

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

CITY COUNCIL MEETING

Approved Minutes
Regular Meeting
Meeting #24

7:00 p.m.
August 18, 2003
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, H. Harden, S. Peterson, and V. Wilcox.

Postponed Recognition of Crime-Free Multi-Housing Units Recognition ceremony was postponed to a future meeting.

Accepted Bloomington Family Services Community Council Annual Report Item 7.1 Motion was made by Abrams, seconded by Fossum, and all voting aye, to accept the Bloomington Family Services Community Council (BFSCC) Annual Report presented by member Joseph Bartolotta. BFSCC serves in an advisory capacity to the Bloomington City Council and the Bloomington School Board as it relates to human services in Bloomington. Bartolotta introduced Rick Huber, Community Resource Coordinator and stated that Abrams is also a member. He thanked former Chair Ron Biss and announced that Bonnie Noel has taken his place. He reported on the activities of the HSSC (Hennepin South Services Collaborative) for the past year, their goals for the upcoming year, and some of the grants they have recommended for LCTS (Local Collaborative Time Study) funding.

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.

Speaker #1: George Holter, 9424 Emerson Avenue South
He wanted to clarify that the branches he was referring to at the August 4 Council meeting that he had to remove were from a City tree.

Speaker #2: Dan Holter, Property Owner, 9237 Grand Avenue South
Regarding the action taken by Council on August 4 to deny his father's permit for use of the property as a tow lot at 93rd & Garfield, he requested that Council reconsider and reopen the item and table it. He inquired if George Holter has another tenant for the site on Garfield, if he could submit another application for approval but without paying another permit fee. He stated his concerns with the claims made at the August 4 Council meeting that there were numerous complaints on Holter's property. He stated that they are unfounded and that only one person complained. He stated that his father operates a family business that is good for Bloomington and wants to stay in Bloomington. He inquired who the Council Member is for the area of 92nd & Grand?

Mayor Winstead replied that it's Vern Wilcox and stated that he would put the item on the next Council agenda for discussion without input from the public.

Holter requested copies of whatever information staff provides to Council.

Winstead inquired if any Council Member wanted to bring this item back for reconsideration. With no response, he stated that the Council would not be reconsidering it.

Closed Public Comment Period The Mayor asked if anyone else wished to address the Council during the public comment period, or it would be closed. No one came forward to speak and the public comment period was closed.

