



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Council Chambers - 3rd
Floor
651-266-8560

Minutes - Final

City Council

Council President Amy Brendmoen
Councilmember Dan Bostrom
Councilmember Mitra Jalali Nelson
Councilmember Rebecca Noecker
Councilmember Jane L. Prince
Councilmember Dai Thao
Councilmember Chris Tolbert

Wednesday, September 19, 2018

3:30 PM

Council Chambers - 3rd Floor

Budget Amendment Public Hearings and Legislative Hearing Items at 3:30 p.m. Public Hearings at 5:30 p.m.

ROLL CALL

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

Councilmember Noecker excused

- Present** 5 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert and Councilmember Jane L. Prince
- Absent** 2 - Councilmember Rebecca Noecker and Councilmember Mitra Jalali

COMMUNICATIONS & RECEIVE/FILE

- 1 [AO 18-48](#) Amending the 2018 spending budget for the Office of Financial Services Treasury division.
Received and filed

CONSENT AGENDA

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 - 17)

Councilmember Thao moved approval of the Consent Agenda.

Consent Agenda adopted

Yea: 5 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert and Councilmember Prince

Nay: 0

Absent: 2 - Councilmember Noecker and Councilmember Jalali

- 2 [RES 18-1295](#) Approving the City's cost of providing Replacement of Sanitary Sewer Line on Private Property during January to March 2018 at 1495 Seventh Street West, and setting date of City Council public hearing for October 17, 2018 to consider and levy the assessments. (File No. SWRP1803A, Assessment No. 183005)

Adopted

- 3 [RES 18-1445](#) Approving the City's cost of providing Property Clean Up services during July 2 to 12, 2018, and setting date of Legislative Hearing for October 16, 2018 and City Council public hearing for January 16, 2019 to consider and levy the assessments against individual properties. (File No. J1903A, Assessment No. 198502)

Adopted

- 4 [RES 18-1446](#) Approving the City's cost of providing Property Clean Up services during July 10 to 30, 2018, and setting date of Legislative Hearing for October 16, 2018 and City Council public hearing for January 16, 2019 to consider and levy the assessments against individual properties. (File No. J1904A, Assessment No. 198503)

Adopted

- 5 [RES 18-1454](#) Approving the release of easement rights retained for construction, operation, and maintenance of a public sewer in vacated Valentine Avenue between the east line of Berry Street and the west line of Minnesota Trunk Highway 280.

Adopted

- 6 [RES 18-1541](#) Authorizing the Fire Department to enter into an agreement with FM Global Emergency Response Consultants and accepting their donation of travel expenses to send two Fire Department personnel to training in Rome, Georgia.

Adopted

- 7 [RES 18-1546](#) Approving the May 1, 2018 - April 30, 2021 Collective Bargaining Agreement between the City of Saint Paul and the International Brotherhood of Electrical Workers, Local 110.

Laid over to September 26 for adoption

- 8 [RES 18-1568](#) Approving the Collective Bargaining Agreement (January 1, 2018 - December 31, 2020) between the City of Saint Paul and the Saint Paul Fire Supervisory Association International Association of Firefighters, Local 3939.
- Laid over to September 26 for adoption**
- 9 [RES 18-1439](#) Approving payment in the amount of ten thousand nine hundred twenty-four dollars and eighty-nine cents (\$10,924.89) in full settlement of the claim of American Family Insurance Company as Subrogee of Patrick Duffy.
- Adopted**
- 10 [RES 18-1562](#) Approving the Mayor's appointment of Mitra Jalali Nelson to serve on the Ramsey County Dispatch Policy Committee.
- Adopted**
- 11 [RES 18-1563](#) Approving the Mayor's appointment of Mitra Jalali Nelson and reappointment of Rebecca Noecker to serve on The Family Housing Fund.
- Adopted**
- 12 [RES 18-1564](#) Approving the Mayor's appointment of Mitra Jalali Nelson to the Joint Property Tax Advisory Committee.
- Adopted**
- 13 [RES 18-1589](#) Accepting the gift of airfare, transportation, lodging and meals from the Roy Wilkins Center and the Humphrey School for Public Affairs for Deputy Mayor Jaime Tincher and the Department of Planning and Economic Development (PED) Director Dr. Bruce Corrie to attend the 5th World Conference on Remedies to Racial and Ethnic Inequality in Vitoria, Brazil on September 26-29, 2018.
- Adopted**
- 14 [RES 18-1496](#) Authorizing Parks and Recreation Department to enter into a Joint Powers Agreement with Dakota County regarding the construction of the Robert Piram Regional Trail project.
- Adopted**

