

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

CITY COUNCIL MEETING

Approved Minutes  
Regular Meeting  
Meeting #25

7:00 p.m.  
September 23, 2002  
Council Chamber

Call to Order and Pledge to Flag Mayor Gene Winstead called the meeting to order and led the Council and audience in the pledge of allegiance to the flag.

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

Proclamation Declaring Racial Equality Day Mayor Winstead read and presented a proclamation declaring September 23-27, 2002, as Racial Equality Day to Jessica Billings, a member of the Human Rights Commission and the current Miss Minnesota Junior Teen. She introduced Leo Espinoza, Chair of the Human Rights Commission who thanked the Council for their continued support and the proclamation.

Presentation of 3CMA Awards Diann Kirby, Communications Administrator announced that the City earned two awards for the fourth year in a row from the National City/County/Communications and Marketing Association. Out of 750 entries nationwide, the City of Bloomington won in two categories: A second place Silver Circle Award for the City's intranet site "City Biz" and a third place Award of Excellence for its external newsletter, the "Bloomington Briefing." She thanked the Council for its support of the communication activities.

Mayor Winstead recognized additional Communications staff members Janine Hill, Erik Juhl, Jan Norbeck, Don Erickson, Bill Patterson, Grace Miller, and former City employee Laure Lesperance.

Accepted Donations Item 6.7 Motion was made by Wilcox, seconded by Peterson, and all voting aye, to accept a \$750 donation from the Bloomington Athletic Association (BAA), who was the recipient of the Molitor Fields for Kids, Minnesota Twins Community Fund Grant to Parks & Recreation for dugout improvements at Smith Park and a donation of \$250 from Blue Cross of MN to the Job Success Fair. The appropriate revenue and expenditure budgets were amended as needed to facilitate the appropriate use of the funds.

BAA President Dan Wallerus and City Baseball Director Sue Couch presented a check to Mayor Winstead explaining that the total grant is for \$1,500 and that the remaining \$750 will be forwarded when the work at the Smith Park ballfields is complete. Couch stated that the plaque would be displayed on the back of the backstop at the Smith Park baseball fields.

<Mayor announced that Harden would not be attending tonight's meeting due to an extended medical appointment.>

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 a Resolution Approving 2003 Fees and Charges Relating to Creekside Chronicle Item 4.8 R-2002-130 Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving the 2003 Fees and Charges as it relates to the Creekside Chronicle as follows:

Programs and Events: Newsletter (Chronicle) Free; Advertisement Space (Chronicle): \$60 (biz card size), \$140 (1/4 page), \$260 (half page), and \$460 (full page).

Item 4.8 continued	Bernhardson explained that in an effort to increase circulation, the Creekside Chronicle is going from a membership publication to an advertisement-based newsletter, which requires setting the fees into the ordinance.
	No public testimony was received.
Accepted the 2002 Community Development Block Grant Funds Item 6.1	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to accept the 2002 Community Development Block Grant (CDBG) funds in the amount of \$501,000 from the Department of Housing and Urban Development as presented in the agenda materials and authorized the Mayor and City Manager to execute contracts and other necessary documents related to the CDBG program. The CDBG program year runs from July 1 through June 30.
Approved 2003 Medical Insurance Contributions Item 6.2	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to adopt the following policy regarding medical insurance contributions for the unrepresented employees for 2003: "Effective January 1, 2003, the City shall pay the cost of the monthly premium for the employee, or two-person, or family coverage in an amount not to exceed \$635.00 per month. The balance of the premium costs, if any, shall be paid by the employee."
Adopted a Resolution Approving an Administrative Variance at 9720 & 9721 Upton Road Case 10600AB-02 Item 6.3 R-2002-133	Motion was made by Wilcox, seconded by Abrams, to adopt a resolution approving an administrative variance to reduce the side yard setback from 5 feet to 0 feet for a neighborhood identification sign and a variance to reduce the front yard setback from 15 feet to 0 feet for a neighborhood identification sign for Southbrook Homeowner's Association at 9720 & 9721 Upton Road, Case 10600AB-02, subject to the following 3 conditions as set forth by the Hearing Examiner. Motion passed 5-0-1 (Winstead abstaining). <ol style="list-style-type: none"> <li>1. The signs shall not exceed 40 square feet;</li> <li>2. The signs shall be located as indicated in plans in Case 10600AB-02; and</li> <li>3. The variance shall only apply to the signs in Case 10600AB-02.</li> </ol>
Adopted a Resolution Approving an Administrative Variance at 8137 16 <sup>th</sup> Avenue Case 10601A-02 Item 6.4 R-2002-134	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to adopt a resolution approving an administrative variance to reduce the prevailing setback from 35 feet to 28 feet for a front porch at 8137 16th Avenue, Case 10601A-02, for Ellen Carlson, subject to the following 2 conditions as set forth by the Hearing Examiner: <ol style="list-style-type: none"> <li>1. The variance shall only apply to the porch as shown in plans in Case 10601A-02; and</li> <li>2. The existing drainage pattern shall not be altered to cast additional drainage onto abutting properties.</li> </ol>
Authorized Staff to Set "Just Compensation" and Make Offers for Project 2002-203 Item 6.5	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to authorize and direct staff to set the "Just Compensation" amounts and to make offers to owners in accordance with the approved appraisals of value for 2002-203 American Boulevard (Penn Avenue to Knox Avenue) Reconstruction.
Authorized Staff to Set "Just Compensation" and Make Offers for Project 2001-301 Item 6.6	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to authorize and direct staff to set the "Just Compensation" amounts and to make offers to owners in accordance with the approved appraisals of value for 2001-301 American Boulevard (Cedar Avenue to 24 <sup>th</sup> Avenue) Reconstruction.
Awarded Contract for the 2002-302 A, B, C Street Improvement Project for Logan Avenue Item 6.8	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to award a contract for the 2002-302 A, B, C Street Improvement Project for Logan Avenue from West Old Shakopee Road to West 98 <sup>th</sup> Street, which is adjacent to the new Police, Fine Arts, and City Offices building and provides access to the police area and parking for City Offices, to Hardrives, Inc. in the amount of \$1,048,971.00, to approve a 10% amount of \$104,897.00 for the add alternate bid of \$8,386.80 for landscaping and contract contingencies, and to approve the transfer of funds remaining after the closing of the 1986 Highway Bonds Debt Service Fund (325) to the Internal State-Aid Fund (810).

