



# City of Saint Paul

City Hall and Court House  
15 West Kellogg Boulevard  
Council Chambers - 3rd  
Floor

## Minutes - Final

Katie Burger, Executive  
Assistant, 651-266-8560

### City Council

*Council President Russ Stark*  
*Councilmember Dan Bostrom*  
*Councilmember Amy Brendmoen*  
*Councilmember Rebecca Noecker*  
*Councilmember Jane L. Prince*  
*Councilmember Dai Thao*  
*Councilmember Chris Tolbert*

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Wednesday, February 17, 2016

3:30 PM

Council Chambers - 3rd Floor

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**Public Hearings begin at 5:30 pm.**

#### Council Voting

The reader calls the names of all Councilmembers. A vote in favor is cast by remaining silent, and a vote against is cast by saying no or nay. When the voting is complete, the reader will state whether the motion passed or failed.

#### ROLL CALL

*The meeting was called to order by Council President Stark at 3:33 p.m.*

**Present** 7 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, City Council President Russ Stark, Councilmember Rebecca Noecker and Councilmember Jane L. Prince

#### COMMUNICATIONS & RECEIVE/FILE

- 1 [AO 16-22](#) Amending the 2015 spending budget in the General Fund - City Council Legislative Accounting Unit.  
**Received and Filed**
- 2 [AO 16-24](#) Amending the 2015 spending budget in the Central Service Fund, Treasury Fiscal Services accounting unit.  
**Received and Filed**
- 3 [AO 16-25](#) Amending the 2015 spending budget of the Right of Way Fund.  
**Received and Filed**
- 4 [AO 16-27](#) Amending the 2015 spending budget of the Parking Meter accounting unit in the General Fund.  
**Received and Filed**



- 10     [RES 16-261](#)     Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Wine On sale, Malt On Sale (Strong), and Shared Parking Agreement license, for Mucci's Italian LLC (I.D. #20150003362), d/b/a Mucci's Italian LLC at 786 Randolph Avenue.

**Adopted**

- 11     [RES 16-273](#)     Authorizing the City Attorney to retain Brian Grogan and the law firm of Moss & Barnett to represent the City in matters of cable television franchising, telecommunications and other specialized areas as necessary.

**Adopted**

#### **FOR DISCUSSION**

No items

#### **ORDINANCES**

An ordinance is a city law enacted by the City Council. It is read at four separate council meetings and becomes effective after passage by the Council and 30 days after publication in the Saint Paul Legal Ledger. Public hearings on ordinances are held at the third reading.

#### **First Reading**

- 12     [Ord 16-3](#)     Granting the application of Jamestown Homes LLLP to rezone their property at 586 Central Avenue W from RM2 Multiple-Family Residential to T2 Traditional Neighborhood and amending Chapter 60 of the Legislative Code pertaining to the Saint Paul zoning map.

**Laid over to February 24 for second reading**

#### **BUDGET AMENDMENT PUBLIC HEARINGS**

- 13     [RES PH 16-27](#)     Amending the financing and spending plans in the Fire Department in the amount of \$5,000 for a contribution received from the Minnesota Board of Firefighter Training and Education to pay for conferences/seminars/symposium training for firefighters.

*No one appeared in opposition; Councilmember Brendmoen moved to close the public hearing and approve the resolution.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

- 14     [RES PH 16-28](#)     Amending the financing and spending plans in the Fire Department in the amount of \$69,600 for a contribution received from the Minnesota Board of Firefighter Training and Education to pay for training for firefighters.

*No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and approve the resolution.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

- 15     [RES PH 16-32](#)     Amending the financing and spending plans in the Fire Department in the amount of \$303,364 to accept the 2014 Assistance to Firefighters Grant to provide training for firefighters.

*No one appeared in opposition; Councilmember Noecker moved to close the public hearing and approve the resolution.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

- 16     [RES PH 16-33](#)     Amending the financing and spending plans in the Fire Department in the amount of \$65,284.70 in the capital project fund.

*No one appeared in opposition; Councilmember Tolbert moved to close the public hearing and approve the resolution.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

*Council members shared good news from their wards.*

*Councilmember Brendmoen invited members of the Community School of Excellence's Asian Penguins Linux User Group to the podium. Staff and students from the group described their work.*

*The Council recessed at 3:55 p.m.*

**PUBLIC HEARINGS**

*The Council reconvened for public hearings at 5:33 p.m.*

- Present** 4 - Councilmember Amy Brendmoen, Councilmember Dai Thao, City Council President Russ Stark and Councilmember Rebecca Noecker
- Absent** 3 - Councilmember Dan Bostrom, Councilmember Chris Tolbert and Councilmember Jane L. Prince

**Councilmembers Tolbert, Bostrom, and Prince arrived after roll call.**

- Present** 7 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, City Council President Russ Stark, Councilmember Rebecca Noecker and Councilmember Jane L. Prince

**17**    [Ord 16-2](#)

Amending Chapter 409 of the Saint Paul Legislative Code to prohibit the issuance of Consumption and Display Permits.

*No one appeared in opposition; Councilmember Thao moved to close the public hearing.*

**Public hearing held and closed; laid over to February 24 for final adoption**

- Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**18**    [PH 16-9](#)

Public hearing to consider the application of Menard Inc. for preliminary and final plat approval for Menard Second Addition to create one (1) industrial (I1) lot and two (2) outlots. (Zoning File # 15-610-635)

*No one appeared in opposition; Council President Stark moved to close the public hearing and approve the resolution.*

**Motion of Intent - Application granted**

- Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

19 [APC 16-1](#)

Public hearing to consider the appeal of Velmeir Companies to a decision of the Planning Commission denying a conditional use permit with modifications at 30 Fairview Avenue S.

*Mike Richardson, Planning and Economic Development, gave a staff report on the application and appeal. He reviewed the conditions applying to drive-throughs in T2 zoning, which were not met by the proposed plan. He said the Planning Commission staff, the District Council, and Zoning Committee had all recommended denial, and public comment was mixed.*

*Brian Alton (951 Grand Avenue) appeared on behalf of the appellant. He said the pick-up window would not change the character the of Grand Avenue or the immediate vicinity, and cited examples of other locations where similar modifications were allowed. He said some of the opposition was related to the location of the loading dock if the drive-through were allowed, and said there would only be one delivery per week. He said traffic would be substantially reduced from the existing business, and safety concerns would be addressed with the site plan.*

*Vicki VanDell (365 E. Kellogg), with the civil engineers and landscape architects retained by appellant, reviewed the proposed site plan and highlighted improvements being made to the site.*

*Max Moreland (3305 Bryant Avenue S.), traffic engineer, said their traffic study indicated the CVS would generate 15-40% of current Whole Foods traffic, depending on day and time, which would increase pedestrian safety at the site. He said the new curb cut arrangement that was part of the drive-through plan would bring additional benefits.*

*Council President Stark asked why the absence of the drive-through meant the curb cut at the western end wouldn't be closed off. Mr. Moreland said it was his understanding it was part of the site design.*

*In opposition:*

*Andy Singer (2103 Berkeley Avenue) said the neighborhood needed a grocery store and not a drug store, but he'd learned there was a no-compete clause as part of the lease agreement. He said he was opposed to the drive-through and felt it would change the character of the street, and the other locations cited as comparisons were not desirable for Grand. He pointed out that the plan would result in the loss of one driveway and addition of another. He said if they needed a drive-through they could put it inside the lot without adding a driveway.*

*Anne Geisser (1770 Summit Avenue) referred to comments she had submitted to the Zoning Committee in December. She said the overriding issue was the urban versus suburban models and the use of drive-throughs. She said St. Paul was urban and especially recognized for its neighborhoods, and drive-throughs were not consistent with pedestrian friendly neighborhood design. She said the Grand-Fairview was particularly dense and had lots of pedestrian traffic. She distributed a letter signed by Summit Avenue residents, supporting the denial of the variance request. She said Whole Foods had been a good and responsive neighbor, and noted that the unnamed tenant next to CVS might require additional deliveries. She said CVS could conduct their business successfully without a drive-through.*

*Audrey Bailey (1798 Summit) said she agreed with the previous speaker, and she questioned the projection of six to ten drive-throughs per hour, based on her observations at a nearby drive-through pharmacy. She said she objected to a drive-through on Grand Avenue, partly because they had originally chosen that*

neighborhood for its walkability and wanted to keep it that way to the degree possible. She said emissions from cars idling in a drive-through were different from those created by cars driving in and parking.