- 15 [RES 18-1584](#) Authorizing the Planning & Economic Department to accept the donation of travel and hotel costs from the John S. and James L. Knight Foundation for a Project Manager to attend the 2018 Knight Smart Cities Forum.

Adopted

- 16 [RES 18-1502](#) Approving adverse action against the Liquor Outdoor Service Area (Patio) license application submitted by Monkon Sushi Corp. d/b/a Monkon Sushi for the premises located at 394 University Avenue West.

Adopted

- 17 [RES 18-1583](#) Approving adverse action against the Cigarette/Tobacco license held by Walgreens Co., d/b/a Walgreens #16476 at 398 Wabasha Street North.

Adopted

FOR DISCUSSION

Councilmember Jalali Nelson joined the meeting.

Present 6 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, Councilmember Jane L. Prince and Councilmember Mitra Jalali

Absent 1 - Councilmember Rebecca Noecker

- 18 [RES 18-1585](#) Supplementing the General Resolution (CF 88-835) relating to Sewer Revenue Bonds, and providing for the issuance of Sewer Revenue Bonds, Series 2018D (Green Bonds), and taking other required actions.

Michael Solomon, Office of Financial Services, gave a staff report on the results of the bond sale.

Council President Brendmoen, Council members Prince and Tolbert made brief comments.

Councilmember Jalali Nelson moved approval of the resolution as amended with the results of the sale.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

BUDGET AMENDMENT PUBLIC HEARINGS (3:30 p.m.)

- 19** [RES PH 18-275](#) Accepting a grant from the Cities for Financial Empowerment Fund Inc. to fund technical assistance and anticipated expenses associated with a Financial Empowerment Bootcamp and Blueprint.
- No one was present to testify. Councilmember Bostrom moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali
- Nay:** 0
- Absent:** 1 - Councilmember Noecker
-
- 20** [RES PH 18-276](#) Amending the financing and spending plans in the Fire Department in the amount of \$53,182 to accept the 2017 Assistance to Firefighters Grant to provide training for firefighters.
- No one was present to testify. Councilmember Prince moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali
- Nay:** 0
- Absent:** 1 - Councilmember Noecker
-
- 21** [RES PH 18-277](#) Amending the financing and spending plans in the Fire Department in the amount of \$161,239 to accept the 2017 Assistance to Firefighter Grant - Fire Prevention to purchase supplies and services for the Project Safe Haven program.
- No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali
- Nay:** 0
- Absent:** 1 - Councilmember Noecker

- 22 [RES PH 18-278](#) Amending the financing and spending plans in the Fire Department in the amount of \$4,000 for a donation received from the Bruning Foundation.

No one was present to testify. Councilmember Bostrom moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 23 [RES PH 18-279](#) Amending the financing and spending plans in the Fire Department in the amount of \$250,000 for a contribution received from the Minnesota Board of Firefighter Training and Education, to pay for training and equipment for the Minnesota Aviation Rescue Team, and helicopter training with the Minnesota State Patrol.

No one was present to testify. Councilmember Prince moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 24 [RES PH 18-280](#) Amending the financing and spending plans in the Fire Department in the amount of \$75,000 for a contribution received from the Minnesota Board of Firefighter Training and Education to pay for Tower and Wind Turbine training for the Minnesota Aviation Rescue Team.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 25** [RES PH 18-268](#) Amending the financing and spending plans in the Department of Parks and Recreation in the amount of \$3,101,886 to reflect funding received from Como Friends and Lancer Hospitality for Como's Seal and Sea Lion Habitat Asset Preservation project.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 26** [RES PH 18-289](#) Authorizing the Police Department to accept a grant in the amount of \$125,346.38 from the State of Minnesota Department of Public Safety for the 2019 NHTSA, 2019 DWI Officer grant.