Item 6.8 continued	The Internal State Aid (Fund 810) and assessment to City-owned property would fund these improvements.
Approved Medical Consultant Agreement Item 6.9	<p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve the renewal of an agreement with Dr. John Bjorklund for medical consultant services. Through this agreement the City secures the following services for its functions as a Community Health Board: health care advice and information, authorization for medical procedures, coordination of activities with local medical practitioners, and direct clinical physician services.</p> <p>The City's expense for Dr. Bjorklund's services will remain at \$1,182 per month plus \$100 per clinic worked.</p>
Approved Agreement with University of Minnesota Item 6.10	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve an agreement with the University of Minnesota, whereby the City, through its Public Health Division, will continue to provide clinical experiences for students enrolled in the University of Minnesota School of Nursing. The agreement covers the period September 3, 2002 through August 31, 2007.
Approved Local Collaborative Time Study (LCTS) Funded Agreements Item 6.11	<p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve Local Collaborative Time Study (LCTS) funded agreements with Cornerstone Advocacy Service (\$7,000), Family &amp; Children's Service (\$14,000), Fraser (\$6,050), and Resource, Inc. (\$9,000). These agreements are funded with LCTS dollars that are generated by the Public Health Division and which reside in a special revenue fund.</p> <p>No budget adjustment is necessary, as the LCTS funds are included in the Health Division's 2002 budget and the proposed budget for 2003.</p>
Approved Amendment to the Black and Veatch Professional Services Contract Item 6.12	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve a third and final amendment to the existing Black and Veatch Professional Services Contract in the amount of \$63,000 to cover additional engineering services associated with the six change orders for the Water Treatment Plant and Wellfield Expansion Project. This changes the contract from a not-to-exceed amount of \$2,039,700 to \$2,102,700. As this was an expected project cost, the money has been budgeted in the Utility Budget 510-8111-433.62-03.
Accepted Petitions and Adopted a Resolution Approving Assessment Roll No. 7 Item 6.13 R-2002-135	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to accept the Petitions for Inclusion in the Assessment District (sewer and water connection charges) and to adopt a resolution approving Assessment Roll No. 7 as presented in the agenda materials.
Approved Contract with Emergency Foodshelf Network for Fare For All Program Item 6.14	<p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve the Human Services Contract with Emergency Foodshelf Network (EFN), which will take over running the Fare For All Program beginning October 1, 2002. This program offers quality food packs at an affordable price.</p> <p>This contract provides provision of a meeting room and kitchen space at Creekside Community Center and refrigerated transportation for food items. The contract is valued at \$3,308 annually and runs through December 31, 2004.</p>
Approved Agreement of Drug Enforcement Administration (DEA) Contract Item 6.15	Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve an agreement with the U.S. Department of Justice, Drug Enforcement Administration (DEA) under which two (2) police officers are assigned to the local DEA drug task force. Under this agreement, the City assigns two officers to the task force and pays his or her regular salary and benefits. The DEA supervises and coordinates the task force and reimburses the City (subject to available funding) for overtime costs up to a maximum of \$9,802 per officer. This agreement is for one year, expiring on September 30, 2003. It may be terminated by either party upon 30 days written notice.

Authorized Negotiation of Contract for Photogrammetric Services  
Item 6.16

Motion was made by Wilcox, seconded by Abrams, and all voting aye, to authorize staff to begin negotiations with IntraSearch of Englewood, CO to secure a contract for photogrammetric services for the purpose of updating the City's existing planimetric mapping and new aerial orthophoto imagery. The proposal received from IntraSearch offered the lowest cost and one of the earliest completion dates for this work. Upon completion of the negotiations, Council will be requested to approve the final contract award.

Funding is available in the 2002 Information Systems Fund, Activity 615-8603-418.62.09 and the Storm Water Utility Fund, Activity 530-8301-433.62-03.

Adopted a Resolution of Denial to Rezone Property at 2901 East Old Shakopee Road (Spruce Shadows Farm)  
Item 4.9

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to adopt a resolution of denial of an application by Spruce Shadows Farm to rezone an approximately 60-acre property at 2901 East Old Shakopee Road from RO-50 (Residential Office) to RO-50 (PD) (Residential Office (Planned Development)) and approval of a preliminary development plan for an office-residential project.

R-2002-131

City Attorney Dave Ornstein stated that an application was filed by Spruce Shadows to build a mixed-use office/residential project on a 60-acre parcel that is located within the Airport South District. This property was included as part of the Alternative Urban Areawide Review (AUAR) for the Airport South District. While the AUAR process was in place, no final decisions could be made on this application. After a lengthy process, the Council approved the AUAR and the mitigation plan. Prior to this, however, the City adopted a moratorium, which included properties lying within the proposed State Airport Safety Zones, and the Spruce Shadows Farm property was covered by the moratorium. As a result of a District Court decision in St. Paul in 2001, the court ruled that even though a moratorium had been established, action still needed to be taken on applications that were filed prior to the moratorium but are covered by the moratorium. Ornstein stated that there is a risk that those applications would be automatically approved if not acted upon within the designated timeframe. He stated that staff recommends adoption of the resolution that denies this application based solely on the fact that there is a moratorium in place and not on the merits of it. At the end of the moratorium, the application process would resume.

Boards/Commissions Communications  
Item 7.1

No boards/commissions communications reported.

Status of Action  
Item 7.2

No Status of Action Items.

Continued to September 30 the Comment Letter on the Draft Blueprint 2030  
Item 7.3

Staff presented a comment letter to Met Council on their Draft Blueprint 2030 and requested that Council provide any feedback on its contents to Larry Lee for further discussion and action at the September 30, 2002, Council Study meeting.

Community Development Director Larry Lee stated that because the Met Council released an updated Draft Blueprint 2030 letter recently, Council would want to respond with additional comments. He suggested that Council review the letter for approval at its next meeting.

Elkins suggested that it could be discussed at the next study meeting on September 30. He stated that the Sewer Availability Charge, for example, should be reviewed, as there is a one size fits all charge. Regarding item 3 "Metropolitan Area Outside the Seven County Core," he suggested that it may not be appropriate to include those comments as the area is and wants to be outside the Met Council's jurisdiction and believes those issues might be better aimed at the Legislature rather than at Met Council. He stated the comments on Agricultural Protection are thought provoking and raise a good issue.

Winstead requested that staff and Council work to finalize the comment letter for approval at the next study session on September 30.

