



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

Minutes - Final

City Council

Council President Kathy Lantry
Councilmember Dan Bostrom
Councilmember Amy Brendmoen
Councilmember Melvin Carter III
Councilmember Russ Stark
Councilmember Dave Thune
Councilmember Chris Tolbert

Tuesday, November 20, 2012

3:30 PM

Council Chambers - 3rd Floor

Public hearings at 5:30 p.m.

ROLL CALL

The meeting was called to order by Council President Lantry at 3:30 p.m.

Council members Bostrom and Stark excused.

Present 5 - Councilmember Amy Brendmoen, Councilmember Melvin Carter III, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Chris Tolbert

Absent 2 - Councilmember Dan Bostrom and Councilmember Russ Stark

COMMUNICATIONS & RECEIVE/FILE

- 1 CO 12-25** Letters from the Department of Safety and Inspections declaring 677 Blair Avenue, 661 Canton Street, 408 Charles Avenue, 715 Cook Avenue East, and 526 St. Albans Street North as nuisance properties. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)

Received and Filed

CONSENT AGENDA

Note: Items listed under the Consent Agenda will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the Consent Agenda for separate consideration.

Approval of the Consent Agenda (Items 2 - 14)

Councilmember Tolbert moved approval of the Consent Agenda.

Consent Agenda adopted

Yea: 5 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 2 - Councilmember Bostrom and Councilmember Stark

- 2 RES 12-2099** Approving the Memorandum of Agreement for the 2013 - 2015 Health Insurance contributions.
Laid over to November 28 for adoption
- 3 RES 12-2102** Approving the Wage and Benefit Policy for the Non-Represented Management and Legislative Personnel (2013).
Adopted
- 4 RES 12-2053** Approving the Collective Bargaining Agreement (2011 - 2012) and Memorandums of Agreement between the City of Saint Paul and the Saint Paul Supervisors' Organization (SPSO).
Adopted
- 5 RES 12-1949** Approving the City's cost of providing Collection of Vacant Building Fees Services billed March 11 to July 20, 2012, and setting date of Legislative Hearing for December 18, 2012 and City Council Public Hearing for February 6, 2013 to consider and levy the assessments against individual properties. (File No. VB1303, Asmt No. 138802)
Adopted
- 6 RES 12-1952** Approving the City's cost of providing Collection of Certificate of Occupancy Fees Services billed July 2 to 25, 2012, and setting date of Legislative Hearing for December 18, 2012 and City Council Public Hearing for February 6, 2013 to consider and levy the assessments against individual properties. (File No. CRT1303, Asmt No. 138202)
Adopted

- 7 **RES 12-1953** Approving the City's cost of providing Tree Removal Services during July and August 2012, and setting date of Legislative Hearing for December 18, 2012 and City Council Public Hearing for February 6, 2013 to consider and levy the assessments against individual properties. (File No. 1301T, Asmt No. 139000)
Adopted
- 8 **RES 12-1954** Approving the City's cost of providing Boarding and/or Securing Services during August 2012, and setting date of Legislative Hearing for December 18, 2012 and City Council Public Hearing for February 6, 2013 to consider and levy the assessments against individual properties. (File No. J1303B, Asmt No. 138102)
Adopted
- 9 **RES 12-1955** Approving the City's cost of providing Graffiti Removal Services from May 17 to August 30, 2012, and setting date of Legislative Hearing for December 18, 2012 and City Council Public Hearing for February 6, 2013 to consider and levy the assessments against individual properties. (File No. J1302P, Asmt No. 138401)
Adopted
- 10 **RES 12-2071** Authorizing acceptance of grant funds from the Minnesota Pollution Control Agency to purchase and to install electric vehicle charging stations in Saint Paul.
Adopted
- 11 **RES 12-2082** Authorizing the City Attorney's Office to retain the law firm of Kennedy and Graven, Chartered, to represent the Parks and Recreation Department in the acquisition of land for the Lowertown Ballpark.
Adopted
- 12 **RES 12-2072** Authorizing the Police Department to accept a donation from Target Corporation to be used for the 2012 Shop with Cops program.
Adopted
- 13 **RES 12-2075** Authorizing the Police Department to purchase and issue gift cards for the annual 2012 Shop with Cops program.
Adopted
- 14 **RES 12-2066** Authorizing the City of Saint Paul to accept funds from Ramsey County Public Entities Innovation (PEI) Grant and to enter into a grant agreement.
Adopted