No one was present to testify. Councilmember Bostrom moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

SUSPENSION ITEMS

Councilmember Thao moved suspension of the rules.

Rules suspended

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

[RES 18-1608](#)

Recognizing and Honoring the Late Colonel Moua Gao in the City of Saint Paul on Saturday, September 22, 2018.

Councilmember Thao invited the family of Colonel Moua Gao to join him at the podium. Councilmember Thao spoke in honor to Colonel Moe Gao and read the resolution. Family members spoke briefly.

Councilmember Thao moved approval of the resolution.

Council President Brendmoen thanked Councilmember Thao and Colonel Gao's family.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

Councilmember Jalali Nelson moved suspension of the rules.

Rules suspended

Yea: 5 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Noecker

[RES 18-1511](#)

Affirming approval of the application with conditions, per the Deputy Legislative Hearing Officer, for Black Hart of Saint Paul LLC (License ID # 21080001270), d/b/a The Black Hart of Saint Paul, for Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor Outdoor Service Area (Sidewalk), Entertainment (B), Gambling Location, and Cigarette/Tobacco licenses at 1415 University Avenue West.

Councilmember Jalali Nelson moved approval of the resolution.

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Noecker

LEGISLATIVE HEARING CONSENT AGENDA (3:30 p.m.)

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 (Items 27 - 69)

No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the Legislative Hearing Consent Agenda as amended.

Legislative Hearing Consent Agenda adopted as amended

Yea: 5 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Noecker

- 27** [RLH TA 18-452](#) Ratifying the Appealed Special Tax Assessment for property at 1051 ARKWRIGHT STREET. (File No. VB1813, Assessment No. 188821; amend to File No. VB1813A, Assessment No. 188829) (Public hearing continued from September 19)
Public hearing continued to October 17
- 28** [RLH VO 18-47](#) Appeal of Zulema Contreras to a Correction Notice-Complaint Inspection (which includes condemnation) at 594 BRUNSON STREET.
Adopted as amended (power and gas must be restored by October 1)
- 29** [RLH TA 18-439](#) Deleting the Appealed Special Tax Assessment for property at 1010 BUSH AVENUE. (File No. VB1813, Assessment No. 188812)
Adopted
- 30** [RLH TA 18-449](#) Ratifying the Appealed Special Tax Assessment for property at 1261 BUSH AVENUE. (File No. VB1813, Assessment No. 188821) (Amend to delete assessment)
Adopted as amended (assessment deleted)
- 31** [RLH TA 18-465](#) Deleting the Appealed Special Tax Assessment for property at 129 COMO AVENUE. (File No. J1811E, Assessment No. 188323)
Adopted

- 32 [RLH TA 18-303](#) Ratifying the Appealed Special Tax Assessment for property at 925 COOK AVENUE EAST. (File No. VB1810, Assessment No. 188815; Amend to File No. VB1810B, Assessment No. 188827) (Public hearing continued from July 18)

 Adopted as amended (assessment ratified, and payments spread over five years)
- 33 [RLH TA 18-459](#) Deleting the Appealed Special Tax Assessment for property at 1400 DAYTON AVENUE. (File No. VB1813, Assessment No. 188821)

 Adopted
- 34 [RLH VBR 18-51](#) Appeal of Mark Johnson to a Vacant Building Registration Fee letter at 559 DESNOYER AVENUE.

 Adopted
- 35 [RLH TA 18-450](#) Ratifying the Appealed Special Tax Assessment for property at 837 FOURTH STREET EAST. (File No. VB1813, Assessment No. 188821)

 Adopted
- 36 [RLH TA 18-456](#) Deleting the Appealed Special Tax Assessment for property at 293 FRONT AVENUE. (File No. J1809P, Assessment No. 188409)

 Adopted
- 37 [RLH TA 18-500](#) Ratifying the Appealed Special Tax Assessment for property at 365 FULLER AVE. (File No. J1811E, Assessment No. 188323) (Amend to delete)

 Referred to Legislative Hearings on October 16; Council public hearing continued to October 24
- 38 [RLH SAO 18-58](#) Making finding on the appealed nuisance abatement ordered for 33 GEORGE STREET WEST in Council File RLH SAO 18-55.

