



City Hall and Court House
15 West Kellogg Boulevard

Council Chambers - 3rd
Floor

City of Saint Paul

City Council Meeting Minutes - Final

Katie Burger, Executive
Assistant, 651-266-8560

Council President Amy Brendmoen
Councilmember Dan Bostrom
Councilmember Samantha Henningson
Councilmember Rebecca Noecker
Councilmember Jane L. Prince
Councilmember Dai Thao
Councilmember Chris Tolbert

Wednesday, March 7, 2018

3:30 PM

Council Chambers - 3rd Floor

ROLL CALL

The meeting was called to order by Council President Brendmoen at 3:31 p.m.

Councilmember Bostrom excused

Present 5 - City Council President Amy Brendmoen, Councilmember Dai Thao,
Councilmember Chris Tolbert, Councilmember Rebecca Noecker and
Councilmember Jane L. Prince

Absent 2 - Councilmember Dan Bostrom and Councilmember Samantha Henningson

Councilmember Henningson arrived after roll call.

Present 6 - City Council President Amy Brendmoen, Councilmember Dai Thao,
Councilmember Chris Tolbert, Councilmember Rebecca Noecker,
Councilmember Jane L. Prince and Councilmember Samantha Henningson

Absent 1 - Councilmember Dan Bostrom

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 1 - 13)

Councilmember Prince moved approval of the Consent Agenda.

Consent Agenda adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

- 1 RES 18-350** Approving the City's cost of providing Collection of Vacant Building Registration Fees billed during May 17 to December 22, 2017, and setting date of Legislative Hearing for April 3, 2018 and City Council public hearing for May 16, 2018 to consider and levy the assessments against individual properties. (File No. VB1808, Assessment No. 188810)
Adopted
- 2 RES 18-351** Approving the City's cost of providing Boarding and/or Securing services during December 2017, and setting date of Legislative Hearing for April 3, 2018 and City Council public hearing for May 16, 2018 to consider and levy the assessments against individual properties. (File No. J1807B, Assessment No. 188108)
Adopted
- 3 RES 18-353** Approving the City's cost of providing Graffiti Removal services during January 2 to 31, 2018, and setting date of Legislative Hearing for April 3, 2018 and City Council public hearing for May 16, 2018 to consider and levy the assessments against individual properties. (File No. J1808G, Assessment No. 188708)
Adopted
- 4 RES 18-354** Approving the City's cost of providing Towing of Abandoned Vehicle service during March 2017 at 682 Magnolia Avenue East, and setting date of Legislative Hearing for April 3, 2018 and City Council public hearing for May 16, 2018 to consider and levy the assessments. (File No. J1805V, Assessment No. 188007)
Adopted

- 5 **RES 18-356** Establishing the rate of pay for the new classification of Operations and Laborer Trainee in the new Grade of 027 of EG 71.
Laid over to March 14 for adoption
- 6 **RES 18-357** Approving the Labor Agreement between the Independent School District 625 and MN Teamsters Local No. 320 - Nutritional Services Personnel (July 1, 2017 - June 30, 2019).
Laid over to March 14 for adoption
- 7 **RES 18-403** Approving the Mayor's appointment of ThaoMee Xiong to serve on the Metro Cities (a/k/a the Association of Metropolitan Municipalities) Board of Directors.
Adopted
- 8 **RES 18-324** Approving the use or non-use of a Project Labor Agreement (PLA) on Department of Parks and Recreation construction projects for the first half of 2018.
Adopted
- 9 **RES 18-332** Supporting the Minnesota Department of Transportation's Noise Wall Improvement on the south side of I-94 between Fairview Avenue and Prior Avenue.
Adopted
- 10 **RES 18-302** Authorizing use of a Project Labor Agreement (PLA) for the Broadway Lift Station Renovation Project and the Riverview Lift Station Improvements Project.
Adopted
- 11 **RES 18-379** Approving adverse action against the Malt Off-Sale license held by Wung Lee Thao, d/b/a Wung Lee Supermarket (License ID #20020006039) at 347 University Avenue West.
Adopted
- 12 **RES 18-396** Approving adverse action against the Entertainment (B), Liquor On Sale-Sunday, Liquor On Sale 101-180 Seats, Liquor On Sale-2AM Closing, Liquor Outdoor Service (Patio), and Gambling Location licenses held by RAS Ethiopian Bar & Restaurant, d/b/a RAS Restaurant & Lounge at 2516-7th Street West.
Adopted