<p>Approved New Taxicab Company License for Aspen Travel Services Item 4.1A</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a new taxicab company license for Rasoul &amp; Ali Houshyar, dba Aspen Travel Services for the period expiring December 31, 2002.</p> <p>No public testimony was received.</p>
<p>Postponed to October 7 the New On-Sale Intoxicating Liquor License for Spectators Grille &amp; Bar Item 4.1B</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone to the October 7, 2002, Regular Council meeting, the new on-sale intoxicating liquor license application for Nicklow's Back on 100, Inc., dba Spectators Grille &amp; Bar.</p> <p>No public testimony was received.</p>
<p>Approved an Amendment to the Liqueured Licensed Premises for Camp Snoopy Item 4.1C</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve an amendment to the liquor licensed premises for Camp Snoopy, 5000 Center Court on October 7, 2002, to include liquor service in the Sam Goody Central Rotunda area during the International Association of Chief's of Police Convention from 6:00 - 11:00 p.m.</p> <p>No public testimony was received.</p>
<p>Approval of Minutes</p>	<p>Motion was made by Abrams, seconded by Wilcox, and all voting aye, to approve the minutes of the August 26, 2002, Council Study meeting, as presented.</p>
<p>Closed Public Comment Period</p>	<p>The Mayor asked if anyone else wished to address the Council during the public comment period or it would be closed. No one came forward to speak and the public comment period was closed.</p>
<p>Adopted a Resolution Confirming Delinquent Water, Sewer, Storm Water Drainage and Recycling Utility Assessments Item 4.2A R-2002-122</p>	<p>Motion was made by Peterson, seconded by Fossum, and all voting aye, to adopt a resolution confirming delinquent water, sewer, storm water drainage, and recycling utility assessments for the properties as listed in the agenda material.</p> <p>Acting Chief Financial Officer Joe Huss explained that this is the annual request to adopt resolutions to certify for the collection of delinquent utility bills and delinquent weed assessments and delinquent tree assessments as well as delinquent civil penalties. He stated that an administrative hearing was held on September 16 and that staff recommends adoption of the attached resolutions.</p> <p>No public testimony was received.</p>
<p>Adopted a Resolution Confirming Delinquent Tree Removal Assessments Item 4.2B R-2002-123</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution confirming assessment of tree removal costs for the properties as listed in the agenda materials.</p> <p>No public testimony was received.</p>
<p>Adopted a Resolution Confirming Delinquent Weed Removal Assessments Item 4.2C R-2002-124</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution confirming assessment of weed removal costs for the properties as listed in the agenda materials.</p> <p>No public testimony was received.</p>
<p>Adopted a Resolution Confirming Civil Fine Assessments Except 9140 Columbus Avenue Continued to October 7 Item 4.2D R-2002-125</p>	<p>Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution confirming civil fine assessments for all of the properties as listed in the agenda materials except 9140 Columbus Avenue South (\$1,460.00 due on or before 9/23/02 and \$1,468.00 due beginning on 9/24/02).</p>

Item 4.2D continued

Speaker #1: Richard A. Grant, Jr., 9140 Columbus Avenue

When asked by the Mayor about the housing code violations and illegal rental property, Grant stated that the property has not been a rental for three years. He inquired as to how the civil fine was calculated and objected to the amount. He stated that he did not attend the administrative hearing.

Lee explained that the administrative penalty has already run its course through a process and that this is the process to get it paid by assessing it onto the property.

A woman accompanying Grant stated that they attended a mediation hearing and explained that Mr. Grant would do his best to complete the housing code violations. She stated they were told that the \$600 civil fine from 2000 had to stay but that the \$800 citation would be dropped if Grant complied. She explained that Grant was only able to partially comply and that he never received any further word from the City. Stated that letters were sent to Mr. Grant's mother's address.

Ornstein explained that if the fines were not paid and were not resolved through the mediation and subsequent compliance then they are owed. He stated that it is now a matter of the accuracy of the fines and that they have the option of paying them without being assessed.

Bernhardson recommended that Council adopt a resolution approving the other four assessments and continue this one to October 7 to allow staff time to review it. He requested Grant provide Huss with his name, address, and phone number and stated that staff would contact him before the end of the week.

Adopted a Resolution  
Approving the 2002  
Assessment Roll No. 8  
Item 4.3A  
R-2002-126

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving the 2002 Assessment Roll No. 8 for Street Modification Phase 1 and all appurtenances associated to that construction located at West Old Shakopee Road and Nesbitt Avenue South constructed as part of the 2000-402 Street and Utility Project.

Street improvements along West Old Shakopee Road will be paid from local assessments, PIR/GO and State Aid funds. The improvements on West Old Shakopee Road were petitioned. A trunk water main was also constructed on this project along Nesbitt and West 102<sup>nd</sup> Street.

No public testimony was received.

Adopted a Resolution  
Approving the 2002  
Assessment Roll No. 9  
for the PMP 2002-101  
Improvement Project  
Item 4.3B  
R-2002-127

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution approving the 2002 Assessment Roll No. 9 for the Pavement Management Program (PMP) 2002-101 Improvement Project, which involved construction of curb and gutter and/or permanent surfacing on the following list of streets:

<u>Ref. No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>
4.	W. 85 <sup>th</sup> Street	Thomas Ave. So.	Xerxes Ave. So.
5.	Upton Ave. So.	W. 91 <sup>st</sup> St. (WB)	W. 93 <sup>rd</sup> St.
6.	Russell Ave. So.	W. 91 <sup>st</sup> St. (WB)	W. 93 <sup>rd</sup> St.
7.	Clinton Ave. So.	E. 86 <sup>th</sup> St.	E. 88 <sup>th</sup> St.
8.	4 <sup>th</sup> Ave. So.	E. 86 <sup>th</sup> St.	E. 88 <sup>th</sup> St.
9.	5 <sup>th</sup> Ave. So.	E. 86 <sup>th</sup> St.	E. 88 <sup>th</sup> St.
10.	Chicago Ave. So.	E. 86 <sup>th</sup> St.	E. 88 <sup>th</sup> St.
11.	Elliot Ave. So.	E. 86 <sup>th</sup> St.	E. 88 <sup>th</sup> St.
12.	E. 88 <sup>th</sup> St.	Columbus Ave. So.	12 <sup>th</sup> Ave. So.
13.	Braewood Cir.	Nesbitt Ave. So. @ 107 <sup>th</sup>	East Terminus
14.	Toledo Cir.	W. 102 <sup>nd</sup> St.	South Terminus
15.	Toledo Cir.	Toledo Cir. @ 102 <sup>nd</sup> ½ St.	East Terminus
16.	W. 109 <sup>th</sup> St.	Abbott Ave. So.	France Ave. So.
17.	Abbott Ave. So.	108 <sup>th</sup> St.	109 <sup>th</sup> St.

No public testimony was received.

Adopt a Resolution  
Amending the Comp  
Plan for 9401, 9421,  
9429 and 9445 Lyndale  
Avenue South  
Case 10001A-02  
Item 4.4A  
R-2002-128

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution amending the Bloomington Comprehensive Plan to reflect a change in land use designation at 9401, 9421, 9429 and 9445 Lyndale Avenue, Case 10001A-02, from Community Commercial to High Density Residential for the Bloomington Housing and Redevelopment Authority.