FOR DISCUSSION

No discussion 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

- 15 Ord 12-78** Amending Section 32.01(d) of the Saint Paul Administrative Code pertaining to compensation of the City Council in accordance with the applicable provisions of State Law and the City Charter.
- Laid over to November 28 for second reading**

The Council recessed at 3:31 p.m.

PUBLIC HEARINGS

The Council reconvened for public hearings at 5:31 p.m.

Councilmember Stark excused.

Present 6 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Melvin Carter III, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Chris Tolbert

Absent 1 - Councilmember Russ Stark

- 16 Ord 12-74** Amending Chapter 310 of the Saint Paul Legislative Code pertaining to termination of licenses, surety bonds, and insurance contracts.

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

Public hearing held and closed; laid over to November 28 for final adoption

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

17 **RES PH**
 12-330

Approving the application of Doug Hawkinson for a sound level variance for construction work from 7:00 a.m. until 5:30 p.m. from November 22, 2012 to August 1, 2013 at 1515 Brewster Street. (Public hearing continued from November 20)

Council President Lantry clarified that, due to a notice issue, the public hearing would be continued to December 5 and the Council would vote at that time.

Peter Kishel, Department of Safety and Inspections (DSI), gave a staff report on the application. He said the noise was associated with construction of the Hmong Academy School, and a lot of the recent noise was associated with pile driving. He said the pile driving would be completed in a three week period, and general construction would continue for a year. He said DSI had received a letter from District 10, and one other letter expressing concerns about the vibrations during the construction.

In opposition:

Brian Recker, senior Vice President for general contractor RJM Construction, said they were 2/3 of the way finished with the pile driving when they received notice from the City on November 1 that they were exceeding the noise limit. He said the sheet piling had to be completed before they could continue work on the building, and delaying the project would add cost that the Hmong Academy could not afford. He asked whether there were options that would allow them to continue working.

Council President Lantry reiterated that the earliest a variance could take effect was December 5.

Kim Moon, Chairman of land use for District 10, said they had voted in favor of the variance at least through mid-December so the work could move forward.

Mr. Recker said they had followed the process, and the change in (the meeting) date (leading to the notice issue) was due to factors out of their control. He said they were looking for options or flexibility.

Council President Lantry said there was no flexibility in the effective date of the variance but Mr. Kishel and Councilmember Stark would be working on trying to find other accommodations.

Councilmember Brendmoen asked whether a conditional or temporary variance could be issued. Assistant City Attorney Rachel Tierney said there were no provisions for temporary variances.

The Hmong Academy school superintendent asked whether there could be a special Council meeting the following day.

Council President Lantry said there was no way out of this box.

Councilmember Tolbert moved to continue the public hearing to December 5.

Public hearing continued to December 5

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

**18 RES PH
12-328**

Approving adverse action against the Auto Body Repair Garage and Second Hand Dealer-Motor Vehicle licenses held by More 4 A Buck, Inc., d/b/a More 4 A Buck, 1176 Dale Street North.

Daphne Lundstrom, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the adverse action. She described the chronic violations of license conditions and referred to photographs in the file. She said the licensee did not contest the underlying facts but was present to provide possible explanations and protest the remedy. She said the licensee had had many conversations with the inspector and been given many opportunities to comply, but it remained his practice to violate license conditions. Ms. Lundstrom said given the severity, extent, and repeated nature of the violations, DSI was recommending a \$1000 penalty which was an upward departure from the matrix penalty for a first appearance.