 Adopted
- 39 [RLH TA 18-457](#) Ratifying the Appealed Special Tax Assessment for property at 345 GOODRICH AVENUE. (File No. VB1813, Assessment No. 188821)

 Adopted
- 40 [RLH VBR 18-54](#) Appeal of Richard Berget to a Vacant Building Registration Fee Warning Letter at 171 GRANITE STREET.

 Adopted

- 41 [RLH FCO 18-135](#) Appeal of Vincent Tran to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 489 HATCH AVENUE.
Adopted
- 42 [RLH SAO 18-57](#) Appeal of Kathleen J. Carlson to a Vehicle Abatement Order at 1111 JENKS AVENUE.
Adopted
- 43 [RLH TA 18-451](#) Deleting the Appealed Special Tax Assessment for property at 80 KING STREET EAST. (File No. J1811E, Assessment No. 188323)
Adopted
- 44 [RLH TA 18-454](#) Ratifying the Appealed Special Tax Assessment for property at 1152 LANE PLACE. (File No. J1811E, Assessment No. 188323)
Adopted
- 45 [RLH TA 18-467](#) Deleting the Appealed Special Tax Assessment for property at 45 LAWSON AVENUE WEST. (File No. J1811G, Assessment No. 188533)
Adopted
- 46 [RLH VO 18-46](#) Appeal of Dan Harms to a Fire Certificate of Occupancy Inspection Correction Notice at 309-313 LAWSON AVENUE EAST.
Adopted
- 47 [RLH TA 18-492](#) Ratifying the Appealed Special Tax Assessment for property at 855 LEXINGTON PARKWAY SOUTH. (File No. J1807C, Assessment No. 182007; Amended to File No. J1807C1, Assessment No. 182008)
Adopted as amended (assessment reduced)
- 48 [RLH VO 18-45](#) Appeal of My Lam, Proton Investments, to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 989 MINNEHAHA AVENUE EAST.
Adopted
- 49 [RLH TA 18-440](#) Ratifying the Appealed Special Tax Assessment for property at 65 MONTANA AVENUE WEST. (File No. CRT1812, Assessment No. 188215)
Adopted
- 50 [RLH FCO 18-145](#) Appeal of John S. Jagiela to a Correction Notice-Complaint Inspection at 134 MONTROSE PLACE.
Adopted

- 51 [RLH VBR 18-68](#) Appeal of Jose Flores to a Vacant Building Registration Notice at 802 MOUND STREET.
Adopted
- 52 [RLH TA 18-448](#) Ratifying the Appealed Special Tax Assessment for property at 82 MOUNDS BOULEVARD. (File No. J1811B, Assessment No. 188112)
Adopted
- 53 [RLH TA 18-447](#) Deleting the Appealed Special Tax Assessment for property at 415 MOUNT IDA STREET. (File No. J1811G, Assessment No. 188711)
Adopted
- 54 [RLH FCO
18-141](#) Appeal of Leslie Lucht to a Correction Notice - Complaint Inspection at 693 SAINT ALBANS STREET NORTH.
Adopted
- 55 [RLH VBR 18-50](#) Appeal of Michele Murphy to a Vacant Building Registration Notice at 1339 SEARLE STREET.
Adopted
- 56 [RLH TA 18-469](#) Ratifying the Appealed Special Tax Assessment for property at 790 SEVENTH STREET EAST. (File No. CRT1812, Assessment No. 188215)
Adopted
- 57 [RLH TA 18-445](#) Ratifying the Appealed Special Tax Assessment for property at 220 SIDNEY STREET EAST. (File No. J1811E, Assessment No. 188323; amend to File No. J1811E1, Assessment No. 188328) (Public hearing continued from September 19)
Public hearing continued to October 17
- 58 [RLH SAO 18-65](#) Making finding on the appealed nuisance abatement ordered for 547 STINSON STREET in Council File RLH SAO 18-45. (To Be Withdrawn)
Withdrawn
- 59 [RLH TA 18-458](#) Ratifying the Appealed Special Tax Assessment for property at 769-771 UNIVERSITY AVENUE WEST. (File No. J1811B, Assessment No. 188112)
Adopted