Carolyn Brandt (1940 Fairmount) said she was opposed to a CVS going in, and had seen the site plan and found the design intimidating. She said a grocery store with a different character wouldn't be competing.

Bill Lindeke (148 W. George Street), Planning Commission member, said Minneapolis was considering a blanket ban on drive-throughs in pedestrian over lay districts. He said the Planning Commission was also emphasizing sidewalks and streetscapes and non-motorized transportation, and Grand Avenue was a great example of that. He noted that the Planning Commission had voted unanimously to reject the proposal, specifically the drive through, and the Zoning Committee vote would also have been unanimous except one member had not received answers to all of their questions about precedents. He urged the Council to support what the Planning Commission had carefully decided.

Councilmember Tolbert moved to close the public hearing. Yeas - 7 Nays -0

Councilmember Tolbert thanked everyone for coming and testifying, and said it was always a reminder of how much people cared about the neighborhood. He said the issue was the drive-through and not the business, and the zoning was correct for CVS to go in. He said there was reason that staff, the district Council, the BZA ,and the Planning Commission the Planning Commission had all came to the same conclusion, and that was because they were correct in their findings. He said he would adopt the staff report as part of his findings in denying the drive-through, and he disagreed that the drive-through would not change the character of Grand Avenue and Macalester Groveland. He said there were drive-throughs on Grand but they are very different, and the other CVS and Walgreens drive-throughs mentioned were different sites. He moved to adopt the staff report and deny the drive-through.

Councilmember Thao asked about a drive-up window on the west side of the property. He said the business would be providing jobs in the neighborhood. Councilmember Tolbert said that was something they could ask for under their Conditional Use Permit. he said he thought this CVS would do fine in this neighborhood without a drive-through.

Council President Stark said one testifier had expressed concern about the drive-through generating more traffic than projected, but his own experience was that the drive-through at the University and Snelling CVS got little use. He said he would support the motion.

Councilmember Noecker said in this case there were very specific requirements to approve modifications to special conditions, one of which was that it would result in exceptional undue hardship to the owner of the property, and she was not convinced the loss would be exceptional undue hardship. She said she would also be supporting the motion.

Councilmember Bostrom asked whether the City had any authority regarding the noncompete clause in the lease. Deputy City Attorney Gerald Hendrickson said that matter was strictly between the two parties, and not being considered by the Council. Councilmember Bostrom said he wanted that clarification on the record.

Councilmember Prince said she agreed that the walkability of Grand Avenue was important and she felt this would be disruptive and relatively unsafe. She noted that

*CVS had another pharmacy on Grand Avenue which did not have a drive-through, which spoke to the hardship question.*

**Motion of Intent - Appeal denied**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0



**20**     [RES PH 16-29](#)

Approving adverse action against the Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery located at 43 - 7th Street West in Saint Paul.

*Geoffrey Karls, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the licensee's criminal violation of state tobacco laws. He said under the typical penalty matrix scenario this would be a second violation with a \$1500 penalty, but given the ongoing and somewhat flagrant nature of the repeated violations of the same laws, DSI was asking for an upward departure to the third appearance penalty which was a 5 day suspension of licensure. He said the licensee didn't dispute the allegations but had asked for a hearing to dispute the penalty.*

*In opposition:*

*Dahir Wako (383 Virginia Street) said he had made a costly error in leaving someone else in charge of buying tobacco products with little emphasis on laws and procedure, which was why he had taken full responsibility to clean house and comply with the penalty imposed in the first instance. He said he had not bought or sold any product illegally in his store and had put in place strict policies to only purchase products from approved distributors. He said he had no way of knowing that the cigarettes confiscated the second time were illegal. He said according to his workers, inspectors went through every item with a machine and found items left over from the previous owner. He said he had learned from his mistakes and was correcting them by setting up a rules to purchase only from licensed approved distributors. He said he believed he had been punished for the mistakes, and the penalty continued to set his business back. He said he was late on his rent and business was low, and taking away the license even for a day would cost him most of his customers. He urged the Council to look at details he'd highlighted and he pleaded for support.*

*Council President Stark asked whether Mr. Wako had said the cigarettes found in the October inspection had been left over from the previous owner. Mr. Wako said practices and dealings were passed along from previous owner, and some of the product seized had been from that time.*

*In response to a question from Council President Stark, Mr. Wako said he had purchased the business at the end of 2014. He said the inspectors confiscated the whole lot in July, but in October everything was left there, and they did not know how or if those were illegally purchased. He said procedures were put in place for that time forward for where and how things would be purchased.*

*Councilmember Thao asked for further clarification of what was confiscated at each inspection. Mr. Wako said after the first inspection they confiscated everything but left the open product on the shelf and did not check those items. He said he didn't know if they were left intentionally, but if they were examined item by item it would be seen that they were there even before he had the business.*

*Councilmember Noecker moved to close the public hearing. Yeas - 7 Nays - 0*

*Councilmember Noecker asked Mr. Karls why the upward departure was being recommended. Mr. Karls said the only reason the illegal activity was possible was because the business had a license granted by the City, and the City took violations seriously because the City was almost a party. He said the Council could choose to impose the second matrix penalty of \$1500 but the department felt this rose to the level of requiring an upward departure given that it was the exact same violation several months later. Councilmember Noecker asked if it would ever be appropriate to impose the second level violation for a second offense if the argument is that the*

*City is party to illegal activities of licensed entities. Mr. Karls said he was speaking somewhat euphemistically about the City being a party to illegal activities. He said there were a lot of violations people could commit which weren't directly related to what they were licensed to do, and the department often recommended upward departures when the criminal activity was directly related to what the business was licensed for. He said on top of that the duration of time between the two violations and the fact that they were the exact same violation were factors that went into the department's recommendation. he reiterated that the Council had the prerogative to go back down to the second level if that was preferable.*

*Councilmember Noecker moved to impose the second tier penalty. She said she felt notice of the third tier penalty had been given by way of this public hearing, and there was a reason for the second tier. Council President Stark said in the past the Council had sometimes chosen to impose the fine and license suspension, but stay the license suspension pending further violations. Councilmember Noecker said she would stay with just the second level penalty. Councilmember Thao said he supported Councilmember Noecker. Council President Stark spoke against the motion. He said he could support it if it was staying the license suspension, but two violations of this nature was pretty serious business and not something the Council saw often. Councilmember Bostrom said he agreed with Council President Stark. He said the Council had done it in the past, particularly in circumstances as egregious as this one, and the stayed penalty provided an immediate hook and incentive to make sure there wasn't another violation. He said it seemed to have had a good effect in the past. Councilmember Noecker asked for clarification of the difference between imposing the stayed penalty and just imposing the penalty for a third violation. Mr. Karls clarified. There was additional discussion among the Council members. Councilmember Noecker said there was a procedure in place, with several tiers that followed one another. Councilmember Brendmoen said there was a reason for the matrix but also a reason for having the option of an upward departure.*

**Adopted as amended (\$1500 matrix penalty imposed)**

- Yea:** 4 - Councilmember Thao, Councilmember Tolbert, Councilmember Noecker and Councilmember Prince
- Nay:** 3 - Councilmember Bostrom, Councilmember Brendmoen and City Council President Stark

21 [RES 16-269](#)

## Recommending University Avenue Design Changes to Permit On-Street Parking in Designated Areas from 6:00 p.m. to 2 a.m.