<p>Approved License for Chiropractic Unlimited P.A. at 4951 West 80th Street Item 4.1A</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve a new therapeutic massage enterprise license for Chiropractic Unlimited P.A. at 4951 West 80th Street for a period ending August 31, 2004.</p> <p>No public testimony was received.</p>																																												
<p>Postponed to October 6 a New On-Sale Intoxicating License for Kokomo Island Cafe Item 4.1B</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone to the October 6, 2003, Regular Council meeting, a new on-sale intoxicating liquor license for Old Met BBQ, Inc. dba Kokomo Island Café at 320 South Avenue, Mall of America.</p> <p>No public testimony was received.</p>																																												
<p>Approved On-Sale 3.2 “Special Event” License for Nativity of Mary Church at 9900 Lyndale Avenue South Item 4.1C</p>	<p>Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve an on-sale beer 3.2 “Special Event” license for Nativity of Mary Church at 9900 Lyndale Avenue South for a golf tournament dinner on Tuesday, September 9, 2003 from 5:30 pm - 10:00 pm.</p> <p>No public testimony was received.</p>																																												
<p>Approved On-Sale 3.2 “Special Event” License for St. Bonaventure Church at 901 East 90th Street Item 4.1D</p>	<p>Motion was made by Wilcox, seconded by Fossum, and all voting aye, to approve an on-sale beer 3.2 “Special Event” license for St. Bonaventure Church at 901 East 90th Street on Friday, September 5, 2003, from 5:00 pm - 9:00 pm and on Saturday, September 6, 2003, from 10:00 am - 7:00 pm.</p> <p>No public testimony was received.</p>																																												
<p>Approved Addendum to WSB & Associates, Inc. Agreement Item 6.2</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve an addendum to the Agreement for Professional Engineering Services for design work on the 2001-401 East Bush Lake Road Bikeway Project with WSB & Associates, Inc. in the amount of \$29,400.00 with the total amount of the contract not to exceed \$221,776.00. The additional design work is for a trailway underpass on East Bush Lake Road.</p>																																												
<p>Approved Amendment to Hennepin County Contract No. A00642 Item 6.3</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve an amendment to Hennepin County Contract No. A00642 for home visiting services to low income pregnant and parenting teenagers who do not qualify for state Temporary Assistance to Needy Families (TANF) home visiting funds, with specific emphasis on members of the Latino community residing in Bloomington, Edina, and Richfield. The City will be paid up to \$50,000 for services provided during January 1, 2003 through December 31, 2004.</p> <p>No budget adjustment is necessary, as the funding will come from LCTS (Local Collaborative Time Study) dollars.</p>																																												
<p>Adopted a Resolution Ordering Feasibility Report for the 2004-101 Pavement Management Reconstruct Project Item 6.4 R-2003-117</p>	<p>Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution ordering preparation of a Feasibility Report for the 2004-101 Pavement Management Reconstruction Project. The list of streets for this project are as follows:</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Ref. No.</u></th> <th style="text-align: left;"><u>Street</u></th> <th style="text-align: left;"><u>From</u></th> <th style="text-align: left;"><u>To</u></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Hyland Courts Drive</td> <td>West 96th Street</td> <td>Briar Rod</td> </tr> <tr> <td>2</td> <td>Timberglade Road</td> <td>Nesbitt Avenue</td> <td>East Terminus</td> </tr> <tr> <td>3</td> <td>Pebblebrook Circle</td> <td>Pebblebrook Circle</td> <td>Terminus</td> </tr> <tr> <td>4</td> <td>West 108th Street</td> <td>Kell Avenue</td> <td>France Avenue</td> </tr> <tr> <td>5</td> <td>West 109th Street</td> <td>Kell Avenue</td> <td>Irwin Avenue</td> </tr> <tr> <td>6</td> <td>Kell Avenue</td> <td>West Old Shakopee Road</td> <td>West 109th Street</td> </tr> <tr> <td>7</td> <td>Johnson Avenue</td> <td>West 108th Street</td> <td>West 110th Street</td> </tr> <tr> <td>8</td> <td>Overlook Drive</td> <td>1400± feet west of Xerxes Ave.</td> <td>Xerxes Avenue</td> </tr> <tr> <td>9</td> <td>East 94th Street</td> <td>3rd Avenue</td> <td>Portland Avenue</td> </tr> <tr> <td>10</td> <td>East 95th Street</td> <td>Nicollet Avenue</td> <td>Portland Avenue</td> </tr> </tbody> </table>	<u>Ref. No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>	1	Hyland Courts Drive	West 96 th Street	Briar Rod	2	Timberglade Road	Nesbitt Avenue	East Terminus	3	Pebblebrook Circle	Pebblebrook Circle	Terminus	4	West 108 th Street	Kell Avenue	France Avenue	5	West 109 th Street	Kell Avenue	Irwin Avenue	6	Kell Avenue	West Old Shakopee Road	West 109 th Street	7	Johnson Avenue	West 108 th Street	West 110 th Street	8	Overlook Drive	1400± feet west of Xerxes Ave.	Xerxes Avenue	9	East 94 th Street	3 rd Avenue	Portland Avenue	10	East 95 th Street	Nicollet Avenue	Portland Avenue
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Item 6.4 continued	<u>Ref. No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>
	11	East 96 th Street	3 rd Avenue	Portland Avenue
	12	East 97½ Street	Clinton Avenue	4 th Avenue
	13	3 rd Avenue	East 95 th Street	E. Old Shakopee Road
	14	Clinton Avenue	East 94 th Street	East 97½ Street
	15	4 th Avenue	East 94 th Street	E. Old Shakopee Road
	16	5 th Avenue	East 95 th Street	East 96 th Street
	17	Layman Lane	Portland Avenue	Clinton Avenue
	18	Clinton Avenue	Layman Lane	East 102 nd Street

Awarded a Contract to Wickenhauser Excavating, Inc. Item 6.5

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to award a contract to Wickenhauser Excavating, Inc. in the amount of \$120,700.00 for the demolition and removal of the former City Hall/Police Dispatch building and authorized appropriation of a contingency fund not to exceed 10% of the total project.

Initial funding for this contract will come from the Facility Maintenance and Replacement Fund, Activity 630-6902, and will be reimbursed from the proceeds of the sale of the property.

Adopted a Resolution Approving Variance at 2316 West 108th Street for Scott Blaine Case 10628A-03 Item 6.6 R-2003-118

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving a variance to reduce the rear yard setback from 30 feet to 7.25 feet for a two-level living area addition at 2316 West 108th Street, Case 10628A-03, for Scott Blaine, subject to the following condition as set forth by the Hearing Examiner:

1. The variance to the rear yard setback shall only apply to the proposed addition as shown on the approved plans in Case 10628A-03.

Set Schedule for 2003 Assessment Roll No.'s 2, 3, 4 and 5 Item 6.7

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to set the schedule for the 2003 Assessment Roll No.'s 2 (assessments associated with the Cedar Circle sanitary improvements), No. 3 (special assessments for connection charges), No. 4 (assessments associated with the Logan Avenue improvements), and No. 5 (assessments for Sam's Club street modification). All work for these petitioned assessment rolls was performed in 2003.

Approved Change Orders for Bloomington Civic Plaza Item 6.8

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the following Change Orders to the Bloomington Civic Plaza project recommended by the Project Architect (AKA) and the City's Construction Manager (M.A. Mortenson) totaling \$45,354.21 for a total project construction cost of \$26,051,708.00.

Egger Steel (\$672.00)
 Harmon (\$5,637.00)
 Minuti-Ogle (\$19,520.21)
 Friedges Landscaping (\$19,525.00)

Funding is available in the Contingency Budget adopted for this project. The enhancement contingency for Police, City Hall and Fine Arts has a balance of \$1,008,667.00 after these change orders.