Planner Rebecca Schindler provided the staff report explaining that the Bloomington Housing and Redevelopment Authority (HRA) is proposing to amend the Comprehensive Land Use Guide Plan from Community Commercial to High Density Residential for a senior cooperative building and has purchased 9401, 9421, and 9429 Lyndale Avenue to assist with the redevelopment of the area. Realife, Incorporated will purchase 9445 Lyndale Avenue from the property owner and the land from the HRA to develop the properties. She stated the application requests adding that the land use element of the Comprehensive Plan supports the proposed change of the Land Use Guide Plan designation as a high density residential land use category should be applied only to areas adjacent to arterial and collector streets or where transit service is available. She stated the site will be approximately 4.2 acres after right-of-way is dedicated for Lyndale Avenue. She described the building as four stories high with an overall height of 46 feet. She stated that a full 20-foot landscaped yard will be provided between Lyndale Avenue and the building. A total of 114 units will be built in this project with a minimum of 832 square feet per unit and a maximum of 1,359 square feet per unit and will be composed of the following: (16) two-bedroom plus den units, (82) two-bedroom units, and (16) one-bedroom units. She stated that a trip generation analysis indicates that there will be less traffic generated during the am and pm peak hours than the former lumberyard and existing gas station. A stormwater retention pond will be located in the northeast corner of the site. She stated that staff recommends approval of the Comprehensive Plan amendments, the rezoning of the properties, the preliminary and final development plans, and the preliminary plat.

Speaker #1: Bill Griffith, Larkin, Hoffman Representing Realife, Incorporated

He commented that the market for a senior cooperative housing project has stayed in place since a prior proposal by Realife to build senior housing on the Holy Emmanuel Lutheran Church site in November 1999 was not approved by Council. He stated that because the majority of the market for this type of housing comes from a radius of 3-5 miles from the site, it will open many single-family homes in Bloomington to young couples or families just starting out. He explained that as a cooperative ownership model, Realife, Inc. is the technical service agent for the coop so they develop, manage, and own the building on and for their own behalf.

Regarding the letter that was included from Canadian Pacific Railway regarding the setback, Wilcox concurred that it does seem to be a little tight and inquired about the future of those tracks.

HRA Administrator for the City Regina Harris responded by stating that the railroad tracks are still held by Canadian Pacific Railway, however, they signed a fairly long lease with Progressive Rail, who just recently took them over and that staff believes this spur will continue to operate in the future.

Regarding design elements, Elkins commented that he liked all the windows along the major street (Lyndale Avenue) and that most of the parking is located within the center of the development or underneath and will not be dominating the streetscape. He concurs with the concept of encouraging development of lifecycle housing that allows Bloomington seniors to remain in the community when they decide to downsize.

Adopted an Ordinance  
Amending Zoning Map  
to Rezone Property at  
9401, 9421, 9429 and  
9445 Lyndale Avenue  
Case 10595ABC-02  
Item 4.4B  
O-2002-32

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 9401, 9421, 9429 and 9445 Lyndale Avenue South from Central Business to Multiple Family Residential (Planned Development) RM-24(PD) for Realife Cooperative.

Approved Preliminary and Final Development Plan for Realife Cooperative at 9401, 9421, 9429 and 9445 Lyndale Avenue South Case 10595ABC-02 Item 4.4C

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the preliminary and final development plan for a 114-unit, four-story senior cooperative building at 9401, 9421, 9429 and 9445 Lyndale Avenue South, Case 10595ABC-02, for Realife Cooperative, subject to the following 15 conditions of approval and 6 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

1. A development agreement including all conditions of approval be executed by the applicant and the City;
2. Exterior building materials be approved by the Planning Manager;
3. Building plans shall identify trash and recyclable material collection and storage area provided within the building as approved by the Fire Marshal and the Planning Manager;
4. Grading, drainage, utility and erosion control plans be approved by the City Engineer;
5. Connection charges, as determined, be satisfied;
6. Access, circulation and parking plans be approved by the City Engineer;
7. A SAC questionnaire be completed and submitted to the Department of Public Works;
8. Erosion control measures be in place prior to issuance of grading permits;
9. Review and approval by the Nine Mile Creek Watershed District be completed;
10. Private driveway to be constructed entirely on subject's property;
11. Sidewalk be constructed 60-68 feet from the centerline of Lyndale Avenue;
12. Signal poles and controller box to be surveyed and updated on site plan;
13. South driveway design for right egress only with proper radius to accommodate future road width;

and subject to the following additional conditions of approval:

14. Alterations to utilities be at the developer's expense;
15. Temporary street signs and addresses be provided during construction;

and subject to the following Code requirements:

1. Landscape plan, including proposed planting in identified easement areas, be approved by the Planning Manager (Sec. 19.52);
2. All rooftop equipment be fully screened (Sec. 19.52.01);
3. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec. 19.64);
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 be posted as approved by the Fire Marshal (Sec. 8.73);
6. Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (Sec. 6.20, Uniform Fire Code Ch. 10.301-C);
7. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and
8. Signage be in conformance with the requirements of Chapter 19, Article X of the City Code.

Approved Preliminary Plat of Realife Cooperative of Bloomington on Lyndale at 9401, 9421, 9429 and 9445 Lyndale Avenue Case 10595ABC-02 Item 4.4D

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve the preliminary plat of Realife Cooperative of Bloomington on Lyndale at 9401, 9421, 9429 and 9445 Lyndale Avenue South, Case 10595ABC-02, for Realife Cooperative, subject to the following 9 Code requirements including the additional two recommended by staff:

1. 10-foot drainage and utility easement be provided along Lyndale Avenue;
2. 10-foot sidewalk/bikeway easement be provided by document along Lyndale Avenue as approved by the City Traffic Engineer;
3. Private common access/driveway easement agreement for Fong's be provided for north 55 feet of property, extending 280 feet east along the north property line with driveway access as approved by City Engineer;
4. Provide easement for traffic loop detector as approved by City Traffic Engineer;
5. Provide transit shelter easement (8 feet by 15 feet) as approved by City Traffic Engineer;
6. Provide Street Modification Agreement, if necessary, for Traffic Signal Adjustments as approved by Public Works Director;

Item 4.4D continued

7. Park dedication be in cash;
8. 20-foot drainage and utility easement be provided along the north property line; and
9. Planting easement provided along Lyndale Avenue except where the two driveways are shown on the plan.