*In support:*

*Chris Ferguson (6750 Woodland Drive, Eden Prairie) said he'd been working in support of the businesses along the Green Line and hoped this represented one of the final pieces for the group. He reviewed the results of the traffic study.*

*Council President Stark said he'd made an error in process, and had an amendment that should have been introduced prior to the public hearing. He moved an amendment removing the proposed on-street parking from Aldine to Prior to allow for the addition of bike facilities. He said the Bike Plan called for bike facilities on that stretch, and there wasn't as much of a demand for on-street parking there. Yeas - 7 Nays - 0*

*Mr. Ferguson continued his review of the results of the traffic study and described the details of the proposal. He spoke about the advantages to businesses and potential traffic calming effects of the return of on-street parking.*

*Councilmember Noecker asked whether there would be metered parking and how that decision was made. Mr. Ferguson said at the time the study was conducted most of the City did not have enforced meters after 6:00 p.m., and the idea was to be consistent with other areas in having non-time-limited parking. He said the other factor was that having non-time-limited parking would be much less expensive. Councilmember Noecker said turnover was good from a business perspective, and adding meters when the parking was being added might make more sense than creating free parking and introducing meters later. She asked if that was still being considered. Mr. Ferguson said there were business owners in Councilmember Thao's ward who would like time limited parking, but there was a question around cost and enforcement cost, and the decision was made to recommend non-time-limited parking.*

*Andy Singer (2103 Berkeley Avenue) said he agreed with the points made by Mr. Ferguson, and would like to see University entirely two-lane.*

*Councilmember Stark moved to close the public hearing. Yeas - 7 Nays - 0*

*Council President Stark said Councilmember Thao wasn't listed as a co-sponsor on the file online, but was a co-sponsor. He said this was a culmination of years of work. He said the idea was talked about early on in planning for the Green Line, and the agreement was to revisit the issue once things were up and running and traffic levels could be evaluated. He said he felt it was a good compromise for the time being. He said they had heard some concerns during the process from the Fire Department that if this was an all day thing they wouldn't have the ability to get through some intersections if traffic was backed up and there was a lane of parking. He said later in the evening when traffic was lower that concern was much ameliorated. He said this seemed like the right place to land and a relatively inexpensive way to bring back some parking. He said if at some point in the future the demand was really through the roof it would absolutely make sense to restrict the time or have meters, but there was a risk of spending a lot of money on meters and not having them used very much.*

*Councilmember Thao acknowledged the work of Mr. Ferguson and the whole committee, Council President Stark's leadership, and Ramsey County staff. He said it was a rigorous process and a lot of questions were asked about quality of life, safety, and racial equity, and he felt this was a good fit in bringing folks back to University*

Avenue. He said the soccer stadium might add increased need for parking but he thought his was the right thing to do at this time. He acknowledged his fellow Council members for helping move the \$80,000 to get the signs.

Councilmember Brendmoen asked about bicycle facilities on University in areas other than between Aldine and Hampden. Council President Stark said there were none. He said that section was critical because of the railroad tracks and rail yard, and it provided the only through route between Energy Park Drive to the north and Marshall to the south. He said there were routes on other streets that could be connected to west of Hampden and east of Aldine. He said the proposed facility on University would be a shared lane of some kind. Councilmember Brendmoen asked for confirmation that cyclists were encouraged to use other, safer routes except on that segment. Council President Stark said they were encouraged to use other routes. He said bikes were certainly allowed anywhere on University but there wasn't space to accommodate a full bike facility, with the traffic and parking and train. Councilmember Brendmoen said with this intense multimodal driving situation she wanted to be sure they were beyond the little share-row pavement markings, and that it needed to be super enhanced share-rows. She asked whether some directive about that could be included. Council President Stark said there had been discussion about that, and about the limitations in terms of the types of treatments certified or allowed. He said he agreed it should be something robust. Councilmember Brendmoen asked whether the Council would have a chance to see the treatment before it was applied, and whether Council President Stark would continue to be part of the conversation. Council President Stark said that was absolutely the case.

Council President Stark thanked everyone who had been involved. He moved approval.

**Adopted as amended**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

Council President Stark said Item 39 would be taken out of order because someone was present to testify who required an interpreter.

39 [RLH TA 15-576](#) Ratifying the Appealed Special Tax Assessment for Property at 1450 DALE STREET NORTH (File No. J1604A, Assessment No. 168503).

*Legislative Hearing Officer Marcia Moermond said the issue was an assessment for a clean-up of a yard. Council President Stark asked whether the interpreter needed Ms. Moermond to slow down. The interpreter said he would like her to slow down; further response was inaudible. Ms. Moermond noted that the issues had also been discussed and interpreted in the Legislative Hearing. She said the yard was full of household materials, lumber, and other items. She displayed photographs. She said orders were issued on August 10, and the work was not done by the August 17 deadline. She read from the inspector's notes: The inspector noted that the owner called the call center, very angry, and wanted to meet the inspector at the property. The inspector, along with the police, met with owner, who was very upset that neighbors called the yard in. At the time of the visit there was a Black female in the yard who had a hammer, and the owner said she was going to kill him with it. The inspector asked the owner when the property clean-up would be complete, and the owner said August 19. Extended compliance deadlines of August 19 and 31 were not met, and the clean-up was done by the City on September 1 for a cost of \$532. Ms. Moermond said she understood there may have been a miscommunication between the owner and the resident about whether an extension was granted, but the resident did say he spoke with staff and understood there was an extension. She said the resident stated tools were taken from the yard and they were of value, but the correct venue for handling a situation like that would be for a claim to be filed with the City. She recommended approving the assessment and spreading payments over two years because of financial concerns.*

*In opposition:*

*Property resident Bob Marley testified via an interpreter. He said the neighbor asked for items to be removed and promised to help remove them. He said they made arrangements for a pickup to take and donate the items. He said later on there was a miscommunication with respect to the extension, and he didn't know the extensions had been granted. He said he was waiting for the items to be picked up on the 2nd, and he wasn't there and didn't know the items were taken. He said the photographs showed lumber which he had planned to use, and also showed a fire with items being burned. Ms. Moermond displayed a photograph of the back yard showing an orange canvas accessory structure. She said the lumber was mentioned in orders. Mr. Marley said he was told to put the big pieces of lumber on a palette to be picked up, and he put in in a dumpster when it wasn't picked up. He said there were only tine branches being burned in the fire pit. He said he didn't know the laws regarding with respect to what the clean-up entailed. He said the neighbor, with whom he'd been friends for a long time, had promised to help clean up, but the neighbor lost some property when the property line was measured and she became angry. Property owner Rose Ntambwe said (via the interpreter) prior to that there had never been any issues. Mr. Marley said the neighbor got irate and made threats.*

*Council President Stark said essentially the issue was that other plans were being made to remove the items but it was too late and the City had already come to remove them. Mr. Marley said in his opinion the City came and stole his property and some was valuable. He said he had pictures of the property. He said it all started when the neighbor felt she had lost some property.*

*Council President Stark said the neighbor had a valid complaint and the requirement to clean up was legitimate. He asked whether they were asking for a reduction in the assessment. Mr. Marley and Ms. Ntambwe said their request was for the assessment to be forgiven, because it would never happen again now that they understood and knew they couldn't leave stuff in the yard. Mr. Marley said the neighbor had promised*

*she would come and help them remove the stuff, and at that time they were also busy repairing a roof on a shed they were making.*

*Council President Stark said he also wanted to make sure Mr. Marley and Ms. Ntambwe understood they could file a claim with the City if valuable items were removed. Mr. Marley said that wasn't their problem because certainly they could make a lot of claims and the claim would be greater than the assessment itself.*

*Councilmember Brendmoen moved to close the public hearing. Yeas – 7 Nays - 0*

*In response to a question for Councilmember Brendmoen, Ms. Moermond said the total bill for the work was \$532, and her recommendation was that it be paid over two years. She said it would be billed in segments or, if not paid, certified for the 2017 taxes.*

*Councilmember Brendmoen moved to adopt Ms. Moermond's recommendation.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**22**     [RES PH 16-35](#)

Amending the financing and spending plans for several 8 80 projects in order to get them fully funded for construction and to replace the Randolph at Lexington Left Turn Lane project with the installation of medians along Snelling Avenue from Randolph to Highland Parkway called South Snelling Median 8 80 Project.