- 13 **RES 18-384** Authorizing the City to enter into a Joint Powers Agreement with Ramsey County Geographic Information Systems, for Governmental units interested in using Geographic Systems and data created and maintained by Ramsey County.

Adopted

FOR DISCUSSION

- 14 **RES 18-409** Supporting an Equal Rights Amendment to the Minnesota Constitution.

Councilmember Prince made brief comments and moved approval of the resolution.

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

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.

Second Reading

- 15 **Ord 18-12** Amending Chapter 31 of the Legislative Code pertaining to ranked voting.

Laid over to March 21 for third reading/public hearing

First Reading

- 16 **Ord 18-13** Granting the application of KTJ 298 LLC to rezone property at 1891 Norfolk Avenue and 1413 Sue Street from R3 One-Family Residential to RM2 Multiple-Family Residential, and amending Chapter 60 of the Legislative Code pertaining to the zoning map.

Laid over to March 14 for second reading

SUSPENSION ITEMS

Councilmember Noecker moved suspension of the rules.

Rules suspended

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

RES 18-449

Supporting the recommendations to the Governor for Ranking of Eligible Census Tracts for designation as Opportunity Zones.

Council President Brendmoen said this was being brought in under suspension so it could be included as part of an application going to the State of Minnesota the next day.

Planning and Economic Development (PED) Director Dr. Bruce Corrie, and PED staff Bob Spaulding and Jenny Wolfe spoke briefly.

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

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

17 RES PH 18-68

Authorizing the Police Department to enter into a Joint Powers Agreement, which includes an indemnification clause, with the State of Minnesota for the Standardized Field Sobriety testing program, and amending the 2018 grant fund budget for this agreement.

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

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

18 RES PH 18-69

Amending the CDBG general ledger budget to reflect the receipt of an additional \$470,884 in CDBG Program Income.

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

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

LEGISLATIVE HEARING CONSENT AGENDA (held at 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 19 - 67)

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: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

- 19 RLH TA 18-55** Ratifying the Appealed Special Tax Assessment for property at 784 AGATE STREET. (File No. J1805E, Assessment No. 188304)
Adopted
- 20 RLH TA 18-24** Deleting the Appealed Special Tax Assessment for property at 1024 ARKWRIGHT STREET. (File No. J1805A, Assessment No. 188505)
Adopted
- 21 RLH VO 18-6** Appeal of Gabrielle Strong to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 244 BAKER STREET WEST.
Adopted
- 22 RLH RR 18-10** Making finding on the appealed nuisance abatement ordered for 947 BARCLAY STREET in Council File RLH RR 17-8.
Adopted as amended (180 days granted)
- 23 RLH TA 18-40** Ratifying the Appealed Special Tax Assessment for property at 1590 BEECH STREET. (File No. J1805E, Assessment No. 188304)
Adopted