Approved Occupancy Agreement for 7940 Lyndale Avenue South Item 6.9

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve an occupancy agreement with Fred and Karen Steinert (AOK Rental & Sales) for the premises at 7940 Lyndale Avenue South, which is being purchased by the City for the Lyndale Avenue Street Project. The owners would like to remain on in possession for a limited period of time after the City takes ownership pursuant to the "quick take" process.

Approved Relocation Benefits for 8332 Humboldt Avenue and 8524 Girard Avenue Item 6.10

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve certain relocation benefits for two properties purchased under the RALF early acquisition program for the 35W corridor.

DeSplinter - 8332 Humboldt Avenue (\$14,900 for Price Differential Payment and \$3,305.50 for Estimated Closing Costs on Purchase of Replacement Home).

Item 6.10 continued	Wegner - 8524 Girard Avenue South (\$21,900 for Price Differential Payment and \$3,058.00 for Estimated Closing Costs on Purchase of Replacement Home).
Adopted a Resolution Regarding the 2003-4 Improvement Project (2003-502) Item 6.11A	Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution declaring adequacy of petition, accepting the Feasibility Study, and ordering the 2003-4 Improvement Project (2003-502) Mall of America Phase I to Phase II watermain improvement for MOAC LLC. A watermain connection will be constructed between the existing Mall of America and the newly platted Mall of America 6 th Addition, which includes the IKEA development.
Approved Plans, Specs and Set Schedule for the 2003-502 Project Between MOA Phase I and Phase II/IKEA Item 6.11B	Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve the plans, specifications, and set the schedule for the 2003-502 MOA Phase I to Phase II Watermain Improvement Project between the MOA Phase I and Phase II/IKEA.
Approved Relocation Benefits for Tenants in the France 106 Building Item 6.12	Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve certain relocation benefits for two of the tenants being relocated from the France 106 Building for the France Avenue/Old Shakopee Road Street Project: Design 'N Print/Lance Peterson: (\$2,993.00 for stationery replacement). Bloomington Smoke Shop/Jim Wazwaz: (\$9,415.00 for various re-establishment expenses at the new location - signage, painting, electrical work, advertising).
Preferred Name for LRT Station at 28 th Avenue and 82 nd Street is 28 th Avenue Station Item 6.1	Motion was made by Peterson, seconded by Wilcox, and all voting aye, to communicate to the Hiawatha Project Office and the Metropolitan Council that the Bloomington City Council prefers the name of 28 th Avenue Station for the newly proposed station at the intersection of 28 th Avenue and 82 nd Street.
Approval of Minutes	Motion was made by Fossum, seconded by Elkins, and all voting aye, to approve the minutes of the July 21, 2003, Regular Council meeting, as presented.
Youth Reappointments to the Human Rights Commission Item 3.1	Motion was made by Wilcox, seconded by Peterson, and all voting aye, to reappoint Jessica Billings and Alison Riveness to one-year youth terms on the Human Rights Commission, expiring on August 31, 2004.
Youth Reappointment to the Parks, Arts and Recreation Commission Item 3.2	Motion was made by Wilcox, seconded by Elkins, and all voting aye, to reappoint Jenny Trump to a one-year youth term on the Parks, Arts and Recreation Commission, expiring on August 31, 2004.
Tobacco License Violation for Everett McClay VFW #1296 2731 East 78 th Street Item 4.2	Motion was made by Wilcox, seconded by Peterson, and all voting aye, to waive a tobacco license suspension and a civil fine for Everett McClay VFW #1296, 2731 East 78 th Street, as a result of their third tobacco license violation in the past five years, subject to their tobacco license being surrendered to the City and subject to reassessment if they reapply for a license in the future. Dave Ornstein, City Attorney, explained that the following six establishments have agreed to the stipulation of facts concerning the tobacco license violations that they incurred as a result of a tobacco law compliance check operation conducted by the Bloomington Police Department on May 7, 2003. At the Everett McClay VFW #1296, a 17-year old operative purchased cigarettes without the clerk asking for an I.D. The clerk was charged with a misdemeanor and the case is pending in district court. This is their third violation in five years. He explained the minimum penalty for a third violation in five years under the City's ordinance.

Item 4.2 Continued
(Everett McClay)

Speaker #1: Terry Farrell, Manager

He stated that they admitted to the sale and explained that they are now closed but plan to open again in September. However, they are not going to sell cigarettes any more.

Wilcox inquired if Council could act on this case as it did previously in a similar situation involving a liquor licenseholder whereby an establishment committed a violation but the penalty was stayed as the licenseholder was going to give up their liquor license. At that time, the Council held the violation in abeyance for a year and during that period, the license was extinguished.

Ornstein stated even though there is a set penalty in the City's ordinance, the Council, under extenuating circumstances, has the discretion to modify it.