*Public Works Director Kathy Lantry gave a staff report on the budget amendment. She added that implementation of the 8-80 projects had highlighted a concern expressed by Councilmembers in the past relating to sidewalk policy, especially infill projects, and the department would be meeting with Council members in the coming weeks to look at the assessment policy. She said there would be a staff recommendation coming forward to change assessments for sidewalks in infill areas from 100% to as part of an overall project.*

*Councilmember Prince said she understood that this was to fund Jackson Street. Ms. Lantry said the resolution included a number of items including the Snelling medians as well. Councilmember Prince asked whether it was also contingent on the HRA's approval of TIF funds for Jackson Street. Ms. Lantry said that was correct.*

*Councilmember Bostrom asked how it was coming in so far over budget. Ms. Lantry said the 8-80 projects were passed near the beginning of 2014, and Public Works used 2013 projects for estimates. She said there was an enormous jump in construction costs between 2014 and 2015, and, in addition, the estimate was done before there was engineering done on Jackson Street. Councilmember Bostrom said it was a 100% increase. Council President Stark noted that it had been a long time since a downtown street was reconstructed. Ms. Lantry said that was also current.*

*Councilmember Prince said part of the 8-80 projects were the completion of the Grand Round, and she felt she would be remiss if she didn't get on the record that a large portion of the Grand Round going through her ward had been delayed a number of times and did not have a funding source. Ms. Lantry said that was correct.*

*Councilmember Noecker said clearly this was a significant cost overrun, but she had a lot of faith in Ms. Lantry and her leadership of the department that the way estimates had been done was being altered significantly so there would be a better sense of costs going forward. She said she did believe Jackson was an important project for a number of reasons.*

*Councilmember Bostrom suggested it might be appropriate to lay the matter over for one week until after HRA vote on funding. Ms. Lantry said this was a complicated project, and because of the timing, they made Council visits in mid-January to get as much information as possible to Council members ahead of time and answer any and all questions. She said the project was sequenced in a really complicated way.*

*No one appeared in opposition; Councilmember Tolbert moved to close the public hearing. Yeas - 7 Nays - 0*

*Councilmember Tolbert move approval.*

*Councilmember Prince said this 6 million dollar budget amendment was hard to swallow when the soccer stadium was coming forward for a Council vote in March and had not been budgeted for 2016. She said she was learning that current conditions made it impossible to estimate the cost of projects when they were put out for bid, and the financial analysis and budget amendment being voted on could still be thrown completely out of whack. She said she was uncomfortable voting on it*

given the number of unbudgeted projects that lay ahead and the fact that the bids were unknown.

Council President Stark said he appreciated that, but the Council never knew what bids were going to be when they voted to approve moving forward on projects, and it had only been in the last couple years that the bids had come in in a way that was a surprise and at a level not seen before. He said he felt the current version of the estimates took all of that into consideration with some contingency in place, but he agreed with Councilmember Prince that bids could still come in higher than budgeted for.

Councilmember Tolbert said he shared Councilmember Prince's concerns and frustrations, but the City had neglected investing in roads and basic infrastructure and needed to continue to invest in them. He said it was an expensive downtown project, but Jackson Street was in horrible condition and needed to be done. He said if the City wanted to continue to attract and retain businesses in St. Paul they had to invest in multimodal transportation infrastructure. He said delaying would only continue to hurt the City.

Councilmember Prince said she had concerns about the Jackson Street project and she asked whether a "no" vote would be voting no on all of the projects going forward. Council President Stark said it would be voting no on the resolution, and all of the projects were in there. Councilmember Prince said she supported many of the projects but was worried about the unbudgeted costs coming before the Council.

Councilmember Bostrom said he was concerned about how in the world they could have underestimated costs by 100% in two years. He said he didn't know anything would get done if this kind of money was being spent on a section of road that was barely a mile long.

Councilmember Thao said he shared some of the frustration, but this also brought back the discussion from a couple months earlier of funding for the Pierce Butler extension. He said it was an equity thing, and it was easier for an area like Snelling and Randolph to find resources for a project. He said he wanted to state for the record that the Council needed to be mindful of equity in investments, and of who was really benefiting.

Yeas - 6 Nays - 1

**Adopted**

**Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark and Councilmember Noecker

**Nay:** 1 - Councilmember Prince



**23**     [RES PH 16-23](#)

Final Order approving the improvements along Jackson Street: Shepard Road to 11th Street; Kellogg Boulevard: Sibley Street to Jackson Street; and Sibley Street: Shepard Road to Kellogg Boulevard. File No. 19173, Assessment No. 165202.

*Public Works Director Kathy Lantry gave a staff report on the projects.*

*In support:*

*Alyssa Kellogg read a statement in support of the Jackson Street project on behalf of Rich Pakonen and Clint Blaiser.*

*Councilmember Noecker moved to close the public hearing. Yeas - 7 Nays - 0*

*Council President Stark said in spite of the concerns about the budget he didn't want the Council to lose sight of the significance of the project and the big benefit it was going to be to the City and the community, as the first leg of a downtown bikeway that would add a lot of safety and make things more appealing for pedestrians. He said he felt it would add to the private investment over time, and it was never going to get any cheaper to do this infrastructure work.*

*Councilmember Noecker moved approval.*

**Adopted**

**Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark and Councilmember Noecker

**Nay:** 1 - Councilmember Prince

**24**     [RES PH 16-18](#)

Final Order approving the construction of improvements along Wheelock Parkway from Rice Street to Edgerton Street. (File No. 19175B, Assessment No. 165201)

*Public Works Director Kathy Lantry gave a staff report on the project.*

*In opposition:*

*Virginia Perry (480 Wheelock Parkway E.) said the assessment was significantly higher per foot than recent similar projects, and she was also concerned about the effects of narrowing of the road.*

*Councilmember Brendmoen said she wanted to clarify that the rates were closer to last year than to the projects Ms. Perry had cited, which were significantly less, unfortunately. She acknowledged the rates were high but said the Council had worked hard to get down to the current amount. She stressed that it was a cost assessed to everyone when streets were reconstructed.*

*Elise d'Entremont said she owned the rental property at 326 Wheelock Parkway East and had spent a lot of money fixing it up. She said it was hard to hear the Council members when they sat back from the microphones. She thanked the Council for their time. She said this was the first notice she had received, and she agreed with the previous speaker about concerns related to street width. She said the street needed an upgrade but she was worried about the money, and it was not clear what the money was for. She said she was not against bikes but was for quality of life for everyone who lived in the area. She said it was a very slick intersection at Wheelock and Westminster. She said she would really like to see notices sent by email rather than by mail.*

*Mindy Lang (492 Wheelock Parkway E.) expressed concern about losing street parking and a portion of the driveways, the large assessment, and the effects of the project on an already dangerous street. She said property taxes had already increased over 40% in the last two years.*

*Lou Sirian (448 Wheelock Parkway E.) said the bike trail and sidewalk would ruin the area, and they were working people and didn't want it. He said there were no pedestrians, and no need for a sidewalk.*

*Council President Stark clarified that property owners would be assessed for the street work whether or not the sidewalk and bikeways were included. Mr. Sirian said he wouldn't want it if the City gave it to him for nothing.*

*Kristi Wheeler (519 Wheelock Parkway East) said most homes were right up next to the street and built when no sidewalks were planned. She said senior residents couldn't shovel snow. She said the assessment was \$20,000 and she lived on Social Security.*

*Mark Guertin (525 Wheelock Parkway East) said he agreed 100% with previous speakers. He said neighbors had a lot of pride in the neighborhood, and kept things maintained and cleaned. He said the City said the sewer system needed to be replaced, but a private contractor told him everything was fine. He said the whole thing had been shoved down their throats, and the City was turning Wheelock into a super highway that no one wanted.*

*Dan Haak, Public Works, said the City televised the main sewer line and as much of each connection as possible when street projects were done. He said when the City found a differential in elevation of the service coming in at the main, a letter was sent*

to the property owner suggesting they have their lines televised. He said in Mr. Geurtin's case it sounded like he'd had it televised and everything appeared to be fine.

Gnia Kong (312 Wheelock Parkway East) said he bought in his property in 1986 and had been mowing the neighboring City property for almost 30 years. He said the BP Station next door had been using a portion of his property as an easement for their business, and he didn't feel he should be assessed for that portion. He said he felt the assessment was too much and he didn't feel Wheelock needed to be improved now.

Pao Her (498 Hoyt Avenue East) said he would piggyback on others' testimony saying it was a wonderful neighborhood, but taking away the space of their property would ruin it. He expressed concern about safety and said the assessment was high.

Tsuchue Vang, pastor at Wheelock United Methodist Church (21 Wheelock Avenue East), said he didn't live in St. Paul but represented the 300 church members. He said the church members were totally against the project. He said they had been in the church for over 28 years and liked the way it was. He said the bike improvement and sidewalk were not needed.

Cheryl Walden (718 Wheelock Parkway West) said she lived on West Wheelock but was present in support of residents on East Wheelock. She said they had met with a reporter to express their concerns and had also met with Councilmember Brendmoen and Ms. Lantry. She expressed concerns about potential changes to properties and the neighborhood, and said the safety issue was a huge concern. She said she felt there should be more thought and time before the Council made a determination.