- 60 [RLH TA 18-453](#) Deleting the Appealed Special Tax Assessment for property at 1080 UNIVERSITY AVENUE WEST. (File No. J1809P, Assessment No. 188409)
Adopted
- 61 [RLH TA 18-310](#) Ratifying the Appealed Special Tax Assessment for property at 417 VAN DYKE STREET. (File No. VB1810, Assessment No. 188815; Amend to File No. VB1810A, Assessment No. 188826) (Public hearing continued from July 18)
Adopted as amended (assessment reduced)
- 62 [RLH AR 18-58](#) Ratifying the assessments for Boarding and/or Securing services during April 2018. (File No. J1811B, Assessment No. 188112)
Adopted
- 63 [RLH AR 18-59](#) Ratifying the assessments for Vacant Building Registration Fees billed during January 10 to April 19, 2018. (File No. VB1813, Assessment No. 188821)
Adopted
- 64 [RLH AR 18-60](#) Ratifying the assessments for Vacant Building Registration Fees billed during October 17 to December 6, 2017. (File No. VB1814, Assessment No. 188822)
Adopted
- 65 [RLH AR 18-61](#) Ratifying the assessments for Fire Certificate of Occupancy Fees billed during February 22 to March 13, 2018. (File No. CRT1812, Assessment No. 188215)
Adopted
- 66 [RLH AR 18-62](#) Ratifying the assessments for Trash Hauling services during April 4 to 25, 2018. (File No. J1811G, Assessment No. 188711)
Adopted
- 67 [RLH AR 18-63](#) Ratifying the assessments for Excessive Use of Inspection or Abatement services during February 20 to March 21, 2018. (File No. J1811E, Assessment No. 188323)
Adopted
- 68 [RLH AR 18-64](#) Ratifying the assessments for Graffiti Removal services during April 3 to May 22, 2018. (File No. J1809P, Assessment No. 188409)
Adopted

- 74 [RES PH 18-259](#) Considering and adopting adverse licensing action against the Cigarette/Tobacco license held by Dollar Plus Inc., d/b/a Dollar Plus at 560 University Avenue West. (Public hearing continued from September 5)

Therese Skarda, Assistant City Attorney for the Department of Safety and Inspections, gave a staff report. She noted that the matter was before Council in September [actually May 2018] and was laid over for two weeks, then was before Council and pulled off and sent to an Administrative Law Judge (ALJ) for a hearing. She said the ALJ found the City had shown substantial and compelling reasons for an upward departure to revocation of the licenses to sell tobacco, and recommended that the City should revoke the licenses. She said the ALJ report was in the Council packet; she summarized the findings. She said the ALJ found that the City had met its burden, and the department's request for an upward departure to revocation, which was one box on the penalty matrix, should be supported. She said the department was asking that the Council consider and adopt the findings of the ALJ.

In opposition:

Licensee Muhammed Ali testified via an interpreter. He said that when the store was searched, the officers didn't find anything. The other guy was addicted to the narcotics and yes, he did use that stuff. When the officer asked him he told the officer he didn't use but the other guy did. He said it just looked like a regular guy and he didn't realize it was an officer. He had never used any narcotics or other illegal substances; he had never even had a speeding ticket. Whatever happened there it was the other guy, and he asked the other guy to leave and he left. His life depended on this business and he asked that the City to re consider an action against his business because he didn't have anywhere else to go.

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

Councilmember Thao said to the licensee that he sympathized with his position and was supportive of small businesses, especially immigrant small businesses, but he didn't see any new facts disputing the ALJ's finding, and would move to affirm the decision. He said he would be willing to discuss the issue further with the licensee at another time.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

70 [Ord 18-47](#) Granting the application of the Housing and Redevelopment Authority to rezone the property at 623 and 629 Whittall Street from RT2 Townhouse to T2 Traditional Neighborhood, and amending Chapter 60 of the Legislative Code pertaining to the zoning map.