Tobacco License
Violation at Oasis
Market at 10700
Bloomington Ferry Road
Item 4.2

Motion was made by Fossum, seconded by Peterson, and all voting aye, to impose a 7-day tobacco license suspension and a \$600 fine for Twin Cities Stores, Inc./Oasis Market, 10700 Bloomington Ferry Road, as a result of their third tobacco violation in five years.

A 16-year old police operative was sold cigarettes without being asked for identification. The clerk was charged with a misdemeanor offense and the case is pending in district court.

Speaker #1: Ken Anderson, Area Manager and Dennis King, Store Manager

Anderson explained that the clerk was a part-time employee who was on his last day on the job and told management that he didn't care and made the sale. He stated that their stores have been conducting their own stings and that they have a zero tolerance policy. It was stated that their store has suffered a 20% decline in total sales since they received a 7-day suspension in 2002, adding that the store couldn't survive another suspension.

Tobacco License
Violation at Synder's
Drug Stores, Inc. at
10606 France Avenue
South
Item 4.2

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to impose a 30-day tobacco license suspension and a \$1,200 fine for Snyder's Drug Stores, Inc., 10606 France Avenue South, as a result of their fourth tobacco license violation in five years.

A 17-year old operative was sold cigarettes after being asked and having shown a high school identification card with the correct birthdate. The clerk stated she miscalculated the age. The clerk was charged with a misdemeanor and pled guilty to the offense. As this is Snyder's fourth violation in five years, Ornstein explained that the Council has the discretion of suspending the license for up to 60 days or revoke the license and to impose a civil penalty of up to \$2,000 or any combination of those sanctions. The precedent for a fourth violation is a 30-day license suspension and a fine of \$1,200.

No one representing the licenseholder was present.

Tobacco License
Violation at Synder's
Drug Stores at 8925
Penn Avenue
Item 4.2

Motion was made by Peterson, seconded by Fossum, and all voting aye, to impose a 7-day tobacco license suspension and a \$600 fine for Synder's Drug Stores, 8925 Penn Avenue South, as a result of their third tobacco license violation in five years.

A 17-old police operative was sold a pack of cigarettes after being asked and having shown an I.D. The clerk was charged with a misdemeanor.

Speaker #1: Bob Maple, Store Manager

He stated that the employee was terminated and hopes it will not happen again.

Tobacco License
Violation at Speedway
SuperAmerica, LLC at
2400 East 79th Street
Item 4.2

Motion was made by Fossum, seconded by Peterson, and all voting aye, to impose a 7-day tobacco license suspension and a \$600 fine for Speedway SuperAmerica LLC, 2400 East 79th Street, as a result of a third tobacco license violation in five years.

Item 4 .2 continued
(SuperAmerica)

A 17-year old police operative was sold cigarettes without being asked for any identification. After the sale was made, the clerk acknowledged making the sale but said he was joking with the undercover operative and that he asked her for identification and that she didn't present one and still made the sale. However, the detective stated that he did not hear the clerk ask for any I.D. when the sale was made. The clerk has been charged with a misdemeanor and has pled guilty.

Speaker #1: David Bladnik, Governmental Affairs Manager

He stated that SA has restructured its upper management team since its last violation. He explained their training program and stated that all employees are made aware of the company's zero tolerance policy when they begin employment. The clerk in this case was terminated for the violation and the manager is no longer supervising in this location. He stated that there is a discrepancy between what was reported on the police report and on the tobacco compliance check form regarding whether or not an I.D. was requested. Bladnik requested the facts from the Police Department for their records.

Abrams inquired as to the overall statistics of the May 7 compliance check operation: how many establishments were checked, how many passed, and how many failed.

Bernhardson stated that staff would provide Council with that information.

Tobacco License
Violation at Tom Thumb
Food Markets at 8946
Lyndale Avenue South
Item 4.2

Motion was made by Elkins, and seconded by Fossum, and all voting aye, to impose a 30-day tobacco license suspension and a \$1,200 fine for Tom Thumb Food Markets, 8946 Lyndale Avenue South, as a result of a fourth violation within five years.

A 17-old operative was sold cigarettes after being asked for and showing a Minnesota Driver's License with the correct birthdate. The cashier checked the I.D. but still made the sale. The clerk has been charged with a misdemeanor offense that's pending in district court.

Speaker #1: Jeff Blydenburgh, Turn-Around Specialist with Tom Thumb

He stated that selling to minors is unacceptable to Tom Thumb and that they will accept the punishment deemed appropriate by the Council. They have taken action on the employee.

Adopted an Ordinance
Amending City Code
Relating to Fireworks
Dealer's License Fees
Item 4.3
O-2003-41

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt an ordinance amending Chapter 14 of the City Code as it relates to fireworks dealer's license fees and the sale of permitted consumer fireworks as a result of legislation passed by the Minnesota State Legislature in 2003. Minn. Stat. §624.20 was amended so as to restrict municipalities' ability to:

1. Impose an annual license fee for the retail sale of legalized consumer fireworks greater than:
 - a. \$350.00 for retail sellers dealing exclusively with these fireworks (consumer fireworks sales facility); and
 - b. \$100.00 for those merchants who only have incidental sales of fireworks, along with other types of stock and trade (bulk merchandising in stores that have fireworks sales areas).
2. Prohibit or restrict the display of these items for (permanent or temporary) retail sale so long as those displays comply with the National Fire Protection Assoc. standard 1124 (2003 ed.).
3. Impose, on a retailer, financial guarantees, including bonding or insurance provisions, not imposed on the same basis on all other business licenses.