Adopted an Ordinance  
Rezoning Properties at  
3700 and 3750 East  
80th Street  
Case 10000C-02  
Item 4.5A  
O-2002-33

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt an ordinance rezoning the properties at 3700 and 3750 East 80<sup>th</sup> Street, Case 10000C-02, from CS-0.5(PD), Commercial Service (Planned Development) to CS-1(PD), Commercial Service (Planned Development) for the City of Bloomington.

Lee explained that this rezoning request is simply to correct an inaccuracy in the official zoning map.

No public testimony was received.

Directed Staff to Prepare  
a Resolution of Partial  
Denial for Case File  
#9250AB-94 for  
Rosa Development  
Case 9250A-02  
Item 4.5B

Motion was made by Fossum, seconded by Wilcox, and all voting aye, to direct staff to prepare a resolution of partial denial for the October 7, 2002, Regular Council meeting approving the revised final development plan to change the date in Condition #9 in Case File #9250AB-94 from 2004 to 2009 at 3700 and 3750 East 80<sup>th</sup> Street for Rosa Development and to clarify the three conditions listed in the staff materials, including the revised Condition #1 as read at the meeting, and denying an additional five year extension based on market conditions.

Lee explained that this parking was previously approved by the Council with the expectation that it would be temporary and would eventually become parking for an office building. He stated that one of the conditions of approval set forth in 1994 would require the parking for the Park-n-Fly would cease in 2004. The applicant has applied for a revision of that condition and the Planning Staff and the Planning Commission recommend approval of revising the Development Plan, changing Condition #9 to have that use cease on or before 2009. He stated that the applicant has requested a change in the wording of Condition #1 for this revision proposal. He proceeded to read the wording of Condition #1 as was approved by the Planning Commission: "At the request of staff, a report detailing efforts to market the property for development be submitted to the Director of Community Development on or after July 1, 2005. This report shall include but not be limited to any agreements with brokers, contacts, inquiries with potential developers or potential users, and copies of all marketing materials prepared and distributed to promote development of the property."

Ornstein inquired of Lee if the three conditions recommended by staff were approved by the Planning Commission also, as the Planning Commission minutes only indicated two conditions of approval.

Speaker #1: Bill Griffith, Larkin, Hoffman

He stated that staff deleted Condition #2 relating to ceasing all marketing and stated that his client agrees because if the property is going to be run well, they will continue to market it. He stated that it was understood that they would provide one report during the new term and that would be on or after July 2005 and that it was agreed to by staff, the applicant, and the Planning Commission. Therefore, he agrees with the condition as read by Larry Lee.

Peterson stated that the parking use could be so lucrative that in the future that the owner may decide that it may not be economically viable to transition to another use that would be more in line with what the City had envisioned for the site. He inquired if staff sees parking here in the foreseeable future due to the economics of the situation.

Lee confirmed that the return on investment for a remote airport parking use is exceptionally good and few development opportunities would give the same return on investment. Therefore, it is likely, unless the office market or the hotel market in this area gets very active by 2009, that remote airport parking will still be the best return on investment for the owner.

Abrams stated that 8½ years ago the Council gave the owner a deadline to put up an office building and so far nothing has happened, therefore, he is reluctant to give him another five years. He stated he doesn't see the benefit of requiring the annual report and doesn't see anything preventing them from coming back in another five years asking for more. He stated that he didn't think he could support giving them another five years to run the property as it has been if the City wants to see more development and less parking lots along 494.

Griffith stated that this property is essentially a permanent use as fairly significant improvements have been made to it. He stated that the parking facility generates \$400,000 in taxes each year for the City and was designed to carry an office, which it is intended to do someday. He agreed that while the return is good on this property, it is not as good as it would be if there was 750,000 feet of potential office development. He pointed out the differences between the intent of the temporary conditional use permit at the Park & Go facility and that of the Park-n-Fly with its significant improvements. He stated it has been a good use of the property on an interim basis as it returns \$400,000 in taxes annually to the City, supports the airport, which is part of the purpose of the Airport South District, and also provides for a good interim use while waiting for the market to return. He commented that East Bloomington has not shown itself as a strong multi-tenant office sector. He stated that they requested a 10-year term due to necessary arrangements with their management company beyond one or two years. He added that the Twin Cities market has a three-year supply of office space even without any new construction during that time, therefore, it is not feasible to build new office in that market based on today's rent.

Winstead inquired if a parking ramp only use would be viable for someone within Bloomington if the Council denied this application request.

Lee replied that it could be used by automobile dealers for new car storage, which would require a use permit.

Winstead stated he would not be comfortable supporting a 10-year term but supports five years.

Wilcox agreed with Winstead that the office market is soft over on the east side.

Speaker #2: Kelly Doran, On Behalf of Rosa Development

Regarding Rosa's agreement with Park-n-Fly, Doran stated that there is an out clause that would allow them to sell the property before the end of the term if the office market becomes ripe in 4-5 years.

Fossum stated that he could support the five-year extension because it's a permanent structure, a nice looking parking ramp and proceeded to make a motion.

Motion was made by Fossum, seconded by Wilcox, to direct staff to prepare a resolution of partial denial for the October 7, 2002, Regular Council meeting approving a five-year extension of the deadline to April 1, 2009, but denying an additional five year extension based on market conditions with a clarification of the conditions of approval.

Elkins stated that he would like to see the Council reopen this development in approximately three years to reassess market conditions, as this service is popular and lucrative, and that without some motivation this use could stay as it is for a long time.

Motion was made by Abrams, seconded by Elkins, to amend the motion to replace five years with three years. Motion failed 2-4-0 (Winstead, Fossum, Wilcox, and Peterson opposing).

Mayor then called the main motion requesting a resolution of partial denial approving the five-year extension to April 1, 2009 but denying an additional five-year extension. Motion passed 6-0.

Continued to October 7  
the Temporary  
Conditional Use Permit  
for Lakeview Electric  
Item 4.6

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to continue to the October 7, 2002, Regular Council meeting, the temporary conditional use permit for Lakeview Electric at 8116 Pillsbury Avenue South, Case 9391A-02.

Lee stated that this one-year Temporary Conditional Use Permit is recommended for approval with five conditions but that discussion is still ongoing with staff regarding what constitutes an appropriate appearance fence. He stated that the applicant would like to construct a plain concrete wall, however, that has not been approved by the Planning Manager.

Speaker #1: Todd Froya, Lakeview Electric

He intends to replace the existing fence but doesn't understand why he needs to construct a 10-foot wall. He stated that the only piece of equipment he parks in his lot is an 8-foot high trailer. He stated he looked into a chainlink fence with slats but that staff said it wouldn't hold up over the years. He believes a 10-foot wall would make it difficult to see vandals damaging the property, as he and Star Plumbing have experienced in the past.

