



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 Melvin Carter III
Councilmember Pat Harris
Councilmember Lee Helgen
Councilmember Russ Stark
Councilmember Dave Thune

Wednesday, December 15, 2010

3:30 PM

Council Chambers - 3rd Floor

ROLL CALL

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

Present 7 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

COMMUNICATIONS & RECEIVE/FILE

- 1 **CO 10-19** Letters from the Department of Safety and Inspections declaring 686 Bradley Street, 697 Bradley Street, 472 Concord Street, 579 Lexington Parkway South, 1070 McLean Avenue, and 49 Wyoming Street West as nuisance properties. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)

Received and Filed

- 2 **AO 10-18** Adjusting the 2010 Fire Department Budget.

Received and Filed

CONSENT AGENDA

NOTE: ALL ITEMS LISTED UNDER THE CONSENT AGENDA WILL BE ENACTED BY ONE MOTION, WITH NO SEPARATE DISCUSSION. IF DISCUSSION ON AN ITEM IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

Item 9 was withdrawn. Items 3, 23 and 28 were removed from the Consent Agenda for separate consideration. Item 23 was laid over for one week.

Approval of the Consent Agenda

Consent Agenda adopted as amended

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

- 4 RES 10-1574** Approving the Mayor's appointment of Michelle Furrer to serve on the Carousel Board.
Sponsors: Lantry
Adopted
- 5 RES 10-1576** Approving the Mayor's appointment of Frederick Owusu to serve on the Civil Service Commission.
Sponsors: Lantry
Adopted
- 6 RES 10-1579** Approving the Mayor's appointment of Jake Spano to serve on the Minnesota Landmarks Board.
Sponsors: Lantry
Adopted
- 7 RES 10-1571** Approving the Mayor's appointments of Cynthia Frances, Elizabeth Mische, Joann Ellis, Sonja Larson Moore, Therese Buckley, Amy Moser, and Michael Ryan; and reappointments of Dennis Sohlstrom, Harriet Mednick, Parthenia Swynigan, and Aine Bebeau to serve two year terms on the Mayor's Advisory Committee on Aging.
Sponsors: Lantry
Adopted
- 8 RES 10-1572** Approving the Mayor's appointments of Celine Vang, Jennifer Diderich, Lind Omps, Thomas Hern, Betty Konder, Kari Sheldon, Lou Michaels, Jeremy Damsgard, Barritt Lovelace and Amy Long; and reappointments of Sister Mary Frances Benz, Michelle Bergman, Scott Coleman, Mark Hughes, Jean LaClare, Keith Arnold Schmalzbauer, and James Thayer to serve on the Mayor's Advisory Committee on People with Disabilities.
Sponsors: Lantry
Adopted
- 9 RES 10-1573** Approving the Mayor's appointments of Avinash Viswanathan and Tara Garman Erickson; and reappointments of Jacob Dorer, Diane Gerth, Michael Steward, Becca Hine, Debra Jessen, Mark Miazga, David Pinto, Gene Olson, and Gary Unger to serve on the Long Range Capital Improvement Budget Committee.
Sponsors: Lantry
Withdrawn

10 **RES 10-1582** Approving the Mayor's appointments of Scott Dunnigan, Remi Stone and Morgan Kavanagh; and reappointments of Stephanie Alstead, Jerrey Beedle, Michael Moser, Bob Nardi, Michael DeTomaso and Jim Reiter to serve on the Saint Paul Truth in Housing Board.

Sponsors: Lantry

Adopted

11 **RES 10-1583** Approving the Mayor's appointment of Steven Thao and reappointment of Gladys Morton to serve on the Board of Zoning Appeals.

Sponsors: Lantry

Adopted

12 **RES 10-1575** Approving the Mayor's reappointment of Donald Grundhauser to serve on the Capitol Area Architectural Planning Board.

Sponsors: Lantry

Adopted

13 **RES 10-1584** Approving the Mayor's reappointments of Alice Hausman and Tim Mahoney to serve on the Saint Paul Riverfront Corporation.

Sponsors: Lantry

Adopted

14 **RES 10-1585** Approving the Mayor's reappointments of Todd Axtell and Mary Jo Woolf to serve on the RiverCenter Visitors Authority.

Sponsors: Lantry

Adopted

15 **RES 10-1540** Approving adverse action against all licenses held by Pappy's Chicago Style Eatery, Inc. d/b/a Pappy's Gyros located at 1783 Maryland Avenue East in Saint Paul.

Sponsors: Bostrom

Adopted

16 **RES 10-1524** Approving adverse action against all licenses held by AM PM Gas d/b/a Marathon Market located at 719 Payne Avenue in Saint Paul.