Ornstein explained that the Legislature recently imposed maximum license fees and established two categories for the sale of fireworks: retailers dealing exclusively with the sale of authorized fireworks in Minnesota (\$350) and any other business that incidentally sell fireworks (\$100). Therefore, the City Code needs to be amended to reflect the new fees. The National Code has also been incorporated into the City's Code.

No public testimony was received.

Adopted an Ordinance
Extending Moratorium in
State Airport Safety
Zones Eight Months
Item 4.4
O-2003-40

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to adopt an ordinance extending the moratorium on development within portions of properties situated in proposed State Airport Safety Zones for an additional period of eight months as a result of the following tasks yet to be completed relating to the airport zoning ordinance that requires approval of both the Joint Airport Zoning Board and the Commissioner of Transportation: Delivery of the Board's ordinance to the Commissioner, action by the Commissioner, the need for the Board to hold a public hearing to consider any amendments to the ordinance and take final action, and City action on amendments to its Comprehensive Plan and zoning regulations.

Ornstein provided background on the previous moratorium that was adopted by Council in July 2002 and explained the current status of the ordinance proposed by the Joint Airport Zoning Board. The next step is for the Board to transmit the proposed ordinance to the Commissioner of the Department of Transportation who has the ability to approve the ordinance as presented, revise it, or reject it in total and come up with an alternate ordinance. He explained that the City's interest in the ultimate adoption of the ordinance by the Joint Airport Zoning Board (JAZB) is in retaining a significant amount of development potential within areas of the Airport South District that are considered to be right for substantial mixed-use development and in the potential to generate significant increases in the tax base and employment that would also result in increased revenues to the State by generating more taxes. There is no statutory deadline in which the Commissioner needs to act. If the Commissioner and the JAZB concur on the ordinance, the Bloomington Planning Commission and the City Council would have to schedule public hearings to determine what amendments would need to be made to the City's Comprehensive Plan and the zoning regulations. The original 8-month moratorium was not long enough and a six-month extension was adopted that expires on August 31, 2003. Therefore, staff is recommending another 8-month extension of the moratorium to allow all of the affected parties to complete their work. The Council would have the authority to extend the moratorium another four months if needed. He stated that MAC (Metropolitan Airport Commission) Commissioner Coral Houle and MAC's General Counsel Tom Anderson were present for Council questions and that they endorse the 8-month moratorium extension by the City.

No public testimony was received.

Approved 5-Year
Temporary Conditional
Use Permit at 4708 West
84th Street for Wesley
Kettelkamp
Case 9466A-03
Item 5.1

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a five-year temporary conditional use permit for a watch repair business in a home at 4708 West 84th Street, Case 9466A-03, for Wesley Kettelkamp, dba Omega-Movado Service Center), subject to the following 3 conditions of approval and 1 Code requirement as set forth by the Planning Division Staff and the Hearing Examiner:

1. All customer parking and loading occur on-site and off of the public street;
2. Signs be in compliance with the provisions of Chapter 19, Article X;
3. Future requests for renewal of this temporary conditional use permit may be considered by the Hearing Examiner;

and subject to the following Code requirement:

1. No sale of new, used or repaired watches is allowed.

No staff report was provided or public testimony taken.

Approved 3-Year
Temporary Conditional
Use Permit at 10520
France Avenue for Juli
Mickelson
Case 4672C-03
Item 5.2

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve a three-year temporary conditional use permit for a dance studio in an existing shopping center at 10520 France Avenue, Case 4672C-03, for Juli Mickelson dba Dance Endeavors, subject to the following 3 conditions of approval and 1 Code requirement, as set forth by the Planning Division Staff and the Hearing Examiner:

1. Floor area for the use shall not exceed the stated lease area of 900 square feet during the approved temporary conditional use permit period;
2. All required licenses shall be obtained and maintained; and
3. Future requests for renewal of this temporary conditional use permit may be considered by the Hearing Examiner.

Item 5.2 continued

and subject to the following City Code requirements:

1. All signage be in accordance with the approved Uniform Sign Design (Sec. 19.109);

No staff report was provided and no public testimony was taken.

Approved 3-Year
Temporary Conditional
Use Permit at 7840
Portland Avenue South
for Ultra Tan
Case 8211C-03
Item 5.3

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a three-year temporary conditional use permit for a tanning facility at 7840 Portland Avenue South (tenant space) and 7810 (site address), Case 8211C-03, for Ultra Tan, subject to the following 3 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. Number of tanning units shall not exceed 13 during the period of the temporary conditional use permit unless approved by the Planning Manager;
2. Window signage shall not exceed 30% of total window coverage; and
3. Renewals of this temporary conditional use permit may be heard by the Hearing Examiner.