- 24 **RLH TA 18-44** Ratifying the Appealed Special Tax Assessment for property at 1173 BRADLEY STREET. (File No. J1805A, Assessment No. 188505)
Adopted
- 25 **RLH TA 18-38** Ratifying the Appealed Special Tax Assessment for property at 2110 BUSH AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 26 **RLH TA 18-37** Deleting the Appealed Special Tax Assessment for property at 588 CASE AVENUE. (File No. J1805A, Assessment No. 18805A)
Adopted
- 27 **RLH TA 18-32** Deleting the Appealed Special Tax Assessment for property at 1116 CASE AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 28 **RLH TA 18-63** Ratifying the Appealed Special Tax Assessment for property at 123 CAYUGA STREET. (File No. J1804E, Assessment No. 188303; amended to File No. J1804E1, Assessment No. 188313) (Public hearing continued to October 3)
Public hearing continued to March 21
- 29 **RLH TA 18-65** Ratifying the Appealed Special Tax Assessment for property at 123 CAYUGA STREET. (File No. J1805A, Assessment No. 188505; amended to File No. J1805A1, Assessment No. 188520) (Amend to delete assessment)
Public hearing continued to March 21
- 30 **RLH TA 18-35** Ratifying the Appealed Special Tax Assessment for property at 1250 CHARLES AVENUE. (File No. J1805E, Assessment No. 188304)
Adopted
- 31 **RLH TA 18-53** Ratifying the Appealed Special Tax Assessment for property at 1524 CHARLES AVENUE. (File No. J1805E, Assessment No. 188304) (Amended to File No. J1805E2, Assessment No. 188317)
Public hearing continued to October 3
- 32 **RLH SAO
17-107** Making finding on the appealed nuisance abatement ordered for 1936 CHELTON AVENUE in Council File RLH SAO 17-94. (Legislative Hearing on March 6, 2018)
Adopted as amended (nuisance condition abated)

- 33 **RLH TA 18-60** Deleting the Appealed Special Tax Assessment for property at 129 COMO AVENUE. (File No. J1805E, Assessment No. 188304)
Adopted
- 34 **RLH TA 18-39** Ratifying the Appealed Special Tax Assessment for property at 637 EARL STREET. (File No. J1805A, Assessment No. 188505)
Adopted
- 35 **RLH TA 18-62** Ratifying the Appealed Special Tax Assessment for property at 1010 EUCLID STREET. (File No. J1805A, Assessment No. 188505)
Adopted
- 36 **RLH TA 18-48** Ratifying the Appealed Special Tax Assessment for property at 889 FOURTH STREET EAST. (File No. J1805A, Assessment No. 188505) (Amended to File No. J1805A2, Assessment No. 188521)
Public hearing continued to October 3
- 37 **RLH TA 18-30** Deleting the Appealed Special Tax Assessment for property at 893 FOURTH STEET EAST. (File No. J1805A, Assessment No. 188505)
Adopted
- 38 **RLH TA 18-46** Ratifying the Appealed Special Tax Assessment for property at 956 GERANIUM AVENUE EAST. (File No. J1805A, Assessment No. 188505)
Adopted
- 39 **RLH TA 18-50** Ratifying the Appealed Special Tax Assessment for property at 50 HATCH AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 40 **RLH TA 18-22** Deleting the Appealed Special Tax Assessment for property at 66 HATCH AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 41 **RLH TA 18-36** Ratifying the Appealed Special Tax Assessment for property at 1458 HAZELWOOD STREET. (File No. J1805A, Assessment No. 188505)
Adopted
- 42 **RLH FCO 18-5** Appeal of Kyle Colbert (MOMO, LLC) to a Correction Notice - Re-inspection Complaint at 1889 HYACINTH AVENUE EAST.
Adopted as amended (property is in compliance)