In support:

Maggie Kidnie (436 Wheelock Parkway East) said she was in support to an extent, but still have concerns. She said her main concern was safety, and it looked like some of those concerns had been taken into consideration. She said she believed narrowing the road would make it safer and slow traffic, and she thought Wheelock needed to be resurfaced. She said based on pictures it looked like it was going to be nice, but she was worried about which things might be left out if bids came in higher. She said she hoped the project really would improve safety.

Council President Stark said both sides had brought up concerns around safety and the fact that there had been some recent crashes. He said any traffic engineer he'd ever met would say narrowing the roadway would psychologically give the impression that traffic should move more slowly. He said that didn't necessarily mean there'd be fewer crashes, but they did know that when cars were moving more slowly there were fewer crashes and crashes were less impactful.

Phil Moody (177 Wheelock parkway West) said his street wasn't being done, but he understood the amount of the assessment was high and hard to swallow. He said the project was a good thing, especially the edition of sidewalks which were scarce in that part of town. He said there was a school there and bus stops and businesses and if anything this would make it much safer to get around. He said he was sick of seeing people walk in the street and something had to be done because it was really bad.

Richard Holst (1284 Marion Street) said he was in support of the project and looking forward to it happening and was actively looking for property on Wheelock Avenue because of the planned improvements. He said it was clear that Wheelock was not safe today, and slowing traffic by narrowing the street should improve safety. He

referenced photos of people walking in the street. He said the work needed to be done and the sidewalk and bike path were needed. He said safety shouldn't be only for those people who had a car. He said it was important to look to the future.

Michael Kuchta (1522 North Grotto) said he was a member of the community advisory committee for the Grand Round. He said it was clear Wheelock needed to be rebuilt and sidewalks needed to be built. He said this was also a once in a generation opportunity to build a bicycle and pedestrian route that would become a landmark asset for St. Paul.

Stephanie Wier, St. Paul Women on Bikes, read a statement of support.

Susan VonMosch (748 Nevada Avenue West) said she served on the Grand Round Citizen Advisory Committee. She spoke in support of the reconstruction of Wheelock Parkway and said it represented the first phase of reconstructing and developing the Grand Round which would be a huge asset for St. Paul. She said projects like this one provided the opportunity to bring more people into the neighborhood, and the off-street bike trails would add accessibility and safety. She said the other amenities like lighting and sidewalks would enhance the City and neighborhood. She said her road was redone about five years before and she did understand the implications of the assessment.

Mike Sonn (1458 Wellesley) said it was a great investment for the neighborhood and City.

Councilmember Brendmoen moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Brendmoen noted that this was both an RSVP project and Citywide project and investment. She thanked everyone for staying so long. She said she had met with many neighbors who had provided excellent advice, and adjustments were made to the plan. She said it was a compromise made to minimize the impact, but that didn't change the fact it was a big assessment. She said the streets were in terrible condition, and it was prudent to add the sidewalks and other amenities at the same time. She said efforts were being made to make sure sidewalks weren't too close to houses, and she acknowledged sidewalks would create extra work for owners, but said it was not right to force residents to walk and bike in the street. She pointed out City staff present who could talk about spreading the assessment over a period of time or deferring it for seniors. She said she was supporting the project partly because it was an overdue street revitalization, but also for the citywide investment being made in the Eastside and North End. She moved approval.

#### **Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

The Council took a brief recess.

**25**     [RES PH 16-21](#)

Final Order approving the construction of improvements along Payne Avenue from 7th Street East to Woodward Avenue and to acquire the necessary property rights for completion of said improvements. (File No. 19194B Assessment No. 165203)

*Jesse Farrell, Public Works, gave a staff report. Councilmember Brendmoen noted that the improvement would also align directly across the street to the entrance to the Vento Nature Sanctuary.*

*In support:*

*Karen Palm, Minnesota Music Cafe, said she was not present to speak against the project but would like some consideration for her business. She said she had 100 regular customers who rode motorcycles and she couldn't afford to lose that segment of her customer base. She said the project was taking away on-street parking but the improvements didn't start until the end of her property at the alley. She said she had food truck events planned throughout the summer and fall and she didn't believe the food trucks wanted to park behind the building. She said the plan showed a bike lane in the middle of the street, and cyclists would have to move through traffic to pull over for emergency vehicles from the fire station next door. She questioned whether a bike lane in the middle of the street was the best arrangement for that intersection.*

*Don Lorr (641 Desoto), Railroad Island resident and Railroad Island Task Force Chair, said the neighborhood was in support of the plan but wanted the businesses to be successful.*

*Councilmember Brendmoen moved to close the public hearing. Yeas - 7 Nays - 0*

*Councilmember Brendmoen thanked State Supply, Gregg's Auto Body and Minnesota Music Cafe for their expertise and input. She said the Council would vote on the project but fine tuning could still be done and her office would help facilitate that. She moved approval.*

*Councilmember Bostrom acknowledged Ms. Palm for starting the renaissance of Payne Avenue 17 or 18 years before when she bought Minnesota Music Cafe. He said he didn't want to see those businesses lose customers, and he wanted to honor the people who had stuck through this through thick and thin.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**26**     [RES PH 16-22](#)

Final Order approving the construction of improvements In the Payne Avenue & Bedford Street Area and to acquire the necessary property rights for completion of said improvements. (File No. 19195B Assessment No. 165204)

*Jesse Farrell, Public Works, gave a staff report.*

*In opposition:*

*Jim Morelli (535 Tedesco), owner of Morelli's and offices at 565-567-569 Payne, said he had been speaking with Mr. Farrell ongoing that night but the project as presented that night would not be a fit for him. He said he wanted to see the project work and was planning a \$500,00-\$750,000 addition to his building but needed parking, customer accessibility, and delivery accessibility. He said he, Mr. Farrell, and Fred Yarusso were meeting the following day try to resolve those issues. He encouraged the Council to table the matter until after the meeting.*

*Councilmember Brendmoen said they had been able to adjust and work together every step of the way and were close to agreement, and her preference would be to move forward in good faith. Mr. Morelli said his concern was that things said tonight might not come to fruition. Councilmember Brendmoen asked whether a week was enough. Mr. Morelli said it was.*

*Fred Yarusso said he would be at the meeting and hoped the vote could be extended. He said he didn't any more need land in front of his restaurant and he expressed concern about the additional work of maintaining it.*

*Councilmember Bostrom said he didn't want to do anything to burden long standing businesses, and appreciated Councilmember Brendmoen laying the matter over for a week to work out problems.*

*In support:*

*Donald Lorr (641 Desoto), Railroad Island Task Force Chair, said because the intersection represented the "Marketplace" of Railroad Island, it was important to get it right. He said there was not great walkability in that area, and the plan called for both walkability and "rollability." He noted there were two facilities nearby where people used assistive devices to walk or be mobile in the neighborhood. He said he was in support of a plan that made the area more walkable, rollable, and more livable.*

*Councilmember Brendmoen moved to close the public hearing. Yeas - 0 Nay - 0*

*Councilmember Brendmoen asked Mr. Farrell whether the world would stop turning if the Council laid over the matter for a week. Mr. Farrell said that was fine. He said they were working closely with working with Mr Morelli's architect and construction sequencing, and wouldn't expect to start before July.*

*Councilmember Brendmoen thanked the Morellis and Yarussos for working hand in hand with the City on the project. She moved a 1-week layover.*

**Public hearing held and closed; laid over to February 24**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**Legislative Hearing Items for Discussion**

28 [RLH VBR 16-2](#) Appeal of Justin Rodriguez to a Vacant Building Registration Notice at 995 BEECH STREET.