Fossum stated that the existing fence does look bad and that a concrete wall would be a graffiti magnet.

Wilcox commented that he is frustrated that conditional use permits such as this are treated as a "temporary" and can go on being renewed for years without any permanent improvements. He stated they should either be called permanent conditional use permits and be required to make permanent improvements or call them temporary and cease the use of the temporary.

Lee stated that the temporary conditional use permits give the City the opportunity to revisit the applicant to be sure they're adhering to Code with regard to appearance, storage, etc. He stated that there has been a plan for that area but it hasn't been acted upon yet. He suggested that some action on the plan could be adopted with a move towards permanent uses and permanent improvements.

Ornstein stated that the Legal staff is currently reviewing an ordinance that would convert many of the temporary uses into interim uses, which under State law are supposed to be temporary. He suggested that some temporary conditional use permits be converted to permanent conditional uses if they haven't created any problems in the past and revisit some of the uses that have been historically considered temporary that continually get renewed to decide if they should be reclassified as permitted. A decision needs to be made regarding what uses will be considered temporary in nature.

Bernhardson suggested continuing this item for two weeks to allow the applicant time to meet with staff regarding the screening materials and to discuss his long-term goals and plans for the property.

Elkins agreed with the applicant that constructing a 10-foot high concrete wall is a violation of crime prevention through environmental principles.

Speaker #2: Diane Parks, 8127 Pillsbury Avenue

She stated she requested this hearing before the Council as she was not convinced that there was a clear-cut decision made by the Planning Commission. She stated that while her family has lived in the neighborhood since 1977, she has noticed that most of the commercial properties and the homeowners along Pillsbury Avenue have made nice improvements to their properties with the exception of her block. She stated she would like to see the fence replaced all along the area occupied by Star Plumbing and Lakeview Electric.

Directed Staff to Prepare a Resolution of Partial Denial for Walser Buick/Pontiac/GMC and Walser BMW at 4301 West 80<sup>th</sup> Street Case 8133B-02  
Item 5.1

Motion was made by Wilcox, seconded by Elkins, to direct staff to prepare a resolution of partial denial but approving the renewal of a temporary conditional use permit expiring on December 31, 2002 to allow the parking of Walser Buick/Pontiac/GMC and Walser BMW employee vehicles during business hours at 4301 West 80<sup>th</sup> Street, Case 8133B-02, subject to the following 7 conditions as set forth by the Planning Division Staff and the Planning Commission. Motion passed 5-0-1 (Peterson abstaining).

1. The temporary conditional use permit shall terminate on December 31, 2002;
2. Only employee parking for the Walser Buick/Pontiac/GMC and Walser BMW dealerships will be allowed with a maximum of 125 spaces in the area designated on the plan submitted in Case 8133B-02;
3. No overnight parking shall be allowed;
4. No new or used car inventory or vehicles associated with the service/repair shops of the two dealerships shall be parked or stored on the site;
5. The existing site lighting shall be properly maintained and used for employee security during the permit period;
6. No site improvements or alterations shall be made during the permit period without authorization by the Issuing Authority; and
7. Only the appropriate directional signage for Walser employee parking, as approved by the Planning Manager, shall be used.

Planner Gaylen Doyle explained that Walser Buick/Pontiac/GMC wishes to continue the current intensity of operation at the location and requested a one-year renewal. The Planning Commission and Planning Staff recommend a renewal to December 31, 2002 with 7 conditions. As this is a partial approval, a resolution of partial denial is necessary. He stated that the deadline for agency action on this application was extended to October 10, 2002.

Speaker #1: Don Schilling, Director of Facilities for Walser Automotive Group  
He stated that he has been working with staff on a longer term proposal for this property and has discussed some solutions that have been identified from earlier meetings regarding crowding on their sites, specifically the Buick site that is located on the adjacent property. He stated that more information would be available within the next 60 days regarding their plans for the development of that property. He added that Walser has spent much time talking with the neighbors and meeting with staff in trying to develop their next round of proposals. He stated that they would like a year, however, the term recommended by staff is acceptable.

No other public testimony was received.

Adopted a Resolution of Partial Denial for Budget Rent A Car System, Inc. at 2700 East 80<sup>th</sup> Street Case 5285A-02  
Item 5.2  
R-2002-132

Motion was made by Peterson, seconded by Fossum, and all voting aye, to adopt a resolution of partial denial of the application of Budget Rent A Car System, Inc. for a five-year temporary conditional use permit for auto rental, storage and limited maintenance of vehicles at 2700 East 80<sup>th</sup> Street, Case 5285A-02, but approving said application for a period from November 1, 2002 through March 31, 2003.

Doyle explained that the applicant had requested a renewal of the TCUP for five years in order to continue the current auto rental and minor maintenance operation in the same mode, unexpanded. Following the testimony provided by the Metropolitan Airports Commission (MAC) at the Planning Commission meeting, staff and the Planning Commission recommended renewal of the TCUP but only to a period through March 31, 2003, with the 6 conditions, therefore, a resolution of partial denial was recommended.

Wilcox inquired if this action by the Council would make it a party to the acquisition or possible condemnation of the property by setting the hearing date subject to MAC's request.

Ornstein explained that this action is consistent with Council's action on the previous application. A term was coincident with what MAC had indicated would be their acquisition schedule. He stated that the Council has the discretion to determine what the term will be and that the applicant acknowledged that the term of the permit would expire when MAC acquires the property.

Item 5.2 continued

Speaker #1: Bill Griffith, Representing Budget Rent A Car System, Inc.

He explained that MAC has condemnation power and the ability to acquire the property so they don't need the City Council to grant an unusually short term to this renewal. He stated that the applicant invested considerable money into the parking lot and the building when the property was purchased and that typically such improvements would warrant a renewal longer than 8-9 months.

Ornstein explained that per the zoning district ordinance, this use is only allowed as a temporary use and that staff applied the term limit on the use permit. He stated that he believes as long as the Council renews this permit, the more it is violating the intent of the zoning code for this particular zoning district because it allows it only as a temporary use.

Speaker #2: Gary Gandrud, 90 South 7<sup>th</sup> Street

He stated that Runway 17/35 was approved in 1996 and that when this application came before the City Council in 1998, the Planning Staff noted that this was an inappropriate use except on a temporary basis until the property is cleared because it's in the runway protection zone and there should be no construction. He stated that this was built with the knowledge that it was in the clear zone and, therefore, the March 31, 2003 deadline is appropriate.

Winstead concurred that staff made sure the applicant was aware that any investment would be made over a temporary period.