- 43 **RLH SAO 18-7** Making finding on the appealed nuisance abatement ordered for 798 IGLEHART AVENUE in Council File RLH SAO 18-6.
Public hearing continued to March 14
- 44 **RLH TA 18-58** Ratifying the Appealed Special Tax Assessment for property at 1976 IVY AVENUE EAST. (File No. J1805E, Assessment No. 188304) (Amended to File No. J1805E1, Assessment No. 188316)
Public hearing continued to July 11
- 45 **RLH RR 18-9** Making finding on the appealed nuisance abatement ordered for 106 KING STREET EAST in Council File RLH RR 17-21.
Adopted
- 46 **RLH TA 18-57** Ratifying the Appealed Special Tax Assessment for property at 671 LAFOND AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 47 **RLH TA 18-26** Deleting the Appealed Special Tax Assessment for property at 1144 LEXINGTON PARKWAY NORTH. (File No. J1803P, Assessment No. 188402)
Adopted
- 48 **RLH TA 18-21** Deleting the Appealed Special Tax Assessment for property at 892 MARSHALL AVENUE. (File No. J1805E, Assessment No. 188304)
Adopted
- 49 **RLH TA 18-43** Ratifying the Appealed Special Tax Assessment for property at 1171 MINNEHAHA AVENUE WEST. (File No. J1805E, Assessment No. 188304)
Adopted
- 50 **RLH TA 18-54** Ratifying the Appealed Special Tax Assessment for property at 1763 MINNEHAHA AVENUE EAST. (File No. J1805E, Assessment No. 188304)
Adopted
- 51 **RLH TA 18-59** Deleting the Appealed Special Tax Assessment for property at 991 PAYNE AVENUE. (File No. J1805E, Assessment No. 188304)
Adopted
- 52 **RLH TA 18-33** Deleting the Appealed Special Tax Assessment for property at 973 RAYMOND AVENUE. (File No. J1803P, Assessment No. 188402)
Adopted

- 53 **RLH TA 18-45** Deleting the Appealed Special Tax Assessment for property at 1029 REANEY AVENUE. (File No. J1803P, Assessment No. 188402)
Adopted
- 54 **RLH SAO 18-13** Appeal of Sherita Mosley, MCO Holdings; and Jay Mitchell, Northern Holdings; to a Summary Abatement Order at 1839 SAINT ANTHONY AVENUE.
Adopted
- 55 **RLH TA 18-29** Ratifying the Appealed Special Tax Assessment for property at 1849 SEVENTH STREET EAST. (File No. J1805A, Assessment No. 188505; amended to File No. J1805A3, Assessment No. 188522, and to delete the assessment)
Referred to Legislative Hearings on March 20
- 56 **RLH TA 18-47** Ratifying the Appealed Special Tax Assessment for property at 826 SIMS AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 57 **RLH TA 18-34** Ratifying the Appealed Special Tax Assessment for property at 721 TUSCARORA AVENUE. (File No. J1805E, Assessment No. 188304)
Adopted
- 58 **RLH TA 18-51** Ratifying the Appealed Special Tax Assessment for property at 304 VAN BUREN AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 59 **RLH TA 18-52** Deleting the Appealed Special Tax Assessment for property at 640 VICTORIA STREET SOUTH. (File No. J1805A, Assessment No. 188505)
Adopted
- 60 **RLH TA 18-41** Ratifying the Appealed Special Tax Assessment for Property at 1039 VICTORIA STREET NORTH. (File No. J1805A, Assessment No. 188505)
Adopted
- 61 **RLH TA 17-442** Ratifying the Appealed Special Tax Assessment for Property at 419 WHITALL STREET. (File No. J1801A, Assessment No. 188500; amended to File No. J1801A2, Assessment No. 188511 and to approve the assessment)
Adopted as amended (assessment ratified)

- 62 **RLH TA 17-443** Ratifying the Appealed Special Tax Assessment for Property at 419 WHITALL STREET. (File No. J1802E, Assessment No. 188301; amended to File No. J1802E1, Assessment No. 188308 and to approve the assessment)
Adopted as amended (assessment number amended)
- 63 **RLH TA 17-561** Ratifying the Appealed Special Tax Assessment for property at 419 WHITALL STREET. (File No. J1803E, Assessment No. 188302; amended to File No. J1803E1, Assessment No. 188309)
Adopted as amended (assessment ratified)
- 64 **RLH TA 18-80** Ratifying the Appealed Special Tax Assessment for property at 476 YORK AVENUE. (File No. J1805A, Assessment No. 188505)
Adopted
- 65 **RLH AR 18-6** Ratifying the assessments for Excessive Use of Inspection or Abatement services billed during August 21 to September 21, 2017. (File No. J1805E, Assessment No. 188304)
Adopted
- 66 **RLH AR 18-7** Ratifying the assessments for Property Clean Up services during October 2 to 30, 2017. (File No. J1805A, Assessment No. 188505)
Adopted as amended (351 Bates Avenue removed from the assessment roll for separate consideration)
- 67 **RLH AR 18-8** Ratifying the assessments for Graffiti Removal services during September 23 to November 8, 2017. (File No. J1803P, Assessment No. 188402)
Adopted

Council members shared news from the wards.