No one was present to testify. Councilmember Bostrom moved to close the public hearing.

Public hearing held and closed; laid over to September 26 for final adoption

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

71 [Ord 18-48](#) Granting the application of KBD Investments to rezone property at 877 White Bear Avenue North from OS Office Service to B2 Community Business, and amending Chapter 60 of the Legislative Code pertaining to the zoning map.

The applicant was present to answer questions.

Councilmember Bostrom moved to close the public hearing.

Public hearing held and closed; laid over to September 26 for final adoption

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

72 [Ord 18-49](#)

Amending the zoning map as recommended in the West Marshall Avenue Zoning Study.

Kady Dadlez, Planning and Economic Development, gave a staff report, and answered questions from Council members.

In opposition:

Tom Lieberman (owner of 1525, 1519, and 1515 Marshall)

In support:

Dan Taylor (2127 Dayton Avenue), President of the Union Park District Council (UPDC)

Dean Nelson (2000 Marshall Avenue) co-chair of UPDC land use committee

Nicole Theis-Mahon (1768 Marshall Avenue)

Dean Cummings (1910 Marshall Avenue)

Amy Gage, University of St. Thomas and UPDC

Douglas Allchin (2005 Carroll Avenue)

Charlotte Berres (1919 Iglehart)

John Manz (1980 Marshall Avenue)

Council President Brendmoen said the public hearing would be held over for a week because there were people who had wanted and not been able to.

Councilmember Jalali Nelson moved to continue the public hearing to September 26.

Public hearing continued to September 26 at 3:30 p.m.

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

Council President Brendmoen said items 83 - 86 would be taken out of order.

83 [RES PH 18-288](#)

Approving the application of the Asian Economic Development Association for a sound level variance for amplified music and performances in the parking lot at 422 University Avenue West on Saturday, October 6 and Sunday, October 7, 2018 for the Night Market Pop Up Event.

No one was present to testify. Councilmember Thao moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 84** [RES PH 18-267](#) Approving the application of OSP Events LLC for a sound level variance in to present amplified music for the Music in Mears Event on Thursday, September 27, 2018 in Mears Park.

No one was present to testify. Councilmember Bostrom moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 85** [RES PH 18-287](#) Approving the application of MN Trio for a sound level variance to present announcements and amplified music on Sunday, September 30, 2018 at Kelly's Landing for the MN Trio 5K Walk/Run.

Event representatives were present to answer questions. They described their organization and the event.

Councilmember Prince moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 86** [RES PH 18-286](#) Approving the application of Sweet Peas Public House for a sound level variance in to present a DJ and amplified music on Friday, September 28, 2018 at 472 Snelling Avenue South for the St Paul Capitals Fundraiser.

No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

73 [ABZA 18-5](#)

Public hearing to consider the appeal of Jean Schroepfer to a decision by the Board of Zoning Appeals denying variances to allow the conversion of a single family dwelling into a duplex at 1185 Dayton Avenue. (Public hearing continued from September 5)

Jerome Benner, Planning and Economic Development, gave a staff report and answered questions from Council members.

Deputy City Attorney Rachel Tierney said that for a variance to be granted, six standards needed to be met. The Board of Zoning Appeals (BZA) determined that four of the six were met. In order to overturn that decision, the Council would have to demonstrate that the BZA erred.

Applicant:

Jean Schroepfer said she was asking for permission to add one new housing unit in St. Paul, which would create two affordable housing units. The units were in a neighborhood where housing was needed; she described the area. She needed a variance from the requirement that every unit in this two-family zoning district must have 25 feet of lot width and 9 feet of setback on both sides - even vertically stacked units on historic foundations, and regardless how much space normally existed between neighboring buildings. It was a standard size lot, was zoned for a duplex, it fit the character of the neighborhood, and had a duplex on one side of it. She showed a map of other multi-family properties around it. The lot was more than big enough, an alley, and more than enough off-street parking, it was consistent with the Comprehensive Plan, would have no effect on green space or light and air, the setback was adequate for both properties. She displayed a photograph showing the space between the properties. All she needed was two more findings: that the property had unique circumstances that she did not create, and there were practical difficulties when used as a single family dwelling. The large unique circumstances were the deep and narrow shape of the large lot yard, which was its original platted size and shape, and was identical to the multifamily properties on either side. The historic foundation was too wide to provide the required setback. Prior to her ownership the property had numerous significant building code violations and was uninhabitable. She displayed photographs. The historic foundation was large, and when she corrected the ceiling height defects on the second floor she doubled the habitable space. The other finding she needed was that the practical difficulties of using it as a single family dwelling. Prior to her use the property had failed as a single-family dwelling; it was condemned, uninhabitable, vacant and boarded up. The primary difficulty she'd encountered in renting it as a single-family home since she'd renovated it had been the instability of the occupancy. Allowing it to be a duplex would eliminate the instability.

Councilmember Prince said Ms. Schroepfer had applied for a variance a couple of years before and was denied. Ms. Schroepfer said it was nine years ago. Councilmember Prince said Ms. Schroepfer had applied for one again, and done a whole bunch of work to turn it into a duplex in the intervening years. Ms. Schroepfer said not in the intervening years. Ms. Prince said Ms. Schroepfer had done the work to be a duplex without having the variance. Ms. Schroepfer said when the BZA turned her down in 2009 she down-scaled her plans and eliminated dormers and plumbing from the third floor, changed the second floor living room to a bedroom, and the kitchen was just a laundry room. In the last month or so she added cabinets and counter space but there was no cooking on the second floor, no microwave, no dishwasher, no garbage disposal, no range hood.

In opposition:

Amy Caron (1217 Selby) said she had been engaged with neighbors over this some-time duplex for several years. She felt some things presented were not accurate. The big reason the neighbors didn't support this was because they wanted balance. The vast majority of properties on the north side of Dayton on that block were multi-family and it was starting to get out of whack. They believed this had effectively been a duplex for many years. It had been marketed on Craigslist for sale as a duplex. One of the stated burdens was that handicapped people couldn't access the upper floors; Ms. Schroepfer could install an elevator, and she could reduce the rent. Ms. Schroepfer created the problem by adding the additional levels. The original home was a typical story-an-a-half, with two bedrooms up and two down. Ms. Schroepfer chose to add the third story. DSI never required that a third story be added. The problem was that she added the third story instead of just renovating. The house was for sale and the neighbors didn't want to have to deal with this again with the next owner. This should be a single family home.

Walter Jirik (1184 Dayton Avenue) provided a historical overview, and said the City was being asked to participate in a sleight of hand scheme. The neighbors felt that what had been built was the duplex the applicant envisioned and the BZA denied in 2009, and that was always Ms. Schroepfer's intent. The house failed previously because of a series of straw purchases and the market collapse. Historically the house was a rental for nearly 20 years, and the neighbors had and have no bias against renters. The bungalow design retained its historic use, and the decision to reconstruct from a story-and-a-half bungalow to a hybridized three story single-family/duplex was done in defiance of essentially three BZA rulings of denial. He asked that the Council uphold the denial of the variance request.

Eunice Smith (1156 Dayton Avenue) opposed to any variances that would be allowed the property to be used as a duplex. Reviewed changes made for a duplex.

Theresa Mason (1205 Dayton Avenue) said the Craigslist listing showed pictures of a second floor kitchen. Ms. Schroepfer knew when she was turned down in 2009 of the existing conditions, and could have made repairs after the denial in 2009 and made a lovely single-family dwelling.

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

Councilmember Thao thanked the neighbors and Ms. Schroepfer. He said based on the evidence he didn't see error in the BZA finding, and he move to deny the appeal.

Council members Tolbert and Bostrom spoke in support of the motion.

Councilmember Bostrom - modifications were made even after the denial in 2009,

Councilmember Jalali Nelson asked Ms. Tierney for a clarification of the findings the BZA determined were not met. Ms. Tierney clarified. In response to a question from Council President Brendmoen, Ms. Tierney said she believed the record reflected this was originally a story-and-a-half home.