In opposition:

Licensee Don Buckrey distributed photographs of conditions at other businesses in the vicinity of his. He said people continued to dump, and scrappers were allowed to take parts off of vehicles in the alley adjacent to his property and he had to lock vehicles in his shop. He said he had repeatedly asked the City for help in redesigning his lot, and parking spots in the original site plan hadn't existed since he'd owned the business. He said there was a large tree in the middle of the alley that he had asked to have taken care of. He said he'd found a niche in repairing cars to be sold for less than \$3500, and he felt it was better for cars waiting for repair to be parked on the property rather than on the street, which he could legally do. He said most of the cars in the file pictures were customer cars that would be gone at night.

Councilmember Brendmoen moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Brendmoen thanked Mr. Buckrey for coming in to talk about his situation. She offered the assistance of her office to get things resolved, but said she hadn't heard anything that day to convince her that he was in compliance with his license conditions. She moved to adopt DSI's recommendation. She said she appreciated the improvements Mr. Buckrey had made a the property.

Council President Lantry noted that license conditions are agreed to by the licensee.

Councilmember Brendmoen referred to photographs supplied by Mr. Buckrey and said other North End businesses were also being asked to come into compliance.

Adopted (\$1000 penalty imposed)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

LEGISLATIVE HEARING ITEMS REQUIRING DISCUSSION

- 26** **RLH FCO** Appeal of Chris Mueller to a Fire Certificate of Occupancy Correction
12-495 Notice at 2554 COMO AVENUE.
- No one appeared in opposition; Councilmember Tolbert moved to close the public hearing and approve the resolution as amended (deny the appeal and grant an extension to May 1, 2013 for compliance).*
- Adopted as amended (appeal denied and extension granted to May 1, 2013 for compliance)**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Stark
-
- 28** **RLH VO** Appeal of Scott Montgomery to a Fire Certificate of Occupancy
12-111 Revocation and Order to Vacate at 1323 EDMUND AVENUE (includes
Vacant Building Registration Notice).
- Legislative Hearing Officer Marcia Moermond gave a staff report. She said the inspection of the interior of the property indicated significant problems; she recommended denying the appeal and waiving the Vacant Building fee for four months.*
- Scott Montgomery (7029 20th Avenue S.) appeared representing the out-of-state owner Daniel Rubino. He referred to a letter in the file, and described the situation involving a lengthy battle with a tenant. He said they had left messages with the inspector that they intended to sell the property and had a potential buyer, and were then notified of the Category 2 Vacant Building status. He said the buyer planned to pull permits and fix the property up, but neither the owner or prospective buyer wanted to deal with the Category 2 status.*
- Rolando Aguilar (902 Arcade Street E.) with North Real Estate said he was still interested in the property and willing to make the repairs necessary to comply with the November 1 inspection, but would walk away if it was Category 2.*
- Councilmember Tolbert moved to close the public hearing. Yeas - 6 Nays - 0*
- Council President Lantry confirmed with Ms. Moermond that a Code Compliance Inspection would be required if the property was Category 2, and that conditions were sufficiently bad that Category 2 status was appropriate in this case.*
- Councilmember Tolbert moved to uphold Ms. Moermond's recommendation.*
- Adopted (appeal denied)**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert
- Nay:** 0

Absent: 1 - Councilmember Stark

- 36 RLH OA** Appeal of Lisa Heikkila to a Code Compliance Report at 1805
12-63 MINNEHAHA AVENUE EAST. (Public hearing continued from October 17 and November 20)

Legislative Hearing Officer Marcia Moermond said her amended recommendation was to deny the appeal and require that the lower bathroom be repaired or relocated under permit before reoccupation, and grant the appeal as it related to the railing.

No one appeared in opposition; Council President Lantry moved to close the public hearing and approve the resolution as amended.