Closed the Public Hearing and Directed Staff to Prepare a Resolution of Partial Denial for Martin Tjaden at 5109 West 86<sup>th</sup> Street Case 10596AB-02 Item 5.3

Lee provided the staff report explaining that the variance request at 5109 West 86<sup>th</sup> Street is to reduce the side yard setback for an 8-foot fence and the rear yard setback for an 8-foot fence. He explained that staff's recommendation was for denial and the Planning Commission decided to split the recommendation, approving the 8-foot fence variance for the side yard and denying the 8-foot fence variance for the rear yard. He explained that even though the Planning Commission's recommendation is only for a variance on the side yard, there is still a need for a variance on the rear yard setback because the 8-foot fence comes up to within one foot of the rear property line. Regarding the findings needed to be made in order to grant variances, Lee referred to Finding (A) explaining that the test of the finding is not solely whether the requested variance allows for a reasonable use of the property, and then argue that there are some houses in Bloomington without a fence, therefore, it's not necessary to have a fence for reasonable use. But rather, he stated it was a balancing test that the fence would not have an adverse effect on adjacent property owners and that the reasons for applying for the fence variances are reasonable as well. He stated the reasons for applying for the fence in this case was privacy. He questioned whether there is a reasonable expectation that a fence would provide complete visual privacy from window to window of adjacent houses. Therefore, it is probably not a reasonable expectation to get complete screening for privacy through the use of a fence, no matter what height it might be. The other side of that is that as fences go higher, he explained, they have an adverse impact on neighboring properties. He reported that five neighbors objected to the height of this fence, as the fence construction had started before the variances were requested.

Regarding the findings, Ornstein asked the question, "Is this a reasonable use of the property under all of the circumstances, including the impact on surrounding properties including the applicant's rationale for seeking the variance?"

Lee explained the options available to Council as follows:

1. Deny the variance application and request resolution of denial, which would allow a fence up to a maximum of six feet above the natural grade level.
2. Approve a variance equal to the amount applied for: (equal to the amount applied for on both sides or equal to the amount applied for on the east side and not approve a variance along the south side of the property). This would result in a partial resolution of denial and the conditions as stated in the staff report would apply.
3. Further split the request and approve the variance for more than six feet for all or a portion, and less than eight feet for all or a portion of the fence. (A variance for a 7-foot high from grade fence could be approved because it is a variance less than the application that was made.)

He stated that the applicant has requested a variance for the fence he has built, which is more than eight feet above the natural grade levels in some locations. He explained that the Council couldn't approve that variance tonight because the applicant didn't apply for that even though he was advised by the staff that the fence that was installed was greater than eight feet in height. The applicant did not change his application. In order for the applicant to get a variance of more than eight feet, the applicant would need to reapply so that other people interested in the height of the fence could be properly notified.

Speaker #1: Martin Tjaden, 5109 West 86<sup>th</sup> Street

He began by complimenting the Planning Staff on their professionalism. He stated that he would be correcting the 8' 4" fence appearance to 8 feet. He stated that he would like to build an 8-foot high fence on both the east and the south side.

Elkins stated that he saw the fence and that it is a well-constructed and attractive fence and believes there is a real and serious privacy concern on the east side. He stated that he would be in support of an 8-foot high fence on both sides, as it might look funny with an 8-foot fence on one side and a 6-foot fence on the other. He added that a 6-foot high fence on the east side wouldn't provide sufficient privacy.

Abrams stated that although he is sympathetic to Mr. Tjaden, because a variance request is an exception to the general rules and five neighbors opposed this variance, he would be inclined to decide in favor of the neighbors.

Tjaden added that 23 surrounding neighbors within a one-block radius did support his fence request for an 8-foot fence on both sides.

Winstead stated that he could support the variance for an 8-foot high fence on the east side and a 6-foot fence on the south side.

Speaker #2: James Bronson, 8612 Rich Road

He stated he is opposed to an 8-foot fence on the south side, as it is very tall and very imposing in that area where there are virtually no other fences. He stated he would like to see six feet all the way around and claimed that the applicant, within the last week, hauled in rock to fill in the space between the ground and the bottom of the fence in an effort to raise the grade.

Lee explained that there is a 5-foot utility and drainage easement on the east side and that additional rock material cannot be added in such an easement without getting Engineering's approval. Therefore, it's a separate issue that Engineering and Community Development will need to handle.

Elkins stated that the added material is a keystone block and is not raising the natural grade but is providing a nicer edge.

At the Mayor's request, Tjaden stated that the natural grade had not been changed on the east side and that a landscape company installed 6-inch key stone block into a 3-inch channel but that it is located three feet away from the fence with half-inch decorative rock added to blend it all together. He stated that he checked with Garry Stusse, Engineering, and it didn't appear to be a problem with regard to the drainage and utility easement. He confirmed Winstead's explanation that although the fence posts are 13 feet tall, they would be cut off to the highest point of the fence panel which would not exceed eight feet from the historical grade. Therefore, the posts would not exceed whatever is approved.

A motion was made by Peterson, seconded by Wilcox, and all voting aye, to close the public hearing to public testimony on the variances for Martin Tjaden at 5109 West 86<sup>th</sup> Street, Case 10595AB-02.

Peterson stated that although he has seldom approved fences over six feet tall in residential situations, he believes an 8-foot high fence on the east side is reasonable in this case due to the topography and, therefore, agreed with the Planning Commission's recommendation.

A motion was made by Peterson, seconded by Abrams, to approve the Planning Commission's recommendation for two variances with the conditions as stated in the staff report to facilitate the building of an 8-foot fence on the east side and 6-foot fence on the south side and requested a resolution from the City Attorney for denial of the remainder. No vote was taken at this time.

Abrams stated that he has a problem with approving an 8-foot fence because the neighbor's two-story bedroom windows face the neighbor's one-story bedroom window.

Winstead stated that he could support Peterson's motion.

Peterson stated that he believes it is reasonable to expect one level to one level screening and that a small variance to achieve such screening between the houses, as in this case, is reasonable.

Fossum stated that 8-foot high fences are not necessarily obtrusive and do provide adequate screening and that as the top two feet of Tjaden's fence is lattice work, he could support an 8-foot high fence on both sides.

Elkins believes the eight feet on the east side is essential and would support eight feet on the south side for aesthetic reasons.

Wilcox stated that he agrees with eight feet on the east side and that because the top two feet of the fence appears to be somewhat transparent with the lattice work it would look better if both sides were eight feet tall. Therefore, he would support eight feet on both sides.

Motion was made by Wilcox and seconded by Elkins, to amend the original motion to approve variances to approve an 8-foot high fence on the east side and an 8-foot high fence on the south side. Motion failed 3-3-0 (Winstead, Peterson and Abrams opposing).

