reconstruction
Project
ITEM 5.5C
R-2006-124**

No staff report was provided and no public testimony was received but Wilcox mentioned a situation involving a resident who expressed a difference of opinion than that of City staff regarding a branch she believed was damaged by the contractor during the reconstruction project on her street who claims her tree is now diseased and will die. He stated this resident requests that she be made whole as a result of this street reconstruct project.

City Engineer Shelly Pederson reported that the tree was damaged by a private utility company contractor and that as she understood it, the homeowner is working with the private utility contractor to get the issue resolved.

Wayne Force, Engineering reported that the City has had several conversations with this homeowner and that the City can't find any evidence that its contractor performed any curb or sod work in proximity of the limb that could have caused it any damage. He stated the City's forester and an expert from Bachman's examined the tree and believe it to be healthy but that it should be checked again next year.

Peterson explained that the City allows private contractors to use the right-of-way within the city as a convenience to them and that when the City's contractor does damage, the City pays for it but if a contractor from another utility company does damage, that utility company should pay for it.

Grady added that it's not the homeowner's problem and the City should deal with the other utility company that caused the damage to the resident's tree.

Pederson stated staff has and will continue to talk to the utility company to try and get this situation resolved for the resident.

Motion was made by Grady, seconded by Peterson, and all voting aye, to adopt a resolution approving the 2006 Assessment Roll No. 4 for the Pavement Management Program (PMP) 2006-101 Street Reconstruction Project, which involved construction of curb and gutter and a permanent surfacing on the following list of streets:

ITEM 5.5C continued

<u>Ref. No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>
1	10 th Ave. S.	E. 100 th St.	E. 102 nd St.
2	E. 101 st St.	Elliot Ave. S.	10 th Ave. S.
3	Mound Springs Terrace	10 th Ave. S.	10 th Ave S.
4	13 th Ave. S.	E. 92½ St.	E. 93½ St.
5	15 th Ave. S.	E. 92 nd St.	Riverview Ave. S.
6	E. 92½ St.	12 th Ave. S.	15 th Ave. S.
7	E. 93½ St.	12 th Ave. S.	Riverview Ave. S.
8	E. 94 th St.	12 th Ave. S.	Riverview Ave. S.
9	Riverview Ave. S.	E. 92½ St.	E. Old Shakopee Rd.
10	1 st Ave. S.	E. 86 th St.	E. 88 th St.
11	Stevens Ave. S.	E. 84 th St.	E. 86 th St.
12	W. 94 th St.	Xylon Cir.	Yukon Ave. S.
13	W. 95 th St.	Wyoming Ave. S.	Xylon Ave. S.
14	W. 96 th St.	Wyoming Terrace	Yukon Ave. S.
15	W. 97 th St.	Xylon Ave. S.	Yukon Ct.
16	Xylon Ave. S.	W. 94 th St.	Terminus East
17	Xylon Ave. S.	W. 97 th St.	Lindstrom Dr.
18	Xylon Ct.	Xylon Ave. S. @ 97½ St.	Terminus West
19	Xylon Ct.	Xylon Ave. S. @ 97½ St.	Terminus East
20	Yukon Ave. S.	W. 94 th St.	Yukon Cir. @ 95 th St.
21	Yukon Ave. S.	W. 96 th St.	Yukon Ct. @ 97 th St.
22	Yukon Cir.	Yukon Ave. @ 95 th St.	Terminus West
23	Yukon Cir.	Yukon Ave. @ 96½ St.	Terminus West

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

The Monthly Update was provided. It was announced the Public Safety Open House will be held on October 14 at the South Metro Training Facility from 10 a.m. to 1 p.m.

Assistant City Manager Clark Arneson reported on the strategic planning process stating that the final town hall meeting for Imagine Bloomington 2025 will be held at Valley View Middle School on Thursday, October 12 and that there have been three very successful town hall meetings to date. He stated focus group meetings are also being conducted and that there are two left scheduled to occur this week. He stated the third part of the strategic planning process is the input from the community, which is being requested via the survey on the City’s Website and that to date, 425 surveys have been received. He stated once the town hall meetings are complete and the results of the survey have been compiled, staff will conduct a joint meeting with the Council, Traffic & Transportation Advisory Commission, and Port Authority and inquired if November 9 would work for Council, as staff would like to complete this process by year end.

**Youth Appointment to the Human Rights Commission
ITEM 6.2A**

Council voted on the two names (Bethany Kullmann & Bakhtawar Chaudhary) that were put into nomination on September 25 for the second youth appointment to the Human Rights Commission. The individual voting results were as follows:

Kullmann (Peterson, Elkins, Nordstrom, Grady & Winstead) and Chaudhary (Axtell & Wilcox).

A motion was made by Peterson, seconded by Elkins, and all voting aye, to appoint Bethany Kullmann to a youth position on the Human Rights Commission expiring on August 31, 2007.

**Appointment to the Human Rights Commission
ITEM 6.2B**

The resignation of Bruce Torgerson, Chair of the Human Rights Commission has resulted in a vacant position due to expire on December 31, 2006.

Motion was made by Wilcox, seconded by Grady, and all voting aye, to put the following names into nomination for that vacancy: Dawn Steigauf, Donald Peterson, Stan McFall, and Omar Abdirahman.

ITEM 6.2B continued The Council proceeded to vote on the appointment to fill the unexpired term. The individual voting results were as follows:

Steigauff (Peterson, Wilcox, Nordstrom, and Grady), McFall (Axtell and Elkins), and Peterson (Winstead).

Motion was made by Peterson, seconded by Nordstrom, and all voting aye, to appoint Dawn Steigauf to the vacancy on the Human Rights Commission due to expire on December 31, 2006.

Adjourn Meeting Mayor Winstead adjourned the meeting at 10:29 p.m.

Barbara Clawson
Council Secretary