The following action was taken on Item 36 after Item 45:

Legislative Hearing Officer Marcia Moermond said she had made an error in her recommendation for Item 36 regarding 1805 Minnehaha Avenue E. She asked that the public hearing be reopened and continued to December 5.

Council President Lantry moved to reopen the public hearing for Item 36 and continue it to December 5.

Yeas - 6 Nays - 0

Public hearing continued to December 5

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

- 33 RLH VBR** Appeal of Michael R. Hulke to a Vacant Building Registration Notice at
12-80 1915 IVY AVENUE EAST.

Legislative Hearing Officer Marcia Moermond said Mr. Hulke was in the process in emptying the house. She said he was acting as his own general contractor and needed time, and she recommended that the fee be waived.

Councilmember Bostrom moved to close the public hearing and approve the resolution as amended.

Adopted as amended (vacant building fee waived)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

- 37** **RLH OA** Appeal of Jeanette Howey to a Code Compliance Report at 795
12-74 PIERCE BUTLER ROUTE.
- No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution as amended per the recommendation of the Legislative Hearing Officer. (Grant the appeal on the screens and gutters; deny the appeal on the plumbing)*
- Adopted as amended (appeal granted on screens and gutters, and denied on plumbing)**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Stark
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- 41** **RLH FOW** Appeal of Gepsy Guillaume to a Correction Notice-Foster Care
12-305 Licensing Inspection at 1597 SIXTH STREET EAST. (Public hearing continued from November 20)
- Legislative Hearing Officer Marcia Moermond said the appeal involved egress windows with openable height of 13 inches in two rooms in an in-home daycare. She said the daycare licensure requirement of at least 24 inches in openable height was the same as the fire code. She asked to lay the matter over to December 5 so the owner could testify. She said she had conferred with the City Attorney's Office and believed the daycare licensing component of the code was still enforceable.*
- No one appeared in opposition; Council President Lantry moved to continue the public hearing to December 5.*
- Public hearing continued to December 5**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Stark
-
- 43** **RLH FCO** Appeal of Felix Lopez to a Fire Inspection Correction Notice at 478
12-607 VAN DYKE AVENUE.
- Legislative Hearing Officer Marcia Moermond said evidence that the occupant was also an owner was not forthcoming, and the building should stay in the Certificate of Occupancy program. She asked to amend the resolution to deny the appeal.*
- No one appeared in opposition; Council President Lantry moved to close the public hearing and approve the resolution as amended.*
- Adopted as amended (appeal denied)**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

**45 RLH RR
12-77**

Ordering the rehabilitation or razing and removal of the structures at 1009 WHITE BEAR AVENUE NORTH within fifteen (15) days after the November 20, 2012 City Council Public Hearing. (Amended to grant 180 days.)

Legislative Hearing Officer Marcia Moermond said almost all aspects of rehabilitation plans were complete; she asked that the public hearing be continued to December 5.

No one appeared in opposition; Councilmember Bostrom moved to continue the public hearing to December 5.

Public hearing continued to December 5

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

Item 36 was reconsidered at this time (see notes above).

**44 RLH VO
12-107**

Appeal of Tom Wybierala to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 427 WHITALL STREET.

Legislative Hearing Officer Marcia Moermond said the principle violation was that the furnace was completely inoperable. She said the ownership of the property was under dispute and the appellant did not intend to repair the furnace until he knew he could stay at the property. She recommended ordering immediate vacation.

In opposition:

Appellant Tom Wybierala said he'd had problems pulling a permit and needed a couple of weeks.

Councilmember Brendmoen moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Brendmoen asked Ms. Moermond for her thoughts on extending the vacation date for a few weeks. Ms. Moermond said she would recommend against it. She said the weather was getting colder and alternative heating sources such as electric space heaters were not safe.

Councilmember Brendmoen moved to deny the appeal.

Adopted (appeal denied)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

- 42 RLH RR
12-76** Ordering the razing and removal of the structure(s) at 332 THOMAS AVENUE within fifteen (15) days after the November 20, 2012 City Council Public Hearing.