No staff report was provided and no public testimony was taken.

Approved 3-Year
Temporary Conditional
Use Permit at 501
American Boulevard
West for Carpetime, Inc.
Item 5.4

Motion was made by Wilcox, seconded by Fossum, and all voting aye, to approve a three-year temporary conditional use permit for retail sales as an accessory use to a wholesale carpet establishment at 501 American Boulevard West, Case 6038A-03, for Carpetime Inc., subject to the following 5 conditions of approval as set forth by the Planning Division Staff:

1. Parking and public entrance continue to be properly illuminated to serve retail use;
2. No business signage shall be allowed other than allowed in Section 19.113 of the City Code;
3. No exterior display or storage of products;
4. All trash and recyclable material shall be stored within the building as approved by the Fire Marshal and the Planning Manager;
5. Future requests for renewal for this temporary conditional use permit may be considered by the Hearing Examiner.

No staff report was provided and no public testimony was taken.

Approved 1-Year
Temporary Conditional
Use Permit at 10724
France Avenue for Twin
Cities Rebels Swing
Dance Club
Case 6543-03
Item 5.5

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a one-year temporary conditional use permit at 10724 France Avenue (10726 France Avenue - tenant space), Case 6543-03, for Twin Cities Rebels Swing Dance Club, subject to the following 1 condition of approval and 5 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

1. The use shall occupy only the space identified in the plans submitted for Case 6543A-03.

and subject to the following Code requirements:

1. Any food service plans be approved by the Environmental Services Division (Sec. 14.360);
2. All signage be in accordance with the Uniform Sign Design (Sec. 19.109);
3. All trash and recyclable materials be stored and screened inside the principle building; (Section 19.51);
4. Leased space have an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn.Rules Chapter 1306; Uniform Fire Code Sec. 1003) and
5. Applicant shall provide three exits from the leased space as approved by the Manager of Building and Inspection Division.

Bob Hawbaker, Senior Planner, provided the staff report explaining that the application for a temporary conditional use permit is for the basement of what was the old Country Club Market. He explained the size of the space and their proposed hours of operation. Staff recommends approval with the conditions set forth.

Abrams inquired if the permit should be for a six-month period rather than one year to make sure that there are no problems resulting from the neighboring residents given that this is a new use in the area.

Item 5.5 continued

Hawbaker stated that one year is typical for a new temporary use even in a residential area.

Speaker #1: Caroline Olson, President of Twin Cities Rebels

She stated that their former space at the Everett McClay VFW Post #1296 was taken away and that they want to continue providing a space for swing dancers. She stated that their lease is based on the temporary conditional use permit being granted and that if it goes away, their lease goes away. She stated that is aware of the potential redevelopment of the center and that has been figured into their lease. She anticipates no problems with the neighbors.

Approved Revised Final Site & Building Plans at 1400 West 96th Street for Household Hazardous Waste & Recycling Facility
Case 5721A-03
Item 5.6

Motion was made by Fossum, seconded by Peterson, and all voting aye, to approve the revised final site plan and building plans for a building addition to the Household Hazardous Waste and Recycling Facility at 1400 West 96th Street, Case 5721A-03, for the Hennepin County Department of Environmental Services, subject to the following 3 conditions of approval and 6 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

1. Exterior building materials be identical to existing walls approved by the Planning Manager;
2. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district;
3. Access, circulation and parking plans be approved by the City Engineer;

and subject to the following Code requirements:

1. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
2. Erosion control measures be in place and bond be filed;
3. All rooftop equipment be fully screened (Sec. 19.52.01);
4. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
5. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn.Rules Chapter 1306; Uniform Fire Code Sec. 1003); and
6. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code.

Hawbaker explained Hennepin County wants to add onto the northeast corner of their Hazardous Waste facility, which would have minimal impact on the existing pond. The addition will house materials that have already been processed and are awaiting shipping. The facility has been in operation for many years and has had no adverse impact on the surrounding area.

Winstead inquired if the City could approve the application with the condition that the Hennepin County facility continue the service of accepting brush, as it is their intention to discontinue this service.

Speaker #1: Mike Brand, Division Manager for the Conservation Division

He explained that Bloomington is currently the only County facility accepting brush and that the proposed addition would eliminate the space where the brush is currently being collected. He stated that since there are two other locations accepting brush nearby to Bloomington residents, Hennepin County doesn't believe it's worth it to move the pit in order to continue accepting brush at this location. He added that brush is seasonal and it comes in during their busiest time. This decision was made at the department level and no formal vote to approve the elimination of this service was made by the Hennepin County Board.