*Legislative Hearing Officer Marcia Moermond said the vacant building registration resulted from the condemnation of the property due to problems including overcrowding and use of illegal sleeping areas, as well as quite a few necessary repair. She said the question with the vacant building registration itself was were the registration fee and whether a code compliance was required. She said the property was owner-occupied so reinstatement of a Certificate of Occupancy wouldn't be an option in this case. She said the owner was unable to take care of the property during that time period and would speak to that in testimony. She said she felt the physical condition of the building justified the Category 2 vacant building status, and it met the definition due to the condemnation and major code violations.*

*In opposition:*

*Justin Rodriguez (995 Beech Street) said he currently stayed at the Salvation Army,. He said his grandfather left him the house, which had been a HUD house for 15 years, and it started out needing minor repairs. He said he let a homeless guy stay in the mother-in-law apartment in the basement while he renovated, and had to have the police help remove him. He said he went into treatment for a month after a substance abuse relapse, and left the house in the care of someone who rented it to a large number of people who stole his vehicles and lawn care business equipment and engaged in other criminal activity. He said the City condemned the property to help him get the people out but he didn't realize that would result in him becoming homeless. He said he began to make repairs during the hours he was allowed in the house, but the house got broken into every night. He said the cost for boarding the house was \$3000, the vacant building fee was \$2000 a year, and a Code Compliance inspection application would be \$450. He said his case manager was present at the hearing with him, and he would just like to have a place to live again.*

*Jeff M., case manager, said he had known Mr. Rodriguez for a month. He said he didn't normally advocate for people in this type of situation, but Mr. Rodriguez had been through some tough stuff, and sincerely wanted to get his life back on track. He said Mr. Rodriguez was starting treatment the next day at Teen Challenge, and it would be nice if he could have something to look forward to coming back to. He said he would continue to work with and support Mr. Rodriguez. He said Mr. Rodriguez had done well in the past and could do so again in the future, and he asked that the Council consider Mr. Rodriguez's request.*

*Councilmember Prince moved to close the public hearing. Yeas - 7 Nays - 0*

*Councilmember Prince asked Ms. Moermond to review the options again. Ms. Moermond said the code was very clear for a Category 2 vacant building that a Code Compliance inspection report was needed, a vacant building fee needed to be paid, and the work needed to be completed before the property could be re-occupied. She said if it were a rental property the Council had in the past just required reinstatement of the Certificate of Occupancy. She said Mr. Rodriguez had asked that it be changed to a Category 1, and said he'd been working with the City with a work plan. Councilmember Prince asked Mr. Rodriguez if he could handle the Code Compliance if the vacant building fee were waived. Mr. Rodriguez said he wasn't sure. Ms. Moermond said many items were carpentry/building items and she could have a building inspector go in and assess the conditions. Councilmember Bostrom said in looking at the pictures there was obviously there's a lot of stuff, and Mr. Rodriguez was also going back into treatment, and had had trouble with squatters in the past. He said the place should be secured until Mr. Rodriguez was ready.*



*Councilmember Prince moved to waive the vacant building fee for 90 days, request a building-only inspection, and secure the building as a Category 2 vacant building.*

*Council President Stark asked about a deadline for it to come back before the Council after the inspection. Ms. Moermond said she would craft the resolution so the building inspector would make the determination about need for full Code Compliance.*

*Councilmember Bostrom said since Mr. Rodriguez was going back into treatment, 90 days was an appropriate interval within which he should have the inspection completed and bring a work plan to Ms. Moermond. Council President Stark asked whether that was consistent with the motion on the table. Ms. Moermond said it was.*

**Adopted as amended (vacant building fee for 90 days; building-only inspection will determine need for Code Compliance inspection)**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

33 [RLH VBR 16-4](#) Appeal of Dana DeMaster to a Vacant Building Registration Notice at 1642 BLAIR AVENUE.

*Ms. Moermond said this was a very unfortunate situation, and was an appeal of the vacant building registration. She said the house had been vacated a little more than six months before due to conditions created by repairs done to the roof prior to the current owner's ownership. She said the roofer did a poor re-roofing job and removed the chimney and roofed over the opening, resulting in the house systems venting into the attic space. She said at the time she heard the case there were interested buyers and the question was whether the house could be changed from a Category 2 to a Category 1. She said it was a clear and obvious situation where it was a Category 2 vacant with all systems affected, and needed a thorough look by all trades inspectors.*

*In opposition:*

*Dana Demaster (927 Bayard Avenue) said they were foreclosing and the house was vacant, and she was not appealing this issue anymore. She said in St. Paul permits weren't given a final inspected unless a request was made. She noted that Minneapolis had a system for following up and closing permits. She said she and her family had lived in the house for eight years, and once they discovered the issue, they were told by contractors and inspectors it was a miracle the house hadn't burned down. She said she was told by Council President Stark and Councilmember Noecker that the problem was budget and that inspectors were already behind, and while she understood that, the government had a basic health and safety role to provide to residents. She said she hoped the Council would think about her situation and other similar ones and make it a priority to change the policy.*

*Council President Stark said they would certainly follow up with the Department of Safety and Inspections (DSI) on the issue.*

*Councilmember Brendmoen said she didn't think it was just a budget issue but was a priorities issue. She said she wanted to make sure the DSI Director and Deputy Mayor watched the video the Ms. Demaster's testimony. She said it was important to hear the personal narrative and, when the issue was real life safety things it was serious*

*Councilmember Noecker said she wanted to echo those comments, and she thanked Ms. Demaster for testifying. She said it was an incredibly serious issue and while it was the contractor's responsibility to call for a final inspection, the City wasn't following up with contractors who didn't. She said they were being told there wasn't the capacity to follow up if the contractors were to all call, which was a serious issue because it was the City's most basic responsibility. She apologized to Ms. Demaster for the situation she was in, and said the Council had just received an email from the DSI Director about a pilot program to begin to work towards clearing the backlog of inspections.*

*Council President Stark moved to close the public hearing and deny the appeal and deny; he thanked Ms. Demaster again.*

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

51 [RLH CO 16-2](#)

Appeal of Mark Santi, Imperial Vapor, LLC, to a Correction Notice-Complaint Inspection, including Condemnation at 841 GRAND AVENUE. (Public hearing held February 17)

*Legislative Hearing Officer Marcia Moermond said what was before the Council was an order by Fire inspections that the business be vacated. She said it was being defined by the Department of Safety Inspections (DSI) as an illegal use because it was considered to be a tobacco store under the Zoning Code's definition. She said the matter of whether it should be considered a tobacco store was appealed in mid-August to the Board of Zoning Appeals (BZA), which found against the appellant, and the decision was not appealed in to the City Council. She said based on that, her recommendation was to deny the appeal and order the business vacated.*

*In opposition:*

*Jeffrey Upin, partner of Mark Santi, appeared representing Imperial Vapors. He asked to confirm that all items submitted were part of the record. He spoke about the difference between tobacco and e-cigarettes, and said the statute as written did not apply to e-cigarettes. He said the letter submitted by zoning administrator Wendy Lane that afternoon boiled down to an argument that if the business hadn't applied for a variance, the City would have had to look at the zoning ordinance and determine whether or not it fit, but since the business did apply for a variance and didn't do anything else, the City could ignore the law and shut them down. He said the last paragraph of the letter which stated that the City Council didn't have the authority to make zoning decisions struck him as strange since the Council was the final decision maker for zoning ordinances and the appeal of zoning ordinances. He said the Legislative Hearing Officer had agreed in hearings that licensing issues were not part of the hearing, but failed to read the clear definition of the statute and apply it. He said there was no basis for Ms. Moermond's recommendation to shut down the business. He said they had provided a series of petitions and people that would like to see the business kept open. He noted Councilmember Tolbert's earlier comment that decisions should not be based on whether the Council liked the business or not, but on the ordinances in place, and that's what they were asking the Council to do. He said since the condemnation rested solely on definitions that Imperial Vapors didn't meet, they respectfully requested that the enforcement claims be dismissed, the Certificate of Occupancy be reinstated, find that Imperial Vapors was not a tobacco shop, and any other relief as necessary. He said if the Council did choose to approve the order, that they provide a stay as it was likely they would appeal the decision to the Court of Appeals. He said he thought it might be helpful to provide information about how other jurisdictions were handling e-cigarettes, and he introduced Cap O'Rourke from O'Rourke Strategic Consulting. Council President Stark said the five minutes allotted for testimony had been used up, and he asked Mr. O'Rourke to be very brief.*

*Mr. O'Rourke said St. Paul's unique zoning policy related to tobacco product shops was creating problems for businesses that wanted to open vapor shops but not sell traditional tobacco products.*

*Lance Pemberton, Association for Nonsmokers Minnesota, said he was speaking on behalf of Jeanne Weigum. Council President Stark said on these types of items the Council didn't take testimony from both sides.*