The Council recessed at 3:55 p.m.

PUBLIC HEARINGS (held at 5:30 p.m.)

The Council reconvened for Public Hearings at 5:31 p.m.

Councilmember Bostrom excused

Present 4 - City Council President Amy Brendmoen, Councilmember Chris Tolbert, Councilmember Rebecca Noecker and Councilmember Samantha Henningson

Absent 3 - Councilmember Dan Bostrom, Councilmember Dai Thao and Councilmember Jane L. Prince

Council members Prince and Thao arrived after roll call.

Present 6 - City Council President Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, Councilmember Rebecca Noecker, Councilmember Jane L. Prince and Councilmember Samantha Henningson

Absent 1 - Councilmember Dan Bostrom

68 Ord 18-6

Amending Chapter 106 of the Legislative Code pertaining to restrictions on the use of sidewalks, streets, and etc. to permit sidewalk cafes on boulevards under certain conditions.

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

Public hearing held and closed; laid over to March 14 for final adoption

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

69 Ord 18-7

Amending Chapter 121 of the Legislative Code, pertaining to permits for driveways, sidewalks, curbs, and etc. to permit surfacing of boulevards for sidewalk cafes under certain conditions.

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

Public hearing held and closed; laid over to March 14 for final adoption

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

- 70 **Ord 18-9** Establishing the classification titled Assistant to the Mayor VIII in the unclassified service pursuant to Section 12.03.02 (H) of the Charter.
- No one was present to testify. Councilmember Thao moved to close the public hearing.*
- Public hearing held and closed; laid over to March 14 for final adoption**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 71 **Ord 18-10** Establishing the classification titled Assistant to the Mayor VII in the unclassified service pursuant to Section 12.03.02 (H) of the Charter.
- No one was present to testify. Councilmember Prince moved to close the public hearing.*
- Public hearing held and closed; laid over to March 14 for final adoption**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 72 **RES PH 18-42** Supporting the selection of Alternative 4b as the Riverview Corridor locally preferred alternative.
- Anton Jerve, Planning and Economic Development (PED), gave a staff report on items 72 and 73, and answered Council members' questions.*
- In opposition:*
- Becky Yust (256 Goodrich), President of Fort Road Federation*
Kent Petterson, President of the West Seventh Business Association
Diane Gerth (909 Bayard Avenue)
Gary Brueggemann (707 Mercer Street)
Ashley Nichols, Jandrich Floral (976 7th Street W.)
Sue H., Highland Nursery (1742 W. Seventh)
Jim Schoettler (1906 Eleanor)
Jay Severence (350 St. Peter)
Joan Pasiuk (1984 Jefferson)
- In support:*
- Shannon Watson (1180 Van Buren), St. Paul Area Chamber of Commerce*
Lisa Moe, Stuart Companies
Mark Fenmeier (455 Banfil Street)
Niko LeMieux (916 Linwood Avenue)
Brandon Long (1189 Cleveland Avenue), Chair of Sustain Ward 3
Emma Pachuta, St. Paul Smart Trips/Transit for Livable Communities (2356 University Ave West)

*Terry Mattson (350 St. Peter Street), Visit St. Paul and the RiverCentre
Marvin Hernandez (268 Duke Street)
Bill Huepenbecker, representing Minnesota Wild
Kevin Gallatin (1822 Highland Parkway), Highland District Council
Amanda Willis (1727 Race Street)
Sam Wils (946 Cleveland Ave S.)
Andrea Kiepe (Minneapolis)
Mike Daigh (525 Montrose Lane)*

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

Following comments by Council members, Councilmember Tolbert moved approval of the resolution.