Motion of intent - Appeal denied

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 75** [RES PH 18-260](#) Approving the preliminary and final plat for Public Storage Addition at 1441 Hunting Valley Road.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 76** [RES PH 18-154](#) Final Order approving the Seventh Place Mall operation and maintenance for 2018. (File No. 18428-19, Assessment No. 197200)

No one was present to testify. Councilmember Thao moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 77** [RES PH 18-142](#) Final Order approving the Places to Park operation and maintenance costs for 2020. (File No. 18744-19 and 18746-19, Assessment No. 197201 and 197202)

No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 78 [RES PH 18-153](#) Ratifying the assessment for benefits, costs, and expenses for the Seventh Place Mall operation and maintenance costs for 2017. (File No. 18428-18, Assessment No. 187200)

No one was present to testify. Councilmember Prince moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 79 [RES PH 18-141](#) Ratifying the assessments for benefits, costs, and expenses for the Arcade/Case and the Grand/Snelling parking lots operation and maintenance costs for 2019. (File No. 18744-18 and 18746-18, Assessment No. 187201 and 187202)

No one was present to testify. Councilmember Bostrom moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 80 [RES PH 18-150](#) Ratifying the assessment for installation of lantern style LED lighting on Como Avenue from Dale Street to 300' past Jessamine Avenue. (Project No. 19227, Assessment No. 175103)

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 81 [RES PH 18-151](#) Ratifying the assessment for installation of lantern style LED lighting on Sixth Street from Arcade to Johnson Parkway. (Project No. 19228, Assessment No. 175102)

No one was present to testify. Councilmember Prince moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

- 82 [RES PH 18-284](#) Approving adverse action against the Cigarette/Tobacco and Malt Off Sale licenses held by Asian Market, Inc., d/b/a Asian Market at 1423 Rice Street.

Therese Skarda, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the violation. The Minnesota Department of Revenue notified DSI that they had seized contraband tobacco when the licensee was unable to provide invoices from a licensed seller. This was the third in violation in 18 months, so the department was asking for a \$2000 matrix penalty as well as a 10-day suspension. The licensee admitted to the facts but requested a public hearing regarding the penalty.

In opposition:

Tulshi Kharel, business owner, said he was able to provide all of the invoices from a licensed dealer in Pennsylvania who had already reported them to the Department of Revenue to calculate the tax. He said he was not fully aware of the law saying that he was not able to buy the tobacco from the licensed vendor and to sell ? merchandise. In Pennsylvania they are allowed to sell their product to other states, paying the tax in Pennsylvania, but in Minnesota, we are not allowed to purchase any tobacco product from out of state without paying tax. He said he was not fully aware of all those issues; in fact, he was able to get the license within a week and was paying tax now.

Council President Brendmoen asked how it had happened three times if Mr. Kharel was unaware of the rules. Mr. Kharel said the first incident was a small liquor sale to a minor. The clerk checked the ID but did not understand how to read the ID, and they had been training him. They bought product from a licensed vendor and were able to provide the invoices to the Department of Revenue to calculate the tax. At the same time they spoke with vendors and were on the phone with the inspector and they were able to talk and get all of the invoices, and all of the invoices were emailed to the Department of Revenue. Taxes were paid on the product once in Pennsylvania. Council President Brendmoen asked Mr. Kharel if he lived in the North End. Mr. Kharel said he lived in Maplewood.

Ms. Skarda said the second violation was during a menthol tobacco compliance check and education, and they failed cigar pricing and flavored tobacco. The first violation was the malt liquor sale, then the cigar pricing and flavored tobacco, and the third was the seizure.

Council President Brendmoen asked whether laying the matter over for a week would cause problems. Ms. Skarda said no. Council President Brendmoen said it was three different things over 18 months, and the business wasn't necessarily a source of problems. She said she would like to dig a little further and her recommendation would be to lay the matter over for a week.

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

Council President Brendmoen moved to lay the matter over for one week.

Public hearing held and closed; laid over to September 26

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Noecker

ADJOURNMENT

Council President Brendmoen adjourned the meeting.

Meeting adjourned at 7:20 p.m.

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