*Councilmember Noecker moved to close the public hearing. Yeas – 7 Nays - 0*

*Council President Stark said it was his understanding that they applied for a variance, failed to get it, and either opened the business anyway, or were already operating. He asked Ms. Moermond for clarification. Ms. Moermond said the City first became*

*aware of it that summer but she wasn't sure whether the business had been operating prior to that.*

*Councilmember Noecker said the Council had received information from the law firm and from the zoning administrator late in the day and hadn't had time to review it. She moved to lay the matter over for two weeks, and she asked that everything be submitted by the end of the day the following Tuesday.*

*Councilmember Tolbert asked Deputy City Attorney Gerald Hendrickson to clarify what, specifically, the Council was deciding on. Mr. Hendrickson said there was a correction order dealing with the condemnation because they were operating contrary to the zoning code. He said the issue being raised was that they were categorized as being like a tobacco shop, and they were arguing that they weren't. He said the zoning code said in order to have any kind of use you have to fit into a category, and if you don't exactly fit, you have to fit into the closest thing. He said the zoning administrator made a decision that the closest thing was a smoke shop, and that was never appealed. He said given that the business didn't have the proper zoning, the question for the Council was simply whether they were operating and therefore in violation. In response to a question from Councilmember Tolbert he said he wasn't aware of a category that was a more appropriate fit.*

*Councilmember Tolbert asked whether the business had since applied for a variance. Ms. Moermond said she understood there was a licensing action going on but it wasn't pertinent.*

*In response to comments from Council President Stark and Mr. Hendrickson, Councilmember Noecker clarified that her intention was to keep the public hearing closed and accept written comment through the end of the next Tuesday.*

*Council President Stark repeated Councilmember Noecker's motion to lay the matter over for two weeks and accept written testimony through the following Tuesday.*

**Public hearing held and closed; laid over to March 2**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

73 [RLH FCO](#)  
[15-344](#)

Appeal of Jeff & Judy Otto to a Fire Inspection Correction Notice at 391 TOPPING STREET.

*Legislative Hearing Officer Marcia Moermond said there were two concerns in this case, the most pressing one having to do with the height of stacked pallets. She said City granted a variance in the early 1990s allowing a height of 10 feet rather than the six feet allowed at that time. She said inspectors reported pallets were currently stacked as high as 16 feet and in some cases even higher. She said aisles between the stacks were required to be at least six feet wide, and in many cases it was 36" or less. She said since there was no sprinkler system in the building, they were hard pressed to recommend any kind of a variance given that there was already one in place. She said the issue now was coming into compliance, and the resolution set out corrections with full compliance by July 1. She displayed a photograph of part of the warehouse, and referred to additional photographs in the file. She asked that the resolution be amended to grant until July 1 for the repairs to the roof. She a completely new roof was completed and they were continuing to make do.*

*Councilmember Thao asked what would happen if Mr. Otto didn't meet the deadlines. Ms. Moermond said the Certificate of Occupancy could be revoked. She said the department had a couple of ways to escalate enforcement in cases of noncompliance, including evocation of the Certificate of Occupancy and issuance of a criminal citation. She said the Council could ask for an extension, but she believed she had put forward a very generous extension package.*

*In opposition:*

*Property owner Jeff Otto said he had prepared information for each Council member. He said he hadn't appeared in front of the Council before and hadn't even been allowed to talk to his Council member. He asked to distribute and read the information, which he said included background information about the company and the specifics of Ms. Moermond's recommendations. Council President Stark noted that there were only 3 minutes remaining for Mr. Otto to testify. Mr. Otto expressed frustration at having his time limited. He quickly reviewed the history of the business, including that the Certificate of Occupancy was first issued in 1988, the amount of property taxes paid over the years, the number of people employed and the amount of wages paid, and the amount he and his wife had invested in the business. He said he'd been told that the three premises to the resolution were 1) that it was believed there was sufficient water volume and pressure in the street around the building, 2) the volume of pallets stored in the building could be relieved by using the property across the street, and 3) the variance they were operating under was "unequivocal". He said that (DSI Director) Ricardo Cervantes and (District 6 Planning Council President) Kerry Antrim felt there was good reason to doubt the first premise related to water volume and pressure. He said he had suggested in Legislative Hearings that the property across the street might be used to relieve the storage problem in the future and Ms. Moermond had responded that she liked the idea but a site plan would be required. He said using the property across the street would result in 250 forklift loads of pallets to cross Topping Street every day. He said Mr. Cervantes was having staff investigate whether a more lenient variance had ever been issued and felt it was possible. He said consequently he was requesting a 90-day delay in the recommended extensions, and another hearing in 60 days to update Ms. Moermond on their progress. He reiterated his frustration at having his time limited.*

*Council President Stark asked Ms. Moermond what the old variance was for. Ms. Moermond said it was for the height of the pallet stacks. She assured Council members that everything brought up in testimony was also in the record attached to the file. She said she didn't know why the 4-ft variance was granted. She said the*

City stood by old variances.

Councilmember Thao moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Thao said he appreciated that Mr. Otto had come to testify and appreciated that Mr. Otto had chosen St. Paul to do business. He said the business was looked upon as a good example and he admired that, but he also understood that what the inspector was asking for was important to the business. He said an incident would be devastating to the business and the community. He said he felt Mr. Otto's frustration but knew he understood the importance. He said he felt July was a good deadline and he would support the recommendation. He said his office would provide support in any way possible.

**Adopted**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**57**     [RLH TA 16-2](#)

Ratifying the Appealed Special Tax Assessment for Property at 785 JESSAMINE AVENUE EAST (File No. J1605G, Assessment No. 168704).

Legislative Hearing Officer Marcia Moermond said this was an assessment for a cleanup and garbage service ordered for the property which took place two months prior to the owner closing on the property. She said it was incumbent on the seller to disclose pending assessments, and this was an issue between the individuals. She said the assessment should be approved, and this wasn't the forum to determine who paid.

*In opposition:*

Property owner Matthew Elling appeared. He said when he bought the place it was a dump and the backyard was a jungle, and he spent a lot of time fixing it up and improving it. He said all of the assessments were from the previous owner, but no one could reach her. He said he would like her to be billed rather than him paying and taking her to court.

Councilmember Bostrom moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Bostrom said unfortunately the only thing Mr. Elling could do was go after the owner. He moved to approve the assessment and spread payments over two years.

Council President Stark said he would support the motion. He said it was an unfortunate situation, and he thanked Mr. Elling for cleaning up and improving the property. He said the City did the work, and if Mr. Elling didn't pay, the tax payers did, and that wasn't fair.

**Adopted as amended (assessment approved and payments spread over 2 years)**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

**LEGISLATIVE HEARING CONSENT AGENDA**

**Note: Items listed under the Consent Agenda will receive a combined public hearing and be enacted by one motion with no separate discussion. Items may be removed from the Consent Agenda for a separate public hearing and discussion if desired.**

**Approval of the Consent Agenda**

*No one appeared in opposition; Councilmember Thao moved approval of the Legislative Hearing Consent Agenda as amended.*

**Legislative Hearing Consent Agenda adopted as amended**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker and Councilmember Prince

**Nay:** 0

- 27**     [RLH TA 16-21](#)     Ratifying the Appealed Special Tax Assessment for Property at 1325 ARKWRIGHT STREET (File No. J1605A, Assessment No. 168504).  
**Adopted as amended (assessment approved and payments spread over 5 years)**
- 29**     [RLH TA 15-462](#)     Ratifying the Appealed Special Tax Assessment for Property at 1170 BEECH STREET (File No. J1601A, Assessment No. 168500; amended to File No. J1601A, Assessment No. 168512)  
**Adopted as amended (assessment number changed)**
- 30**     [RLH TA 16-20](#)     Ratifying the Appealed Special Tax Assessment for Property at 1170 BEECH STREET (File No. J1602C1, Assessment No. 162006).  
**Adopted as amended (assessment approved)**
- 31**     [RLH CO 16-1](#)     Appeal of John & Lee Mannillo to a Correction Order at 1335 BEECHWOOD PLACE.  
**Adopted**
- 32**     [RLH RR 16-6](#)     Denying request for a stay of enforcement of Council File RLH RR 15-37 ordering the rehabilitation or razing and the demolition of the structures at 2227 BEECH STREET within 30 days after the October 7, 2015 City Council Public Hearing. (To be withdrawn)  
**Referred to Legislative Hearings on February 23; Council public hearing continued to March 16**
- 34**     [RLH TA 16-6](#)     Ratifying the Appealed Special Tax Assessment for Property at 1866 BUSH AVENUE (File No. J1605A, Assessment No. 168504).  
**Adopted**