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

73 RES PH 18-43 Supporting the initiation of the Ford Corridor Study.

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

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

74 RES PH 18-58 Approving the temporary installation of artwork in the public right-of-way on the Robert Street Skyway windows between the Pioneer Endicott and First National Bank Buildings.

No one was present to testify. Councilmember Noecker moved to close the public hearing. She made brief comments, and moved to approve the resolution.

Adopted

Yea: 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson

Nay: 0

Absent: 1 - Councilmember Bostrom

- 75 **RES PH 18-62** Approving the application of Downtowner Woodfire Grill for a sound level variance in order to present amplified music for Lucky Palooza on Saturday, March 10, 2018 at 253 7th Street West.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 76 **RES PH 18-63** Approving the application of Visit Saint Paul for a sound level variance for DJ music in the parking lot of Cleveland Circle for the NCHC Fan Fest on Friday, March 16 and Saturday, March 17, 2018.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 77 **RES PH 18-64** Approving the application of Bennett's Chop & Railhouse for a sound level variance in order to present live amplified music in an enclosed tent on Friday, March 16 and Saturday, March 17, 2018 at 1305 7th Street West.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

- 78 **RES PH 18-65** Approving the application of Team Ortho Foundation for sound level variances in order to present amplified sound at three (3) locations along the 2018 Get Lucky 7K race route on Saturday, March 17, 2018: CHS Field 360 N. Broadway Street; Sibley Street and Shepard Road; and Ontario Street and Shepard Road.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 79 **RES PH 18-66** Approving the application of El Burrito Mercado for sound level variances in order to present live music for each Thursday, Friday, Saturday, and Sunday Summer Music Series en La Placita from Friday, May 4 through Sunday, September 16, 2018 at the El Burrito LaPlacita Patio space at 175 Cesar Chavez Street.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
-
- 80 **RES PH 18-67** Approving the application of Macalester College Program Board for a sound level variance in order to present amplified music on Saturday, April 14, 2018 during Springfest at 1600 Grand Avenue.
- No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Henningson
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

Authorizing the vacation and disposal of city land within the Saint Anthony Park Library property to the adjacent residential property owners.

Catherine Pinkert, Library Director, gave a staff report.

Councilmember Henningson moved Version 2 amended with the purchase price. Yeas - 5 Nays - 0 (Councilmember Noecker not present for vote)

In opposition:

- Virgil Larson (2270 Carter Avenue)*
- Cindy Anderson (2266 Carter Avenue)*
- A statement from Philip Brousard, architect, was read*
- Stephen Mastey (2350 Bayless Avenue)*
- Mary Maguire Lerman (2301 Como Avenue)*
- John ? (St. Anthony Park)*
- Jim K*
- Ann Winia (1550 Branston)*

In support:

- Rick Foss (2239 Como)*
- Michael Rogness (1340 Keston Street)*
- Eva Rogness (1340 Keston Street)*
- John Thomas (2276 Doswell Avenue)*
- Lucy Brusic (2134 Knapp)*
- Robert Brusic (2134 Knapp)*
- Paul Hanson (2481 Como Avenue)*
- Karen Davis (2264 Commonwealth)*
- David Davis (2264 Commonwealth)*
- David Christenson 2:28*

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

Councilmember Henningson said she recognized how difficult lot-line issues could be and regretted that it had pitted neighbor against neighbor. She said she felt the matter needed to be resolved in quick fashion, and she noted that staff time spent on the issue was not being spent serving library patrons. She said there was no resolution to the property line issue without court action, and not going to court saved the City money on litigation, and sale proceeds would be returned to the branch library. She said the main point was that the library did not feel this would affect library operations or potential expansion. She said she thought it was notable that the Library Association was staying neutral.

Councilmember Prince referred to the District 12 letter of March 1, and said she felt there might have been a possibility of finding a middle ground. She said she appreciated that the line had been moved twice, but she wished the City had closed the loop and gone back to the community for one last pass. She said this kind neighborhood involvement might have saved three rec centers that were closed on the East Side. She said she felt moving the line a small amount to accommodate the gardeners would not significantly impact the Foss's ability to use the hill. She said she could not vote for the resolution as it stood.