Approved Revised Final Development Plans at 8201 Park Avenue for Lutheran High School
Case 8915A-03
Item 5.7

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve a revised final development plan for a gymnasium with building option for gym storage space and additional restroom and shower facilities (as presented in plans contained in Case 8915A-03) at 8201 Park Avenue for Lutheran High School, subject to the following 9 conditions of approval and 10 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

Item 5.7 continued

1. A revised development agreement including all conditions of approval be executed by the applicant and the City and proof of filing be provided to the Manager of Building and Inspection;
2. Exterior building materials be approved by the Planning Manager;
3. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district;
4. Access, circulation and parking plans be approved by the City Engineer;
5. Reimbursement for 50% of the cost of the Smith Park parking lot (approximately \$52,000.00 plus interest);

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

6. Connection charges, as determined, be satisfied;

and subject to the following additional conditions:

7. Alterations to utilities be at the developer's expense;
8. Sidewalk connection to public sidewalk be provided as approved by the City Engineer;
9. All loading and unloading occur on site and off of public streets;

and subject to the following Code requirements:

1. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
2. Erosion control measures be in place and bond be filed;
3. All rooftop equipment be fully screened (Sec. 19.52.01);
4. All trash and recyclable materials be stored and screened inside the principal building (Sec. 19.51);
5. Building addition and existing school building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn.Rules Chapter 1306; Uniform Fire Code Sec. 1003);
6. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
7. Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Uniform Fire Code Sec. 903);
8. Food service plans, as appropriate, be approved by the Environmental Services Division (City Code Sec. 14.360);
9. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and
10. Signage be in conformance with the requirements of Chapter 19, Article X of the City Code.

Hawbaker explained that the addition proposed for Lutheran High School would provide two gymnasium floors with space for future bleachers and seating for up to 500 people. The addition previously approved for a gym addition on the south end of the high school was never built. The parking is adequate and proof of parking is provided. It is recommended for approval with the listed conditions.

Speaker #1: Ben Safar, ATS&R Architect

He assured staff and Council that they will comply with all City codes and requirements.

Approved Revised Final
Development Plan at
9240 Bloomington Ferry
Road for McDonald's
Restaurant
Case 8768A-03
Item 5.8

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to approve a revised final development plan for a new roof with low level light beams at 9240 Bloomington Ferry Road, Case 8768A-03, for Choate and Company (McDonald's Restaurant), subject to the following 3 conditions of approval and 5 Code requirements including amended Condition #2 to allow lighting of roof beams as shown in the specifications submitted with the application:

1. Exterior building materials be approved by the Planning Manager;
2. Lighting of roof beams be as shown in the specifications submitted with the application; and
3. Light beams may be illuminated only during hours of operation for the restaurant.

and subject to the following Code requirements:

1. All signage be in accordance with the Uniform Sign Design (Sec. 19.109);
2. All trash and recyclable materials be stored and screened inside the principle building; (Section 19.51);
3. Three foot high solid screening be provided along Bloomington Ferry Road as approved by the Planning Manager (Sec. 19.52);
4. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
5. All rooftop equipment be fully screened (Sec. 19.52.01);

Hawbaker explained that the application is to replace the existing roof and the light beams on the roof. The major upgrade of the building will include a new red roof with yellow light beams with internal fluorescent lighting. Staff's only concern in this location is with the specifications of the lights in the beams, as they are specified as high output fluorescent bulbs, which are pretty bright and would light the roof. Staff recommends approval with one condition that the light levels be attenuated so that just the beams are illuminated and not the entire roof. The applicant desires the higher output bulb, as it tends to stand up better in cold weather. Staff suggested a darker, thicker plastic on the lens or use an alternative lighting source, or a dimmer bulb.

Wilcox inquired why staff would recommend that the bulbs on the McDonald's restaurant in this location be different than what was approved for the McDonald's on Garfield Avenue.

Hawbaker responded that this restaurant on Bloomington Ferry Road is closer to residential uses.

Abrams inquired as to what authority the City has regarding the roof beams when there is nothing in the City Code to prohibit it.

Hawbaker stated that the Council could deny the roof lighting, as the building is part of a shopping center and the roof would be inconsistent with the colors of the roofs of other buildings in the center and none of the other buildings have any type of roof lighting. Staff isn't saying no to the roof lighting, just that the levels need to be more appropriate for the area.

Speaker #1: Neil Peterson, Representing Choate and Company (Owner)

He stated that Choate also owns the McDonald's on Lyndale Avenue and five others in the metro area. He explained that \$500,000 has been spent in upgrading the store to the level required by McDonald's. He explained that the light beams on the roof are there primarily for color and are a trademark of McDonald's. Peterson stated that as a resident of the neighborhood in 1981 when this store was initially approved, 7,000 cars a day traveled on Hwy. 169/Co. Rd. 18. He showed photos of how the area has changed since the initial McDonald's was proposed to how it looks now with all of the surrounding development that has occurred. He showed a photo of 1991 that shows how much the trees have grown to help with the screening from the neighbors and stated that the traffic has significantly increased in the area over the years. He has a concern with Condition #2 due to an unknown light bulb source and the 1/3 inch Plexiglas that the light manufacturer no longer makes.

Peterson agreed with Wilcox in that the lighting on the Garfield McDonald's is not heinous so why should it be different at the Bloomington Ferry Road location.

Adopted Resolutions
Supporting SAFETEA
Project Submittals
Item 4.5

Motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt the following resolutions supporting the following six projects submitted for federal funding under the SAFETEA Program: 2007-1, 2007-A, 2007-B, 2008-1, 2008-2, and 2008-A.