- 35     [RLH TA 16-8](#)     Ratifying the Appealed Special Tax Assessment for Property at 523 CASE AVENUE (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 36     [RLH TA 16-10](#)     Deleting the Appealed Special Tax Assessment for Property at 552 CHARLES AVENUE (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 37     [RLH TA 16-41](#)     Amending Council File RLH AR 15-72 to delete the assessment for Collection of Fire Certificate of Occupancy fees billed during April 20 to May 8, 2015 at 1621 CLARENCE STREET. (File No. CRT1601, Assessment No. 168200)  
**Adopted**
- 38     [RLH TA 16-13](#)     Ratifying the Appealed Special Tax Assessment for Property at 581 COOK AVENUE EAST (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 40     [RLH FCO  
15-337](#)     Appeal of Jennifer Patraw to a Fire Certificate of Occupancy Correction Notice at 776 DESOTO STREET.  
**Adopted**
- 41     [RLH TA 16-46](#)     Ratifying the Appealed Special Tax Assessment for Property at 776 DESOTO STREET (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 42     [RLH FCO  
15-342](#)     Appeal of Jane Hanson to a Fire Inspection Correction Notice at 637 EARL STREET.  
**Public hearing continued to March 2**
- 43     [RLH TA 16-44](#)     Amending Council File RLH AR 15-70 to delete the assessment for Trash Hauling services billed June 10 to July 2, 2015 at 981 EARL STREET (File No. J1601G, Assessment No. 168700).  
**Adopted**
- 44     [RLH TA 16-45](#)     Amending Council File RLH AR 15-78 to delete the assessment for Trash Hauling services from July 8 to 29, 2015 at 981 EARL STREET (File No. J1602G, Assessment No. 168701).  
**Adopted**



- 45     [RLH TA 16-7](#)     Ratifying the Appealed Special Tax Assessment for Property at 970 EUCLID STREET (File No. 1602T, Assessment No. 169001).  
**Adopted**
- 46     [RLH TA 16-47](#)     Amending Council Files RLH AR 15-84 and RLH TA 15-526 to delete the assessment for Property Clean Up services during August 4 to 31, 2015 at 1183 FIFTH STREET EAST (File No. J1603A, Assessment No. 168502).  
**Adopted**
- 47     [RLH TA 15-611](#)     Ratifying the Appealed Special Tax Assessment for Property at 668 FOURTH STREET EAST (File No. J1604E, Assessment No. 168303). (Amended to File No. J1604E3, Assessment No. 168312 with an amendment to delete)  
**Adopted as amended (assessment deleted)**
- 48     [RLH TA 16-4](#)     Deleting the Appealed Special Tax Assessment for Property at 495 FRED STREET (File No. J1604B, Assessment No. 168103).  
**Adopted**
- 49     [RLH VBR 16-1](#)     Appeal of Gene Christianson to a Vacant Building Registration Renewal Notice at 719 GLENDALE STREET.  
**Adopted**
- 50     [RLH TA 16-49](#)     Amending Council File RLH AR 15-85 to delete the assessment for Trash Hauling services during August 5 to 26, 2015 at 2211 GLENRIDGE AVENUE, Assessment Roll under 2209 Glenridge Avenue (File No. J1603G, Assessment No. 168702).  
**Adopted**
- 52     [RLH FCO 16-15](#)     Appeal of John Nordeen to a Fire Certificate of Occupancy Correction Notice at 668 HAGUE AVENUE.  
**Adopted**
- 53     [RLH CO 16-4](#)     Appeal of Terry Londroche to a Correction Order at 37 HATCH AVENUE WEST.  
**Adopted**
- 54     [RLH TA 16-24](#)     Ratifying the Appealed Special Tax Assessment for Property at 1853 HAWTHORNE AVENUE EAST (File No. J1605A, Assessment No. 168504).  
**Adopted**

- 55     [RLH TA 16-48](#)     Amending Council File RLH AR 15-89 to delete the assessment for Graffiti Removal services during August 3 to 30, 2015 at 755 JACKSON STREET (File No. J1603P, Assessment No. 168402).  
**Adopted**
- 56     [RLH TA 16-9](#)     Ratifying the Appealed Special Tax Assessment for Property at 778 JENKS AVENUE (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 58     [RLH TA 16-17](#)     Deleting the Appealed Special Tax Assessment for Property at 902 JESSAMINE AVENUE EAST (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 59     [RLH TA 16-12](#)     Deleting the Appealed Special Tax Assessment for Property at 653 LAWSON AVENUE EAST (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 60     [RLH FCO 16-12](#)     Appeal of Gary E. Singleman to a Fire Inspection Correction Notice at 112 LYTON PLACE.  
**Adopted**
- 61     [RLH TA 16-14](#)     Ratifying the Appealed Special Tax Assessment for Property at 1847 MARGARET STREET (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 62     [RLH TA 16-15](#)     Ratifying the Appealed Special Tax Assessment for Property at 967 REANEY AVENUE (File No. J1604B, Assessment No. 168103).  
**Adopted**
- 63     [RLH TA 16-1](#)     Ratifying the Appealed Special Tax Assessment for Property at 1006 REANEY AVENUE (File No. J1605A Assessment No. 168504).  
**Adopted**
- 64     [RLH FCO 16-8](#)     Appeal of Steve Bell, Executive Director the Friends of Animal Adoptions, dba Animal Ark, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 809 SEVENTH STREET EAST.  
**Adopted**

- 65     [RLH FCO 16-14](#)     Appeal of Charles Mccarty to a Fire Certificate of Occupancy Correction Notice at 1734 SEVENTH STREET EAST.  
**Adopted**
- 66     [RLH TA 16-5](#)     Ratifying the Appealed Special Tax Assessment for Property at 574 SHERBURNE AVENUE (File No. J1604B, Assessment No. 168103).  
**Adopted**
- 67     [RLH TA 16-30](#)     Ratifying the Appealed Special Tax Assessment for Property at 749 SIMS AVENUE (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 68     [RLH FCO 15-343](#)     Appeal of Susan Dunlop to a Fire Inspection Correction Notice at 631 SNELLING AVENUE SOUTH.  
**Adopted**
- 69     [RLH VO 16-4](#)     Appeal of Tim Hanson to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 740 STEWART AVENUE.  
**Adopted**
- 70     [RLH VBR 16-3](#)     Appeal of Kaojia Vang to a Vacant Building Registration Renewal Notice at 286 STINSON STREET.  
**Adopted**
- 71     [RLH TA 16-3](#)     Ratifying the Appealed Special Tax Assessment for Property at 663 THOMAS AVENUE. (File No. J1605A, Assessment No. 168504; amended to File No. J1605A1, Assessment No. 168521)  
**Public hearing continued to March 2**
- 72     [RLH TA 16-11](#)     Ratifying the Appealed Special Tax Assessment for Property at 284 TOPPING STREET (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 74     [RLH TA 16-16](#)     Ratifying the Appealed Special Tax Assessment for Property at 928 WESTMINSTER STREET (File No. J1605A, Assessment No. 168504).  
**Adopted**
- 75     [RLH AR 15-99](#)     Ratifying Boarding and/or Securing services during September 2015. (File No. J1604B, Assessment No. 168103)  
**Adopted**

- 76     [RLH AR 15-100](#)     Ratifying Property Clean Up services during October 8 to 29, 2015.  
(File No. J1605A, Assessment No. 168504)  
**Adopted**
- 77     [RLH AR 15-101](#)     Ratifying Trash Hauling services during October 7 to 28, 2015. (File  
No. J1605G, Assessment No. 168704)  
**Adopted**
- 78     [RLH AR 15-102](#)     Ratifying Tree Removal services during September to October 2015.  
(File No. 1602T, Assessment No. 169001)  
**Adopted**

#### **ADJOURNMENT**

*Councilmember Tolbert moved adjournment.*

**Meeting adjourned at 9:55 p.m.**

**Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember  
Thao, Councilmember Tolbert, City Council President Stark,  
Councilmember Noecker and Councilmember Prince

**Nay:** 0

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