Council members Tolbert and Thao spoke in support of the resolution.

Councilmember Henningson moved approval of the resolution.

Adopted as amended

Yea: 5 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker and Councilmember Henningson

Nay: 1 - Councilmember Prince

Absent: 1 - Councilmember Bostrom

82 ABZA 18-3

Public hearing to consider the appeal of Kyle Coglitore to a decision of the Board of Zoning Appeals to revoke the Student Housing Certificate of Occupancy status at 2083 Marshall Avenue (a single family dwelling) due to over occupancy.

Jerome Benner, Department of Safety and Inspections (DSI) gave a staff report. DSI Inspector A.J. Neis provided additional information.

Councilmember Noecker asked whether the BZA was made aware there was an error in DSI's recording of results of a March 2016 inspection (as noted in Mr. Neis's staff report). Mr. Benner said the BZA was not made aware of the error at the time of the hearing. Councilmember Noecker said that meant the BZA made their decision based on the assumption that this was the third violation. Mr. Benner said that was correct.

Appellant:

Loren Solfest, attorney representing property owner Kyle Coglitore, referred to a letter he had submitted and said the revocation was made in error and should not be applied. He said the revocation was based on September 15 and not on September 14. He said there was a statement to Mr. Coglitore on the 15th, when there was no over-occupancy, that it was not being revoked and he had one additional time or warning. He said it was based upon the call from Mr. Coglitore's girlfriend, so he was trying to comply and make sure there was no over-occupancy, and he was never made aware of alleged over-occupancy in 2016. He said this was a pre-existing nonconforming property, and was rented to students for many years prior to the 2012 ordinance. He said he was asking that the Council acknowledge the property was not subject to the 2012 ordinance, otherwise it would be an unconstitutional taking.

Council President Brendmoen asked whether that was a taking because he couldn't rent to anyone or because he couldn't rent to students. Mr. Solfest said it was because it was limiting who it could be rented to and limiting the use. He said technically there was no requirement for a Certificate of Occupancy as a student dwelling because it was a pre-existing nonconforming use. He said there had been no proceeding or just compensation given for the taking based on a revocation. He said there were a number of other factual and legal errors, including the procedural issue of not providing a warning before any revocation. He said it was his understanding, based on testimony at the BZA hearing, there had never been another revocation of the student housing ordinance. He said there was a state to Mr. Coglitore by the City that if there was another violation they would revoke the Certificate of Occupancy. He said they were not waiving the argument that Mr. Coglitore was exempt from the ordinance but wanted to point out the actions from a fairness standpoint. He reviewed the circumstances.

Council President Brendmoen told Mr. Solfest to focus on the errors in the BZA decision, and asked what Mr. Solfest was driving at. Mr. Solfest said his point was that Mr. Coglitore acted on what he was told, and the City took action directly converse to that. He said Mr. Coglitore had improved the property and tried to be a good neighbor, and wanted to be on good terms with the City. He said he was asking that the Council acknowledge or confirm that this was a nonconforming pre-existing use, overturn the

revocation, and re-issue the Certificate of Occupancy.

Appellant Kyle Coglitore said this was his only source of income and it was being taken away. He said the story was being told in a certain way to portray him in a certain way, and he understood that they didn't want college kids on that block. He said via a phone call Inspector Neis told him the property was over-occupied but via email he

said he hadn't seen it over-occupied but had been told by the tenant. He said when Mr. Neis checked the following day there was no one there; Mr. Coglitore said he had never seen it over-occupied. He said Mr. Neis told him if he messed up again he would lose his student rental license. He said after Mr. Neis left he spoke with "the boys," who said they were going to move back in. He said he didn't know what kind of situation that would put him in, so he had his girlfriend call in the complaint, and then he was blind-sided by the revocation. He said Mr. Neis told him the revocation was based on an anonymous complaint, and he told Mr. Neis he had made the call. He said Mr. Neis didn't believe him in spite of documentation he provided. He said he got everything else done, tried to comply, to be translucent and do what the City wanted him to do. He said Mr. Benner said his only chance to get (the Certificate of Occupancy) back would be to get approval from the district council. He said he went to District 13 and found it was a setting where it was hard for him to get his story across. He said Mr. Neis attended the meeting and shared information that wasn't true. He said the same thing happened at the BZA meeting, and he was portrayed in the wrong light and not given a chance. He said he was asking to be given a chance. He said he had done everything that had been asked of him and was attending Landlord 101 the next day.