Mayor then called the main motion which was to approve the approve a variance to reduce the required side yard setback along the easterly property line from 10 feet to 0 feet for an 8-foot high fence at 5109 West 86<sup>th</sup> Street, Case 10596A-02, subject to the following conditions:

1. Property corners for the east property line shall be found and visible;
2. The fence shall not exceed eight (8) feet in height above existing grade at any point along the east property line and shall have the finished side to the outside; and
3. The fence shall not extend closer to West 86th Street than the north wall plane of the residence extended to the east property line and shall terminate as its intersection with the south property line.

and to approve a variance to reduce the required rear yard setback along the southerly property line from 30 feet to 0 feet for an 8-foot high fence at 5109 West 86<sup>th</sup> Street, Case 10596B-02, subject to the following conditions. Motion passed 5-1-0 (Wilcox opposing).

1. The variance shall be valid only for the purpose of allowing the fence being placed parallel to the east property line as approved in Case 10596A-02 to extend to a zero (0) foot setback from the south (rear) property line;
2. The fence shall not exceed eight (8) feet in height above existing grade at any point within the rear yard setback from the south property line and shall have the finished side to the outside; and
3. The fence shall not extend more than one (1) foot westerly of the southeasterly corner of the lot along the southerly property line.

Adopted a Resolution Establishing and Administering a Health Care Savings Plan with the Minnesota State Retirement System  
Item 4.7

R-2002-129

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution to establish and administer a health care savings plan with the Minnesota State Retirement System through which regular full-time unrepresented employees shall contribute funds to cover certain health care costs after an employee retires or terminates employment, and designate the City of Bloomington program effective December 1, 2002. Funds contributed by employees would be deposited into an account in the employee's name.

Human Resources Manager Kent Michaelson requested Council's approval of a resolution and an agreement with the Minnesota State Retirement System, which would give employees who leave their employment with the City an opportunity to use some of their earnings on a tax-free basis. He explained the current City severance program stating that when employees leave the City, retirees can continue on the City's health and dental program by paying the full cost of the premiums for that coverage. Any unused vacation and personal leave is paid out, then taxed, and is usually then used to pay the premiums for their medical coverage. He stated that by joining the Minnesota State Retirement Savings Plan, the post retirement health care taxes are saved. The money from an individual's personal leave account is not taxed and is saved into an individual account administered by the Minnesota State Retirement Service, but the funds can only be used for health care expenses. He explained these funds can be spent on health and dental care premiums, co-pays and deductibles, dental expenses, eye care costs, and other items as listed in the IRS publication. He stated that deposits can be made into a personal account at year-end and at termination. At year-end, if an employee has more than 1,000 hours of personal leave, the excess over 1,000 hours would be converted into cash and deposited into an MSRS account. At termination, any employee who has more than 600 hours on the account would have all of their personal leave converted into cash and deposited into the account. The money goes in on a pre-tax permanent basis and is used as long as the funds are in the account. The employee would then pay their premiums, seek reimbursement out of their account, and their account is paid back to them for that amount. If an employee has 599 hours or less, they would not qualify for this program. If an employee does not wish to participate in this program, they would need to get their personal leave hours below the 600 hours threshold. He stated staff would like to make the program effective for the unrepresented employees on December 1, 2002, which would allow staff to contact those employees interested in participating. He added that there would be some initial administrative costs but the actual administration program after employees retire is the responsibility of the MSRS, who charges a fee for their services. This program would not require additional City staff.

Fossum stated that this program might be an incentive for employees not to use their personal leave like vacation.

Michaelson added that the money in the account is there for use by the employee and their eligible dependents on a tax-free basis. In a case where both the employee and the spouse die immediately after retirement, the balance of the account is paid to a beneficiary only for those health care expenses on an after-tax basis. He restated that everyone who qualifies for the program that has over 600 hours, enrolls in the program.

No public testimony was received.

Authorize Mayor to Submit a City Council Application for a Salary Cap Waiver on Behalf of the City Manager  
Item 7.4

Motion was made by Abrams, seconded by Elkins, and all voting aye, to authorize Mayor Winstead to submit a City Council application for a salary cap waiver to the Minnesota Department of Employee Relations on behalf of the City Manager.

Winstead explained that this matter deals with the position of the City Manager and requested that City Manager Mark Bernhardson leave the room for this discussion. He explained that as a result of previous discussions by the Council, he had been directed by the Council to pursue a waiver for the salary cap imposed by the State of Minnesota for the position of City Manager. He stated that other cities who requested and have obtained waivers from the salary cap in varying degrees were contacted and that now is the time for Bloomington to request such an exemption. He explained that he and Kent Michaelson provided the input for the letter that he is requesting Council approve and that Mark Bernhardson has not been involved. A waiver to the salary cap would give the Council some latitude in setting the salary for the position of City Manager.

Item 7.4 continued

Elkins stated that both the League of Minnesota Cities Approving Local Economies Commission and the Association of Metropolitan Municipalities on Transportation and Local Government Committee have indicated that its become an important issue for many Minnesota cities, as they are having trouble retaining good senior staffs because no municipal employee can make more than the governor.

Peterson stated that he supports this initiative because he is concerned about the salary compression at the next tier of management, and that with basic, minimum wage increases for the top managers in the City, it won't be long before those salaries are bumping up against the city manager's salary. In addition, he stated that it would be nice for the City to be in a competitive position if and when it needs to select a new city manager.

No public testimony was received.

Continued to September 30 the Draft Comment Letter on the Joint Airport Zoning Ordinance  
Item 7.5

Staff presented a draft comment letter on the Joint Airport Zoning Ordinance and requested that Council provide feedback to Larry Lee for further discussion and action at the September 30, 2002, Council Study meeting.

Lee provided the Council with a draft comment letter regarding the Joint Airport Zoning Ordinance and suggested that Council could approve it at their study meeting on September 30. He highlighted the following comment areas:

1. What happens if there is a conflict between the use restrictions in the Airport Zoning Ordinance and the local zoning ordinance? Recommended language is that the most restrictive prevails.
2. Suggestions for changing and modifying the ponding requirements for onsite ponding and to allow the City to do common ponding below the bluff line.
3. Questions regarding the administration part of the ordinance, which has not changed since the 1984 version, and suggestions on how to streamline it.

Ornstein stated that if the final ordinance is acceptable to the Metropolitan Airports Commission, they have agreed to indemnify, in a conditional manner, both the participants in the Joint Airport Zoning Board, the individual cities, and other governmental entities as corporate bodies as well as the cities and their voting administrator.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 10:20 p.m.

Barbara Clawson  
Council Secretary