Abrams inquired if the Council would be interested in further discussion of how to make Bloomington more bike user friendly and to see how the proposed bikeway bridges fit into the City's future bikeway plans.

For Council clarification, Chad Smith, Traffic & Transportation Engineer, stated that the project numbers do not reflect any priority ranking of the projects nor does it indicate how they would be funded by the Met Council.

<p>Item 4.5 continued (Project No. 2007-1) R-2003-110</p>	<p>Elkins inquired if it made more sense to submit Project 2008-A (STP - Bikeway and Walkway Project, Pedestrian and Bicycle Bridge Replacement) crossing Long Meadow Lake as a transportation enhancement since it didn't score as well last time it was listed as an STP bike/walk.</p>
	<p>Smith replied that this year's proposal should be better than the last one and that it is a bridge that is no longer there and there is more support from surrounding communities for this project.</p>
	<p>No public testimony was received on any of these project resolutions.</p>
	<p>Project 2007-1: Old Shakopee Road & Nicollet Avenue (STP Expander Project - operational and safety upgrade to intersection).</p>
<p>No. 2007-A R-2003-111</p>	<p>Project 2007-A: East Bush Lake Road at Bush Lake Beach (TE Project - transportation enhancement, pedestrian and bicycle bridge).</p>
<p>No. 2007-B R-2003-112</p>	<p>Project 2007-B: Over Killebrew Drive at Approximately 22nd Avenue (TE Project - transportation enhancement, pedestrian and bicycle bridge).</p>
<p>No. 2008-1 R-2003-113</p>	<p>Project 2008-1: American Boulevard between France Avenue and Bridge Road (STP Reliever Project).</p>
<p>No. 2008-2 R-2003-114</p>	<p>Project 2008-2: Normandale Boulevard between 8550 & 9400 Normandale Boulevard (STP Expander Project).</p>
<p>No. 2008-A R-2003-115</p>	<p>Project 2008-A: Crossing the Long Meadow Lake on the Old Cedar Avenue Alignment (STP Project - bikeway and walkway project, pedestrian and bicycle bridge replacement project).</p>
<p>Adopted a Resolution Approving an Agreement for the Bomb Disposal Unit Item 4.6 R-2003-116</p>	<p>Motion was made by Peterson, seconded by Fossum, and all voting aye, to adopt a resolution approving an agreement between the State of Minnesota, through the Commissioner of Public Safety, and the City of Bloomington for the provision of services by the Bloomington Police Department Bomb Disposal Unit. The Bomb Disposal Unit would, upon need and availability, dispose of or neutralize bombs or similar hazardous explosives outside of its geographic jurisdiction.</p>
	<p>No public testimony was received.</p>
<p>Status of Action Items Item 7.2</p>	<p>No Status of Action Items.</p>
<p>Approved Renewal of LMCIT Commercial Package Policies Item 7.3</p>	<p>Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the renewal of the League of Minnesota Cities Insurance Trust (LMCIT) Commercial Package policies, the Clinic Package policy, the miscellaneous policies, and authorized the non-waiver of statutory liability limits.</p>
	<p>Amy Larson, Risk Manager, provided a staff report indicating staff's recommendation that Council accept the LMCIT Commercial Package with a 2.4% overall package increase. She explained that the package includes all of the municipality liability coverages, the property coverages, and the auto coverages. Highlights of the report included the following:</p>
	<ol style="list-style-type: none"> 1. As is renewal for the municipal liability has a 1.7% increase in the premium. 2. Deductibles are recommended to stay the same at \$100,000 per occurrence with an aggregate of \$275,000. 3. Biggest increase was in the property coverage: Real property (As is renewal increase is 14.1%.)

Item 7.3 continued

4. The boiler and machinery/equipment breakdown coverage increased the most at 78.8% with a \$1,000 deductible per occurrence. However, staff recommends increasing the deductible to \$10,000, which will reduce the premium increase to 41.5%. (She explained that the boiler and machinery/equipment policy also covers the air conditioning units for the pumps in the water treatment facility.)
5. Crime coverage will only include the automatic \$100,000 of crime protection provided by LMCIT as provided under the property coverage.
6. Bond coverage is required by statute and eliminates the need for the City to purchase on a project-by-project basis for City officials. (As is renewal with a \$50,000 deductible is a 23% decrease in premium.)
7. Auto coverage (As is renewal with a \$50,000 per occurrence deductible is a 2.3% decrease in premium.)
8. Clinic policy: City solicited quotes and Evanston Insurance Company was the lowest and renewal is recommended by staff at a 29.2% increase.
9. Miscellaneous policies (golf course liquor liability and excess policies): No increase or a slight decrease over last year's premium.

Staff recommends approval of the LMCIT package policy with the increased deductible for the boiler coverage, approve the non-LMCIT policy renewals (clinic professionals, liquor liability, and excess umbrella policies), and the non-waiver of the statutory tort liability limit.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 9:13 p.m.

Barbara Clawson
Council Secretary