Legislative Hearing Officer Marcia Moermond said it had been a "no show" Legislative Hearing. She said the property had had six work orders in 2012, and there was no Code Compliance report.

Jennifer Fischer appeared representing the bank (120 S. 6th, Suite 1100, Minneapolis), and said her client had no opposition to the property being razed.

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

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

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 Brendmoen moved to close the public hearing and approve the Legislative Hearing Consent Agenda as amended.

Legislative Hearing Consent Agenda adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

- 19 RLH VBR
12-79** Appeal of Heidi Fox to a Vacant Building Registration Requirement at 157 ATWATER STREET.

Adopted

- 20 **RLH FCO** Amending Council File RLH FCO 12-468, adopted September 19, 2012, to grant Binh Le an additional extension for property at 869 BEECH STREET.
12-626
Adopted
- 21 **RLH VBR** Appeal of Jeremy Peterson to a Vacant Building Registration Requirement at 476 BELLOWS STREET.
12-77
Adopted
- 22 **RLH VO** Appeal of Donald Rubbelke to a Fire Certificate of Occupancy Revocation and Order to Vacate 1387 BIRMINGHAM STREET.
12-112
Adopted
- 23 **RLH VBR** Appeal of Daniel Erickson to a Vacant Building Registration Notice at 1558 BLAIR AVENUE.
12-82
Adopted
- 24 **RLH VBR** Appeal of Betsy Starkson, Twin Cities Habitat for Humanity, to a Vacant Building Registration Notice at 882 CENTRAL AVENUE WEST.
12-76
Adopted
- 25 **RLH CO** Appeal of May Yang to a Correction Order - Complaint Inspection (Windows-Daycare) at 1492 CLARENCE STREET.
12-18
Adopted
- 27 **RLH VBR** Appeal of Mai Lee, legal representative of Anton Nguyen (owner), to a Vacant Building Registration Notice at 318 EDMUND AVENUE.
12-74
Adopted
- 29 **RLH FCO** Appeal of Jeremy Hollingsworth to a Fire Certificate of Occupancy Correction Notice at 415 FINN STREET NORTH.
12-608
Adopted
- 30 **RLH VBR** Appeal of Breonna Clarke to a Vacant Building Registration Requirement at 833 GERMAIN STREET.
12-84
Adopted
- 31 **RLH CO** Appeal of Sarah Koponen Zimmermann to a Correction Notice-Foster Care Inspection at 1955 HAWTHORNE AVENUE EAST.
12-19
Adopted

- 32 **RLH FCO** Appeal of Peter Quayle to a Correction Notice-Complaint Inspection at
 12-598 943 IGLEHART AVENUE.

 Adopted
- 34 **RLH VBR** Appeal of Jeremy Peterson to a Vacant Building Registration
 12-78 Requirement at 517 MANOMIN AVENUE.

 Adopted
- 35 **RLH CO** Appeal of Matt Vegdahl to a Fire Inspection Correction Notice
 12-21 (Revised) at 915 MARGARET STREET.

 Adopted
- 38 **RLH VBR** Appeal of Geneva Mitchell to a Vacant Building Registration Notice at
 12-81 1598 SEVENTH STREET EAST (aka 831 GERMAIN STREET/829
 GERMAIN STREET/833 GERMAIN STREET).

 Adopted
- 39 **RLH FCO** Appeal of Robert and Glenda Olsen to a Re-Inspection Fire Certificate
 12-594 of Occupancy With Deficiencies at 613 SHERBURNE AVENUE.

 Adopted
- 40 **RLH SAO** Appeal of Darlene Evans to a Summary Abatement Order at 1009
 12-29 SIMS AVENUE.

 Adopted

ADJOURNMENT

Councilmember Tolbert moved adjournment.

The meeting was adjourned at 6:26 p.m.

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Stark

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