In opposition:

Cathy Plessner (2038 Summit Avenue)

Steve Levin (2073 Marshall Avenue)

Lillian Hang (2093 Marshall Avenue)

George Bounds (2072 Iglehart Avenue)

Heidi Balley (2062 Iglehart Avenue)

Melissa Vanstrum (2089 Iglehart Avenue)

Linda Simmons (2111 Marshall Avenue)

Dave Sill (2111 Marshall Avenue)

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

Councilmember Henningson said it was not about behavior or about sending a message, but was about over-occupancy. She said reviewing the facts in the record she didn't see any errors. She said the March 2016 discrepancy was of concerns but, the student zoning overlay it didn't say a property had to be over-occupied twice to have the Certificate of Occupancy revoked. She moved to deny the appeal and adopt the finding of the BZA.

Councilmember Noecker asked Mr. Neis whether a follow-up inspection was conducted after the call came in, allegedly from the girlfriend. Mr. Neis said at that time the home was vacant. He said they had decided to vacate the entire home, and the owner then did the renovations. Councilmember Noecker asked for clarification. Mr. Neis said he didn't have the record of when he went back, and would have to look it up.

Council President Brendmoen said the exact date wasn't necessary; she asked whether he had re-inspected in September following that second phone call. Mr. Neis said he couldn't recall when the next inspection was, but he remembered Mr. Coglitore saying he was going to vacate the home at that time. He said when he re-inspected everything was done and the house was vacant.

Councilmember Noecker confirmed with Mr. Neis that there was one documented complaint and find of over-occupancy. She said she appreciated Councilmember Henningson's clear laying out of the issue before the Council. She said in this case the facts in front of the BZA were concerning to her, and the question regarding the March 2016 allegation of over-occupancy was significant because the City didn't function on a one strike and you're out basis. She said the minutes of the BZA showed there was

discussion about the March 2016 incident which never happened, and she was concerned that the BZA made their decision in part on a fact that wasn't correct.

Councilmember Henningson noted that March 13 was the deadline for a decision and an extension had already been granted. She noted that AMANDA showed an inspection on September 18 at which orders were issued. Mr. Neis clarified that the over-occupancy after September 15 never occurred because it was prevented by DSI finding out about it proactively. Councilmember Noecker again confirmed that it only happened once.

Council President Brendmoen said it was difficult to evaluate, but the over-occupancy was clear. She said she would support the denial of the appeal but was open to input from her colleagues. She said it was complicated but the over-occupancy was clear and was proven.

Councilmember Noecker reiterated her concerns and said she would vote against the denial of the appeal.

Councilmember Tolbert asked Assistant City Attorney Virginia Palmer whether she had any concerns about the findings on which Councilmember Henningson was basing her motion.

Ms. Palmer said the Council had look at the findings as a whole and not as individual facts. She said she didn't think they were in a position to determine whether that one fact impacted the outcome. She said the Council's review of any decision would be based on the record in its entirety.

Councilmember Henningson said the other thing to note was that in the five years of the student zoning overlay there had never been a revocation, because the bar for proving over-occupancy was high, and it was proven in this case.

Councilmember Tolbert said based on all of the facts together, it was very clear, and the Council should deny the appeal.

Motion of Intent - Appeal denied

Yea: 5 - City Council President Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Prince and Councilmember Henningson

Nay: 1 - Councilmember Noecker

Absent: 1 - Councilmember Bostrom

ADJOURNMENT

Meeting adjourned at 8:35 p.m.

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