Sponsors: Bostrom

Adopted

17 **RES 10-1525** Approving adverse action against the Cigarette/Tobacco license held by AM PM Gas d/b/a Marathon Market located at 719 Payne Avenue in Saint Paul.

Sponsors: Bostrom

Adopted

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- 18 **RES 10-1523** Approving adverse action against all licenses held by Jerry Castillo d/b/a Amigos Auto Center & Sales located at 1445 Arcade Street in Saint Paul.
- Sponsors:** Bostrom
- Adopted**
- 19 **RES 10-1511** Approving a declaration affecting a section of Phalen Boulevard ROW, and the underlying Ramsey County Regional Rail Authority property, which was reconstructed for access to the Baldinger Bakery site.
- Sponsors:** Bostrom
- Adopted**
- 20 **RES 10-1396** Accepting a grant awarded by the United States Department of Justice - Office of Justice Programs in the sum of \$250,000.00 for the purpose of enhancing the City's outdoor warning siren system and controls.
- Sponsors:** Lantry
- Adopted**
- 21 **RES 10-1489** Authorizing the Saint Paul Fire Department to accept the donation of \$300.00 from the Residential Mortgage Group (RMG) Inc.
- Sponsors:** Lantry
- Adopted**
- 22 **RES 10-1498** Approving the 2011 Rules & Regulations for the Department of Parks and Recreation.
- Sponsors:** Lantry
- Adopted**
- 23 **RES 10-1485** Authorizing the City Attorney to retain the law firm of Miller and Van Eaton to represent the City in matters of cable television franchising, telecommunications and other specialized areas as necessary.
- Sponsors:** Lantry
- Laid Over to December 22**
- Yea:** 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark
- Nay:** 0
- 24 **RES 10-1494** Approving the use of Neighborhood STAR Year-Round Loan Program Funds for a project in Ward 6.
- Sponsors:** Bostrom
- Adopted**

- 25 **RES 10-1360** Preliminary Order setting date of public hearing for January 5, 2011 to acquire property rights along Maryland Avenue East immediately east and west of Clarence Street for the Phalen Village Left Turn Lanes project.

Sponsors: Bostrom

Adopted

- 26 **RES 10-1481** Setting date of public hearing for January 5, 2011 to ratify the assessment of benefits, cost and expenses for a fire protection system on the 3rd and 4th floor of the Lowry Square, located at 345 Wabasha Street.

File No. FP2010-03 Assessment No. 105132

Sponsors: Thune

Adopted

- 27 **RES 10-1486** Setting date of public hearing for January 5, 2011 to ratify the assessment of benefits, cost and expenses for a fire protection system at Hamernick Decorating located at 1381 N. Rice Street.

File No. FP2010-04 Assessment No. 115135

Sponsors: Helgen

Adopted

FOR DISCUSSION

- 29 **CO 10-12** Presentation of accreditation plaque to Como Zoo by Jim Maddy, President and CEO of the Association of Zoos and Aquariums.

Michelle Furrer, Como Campus Director, briefly described the accreditation process, and introduced Jim Maddy from the Association of Zoos and Aquariums. Mr. Maddy presented the accreditation plaque and certificate to Mayor Coleman. Mayor Coleman expressed his pride in the zoo, appreciation for the recognition, and thanks to staff.

Mr. Maddy spoke about the rigorous accreditation process and requirements, and expressed his appreciation and congratulations.

Received and Filed

- 3 **RES 10-1590** Designating December 15, 2010 as Joan Trulsen Day in the City of Saint Paul, Minnesota.

Sponsors: Lantry

Council President Lantry invited Ms. Trulsen to the podium and read the resolution. Ms. Trulsen made brief comments.

Council President Lantry moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

28 RES 10-1602 Approving the City of Saint Paul's 2011 Legislative Agenda.

Councilmember Helgen said changes or modifications might still be necessary but the Legislative Agenda would provide a good basis for the lobbying team. He thanked Wendy Underwood and Sarah Erickson for their hard work on developing the agenda, and Ann Olson from his staff for her work in preparing it for Council. He asked whether any amendments were desired.

Councilmember Helgen moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

30 RES 10-1120 Authorizing Right-of-Way Maintenance for 2011.

Sponsors: Lantry

Councilmember Helgen said snow removal came out of the Right of Way fund, and he suspected the Council might want to revisit that in light of the recent snow events and after an assessment was made of how much was really spent. He expressed appreciation for the hard work of Public Works staff.

Councilmember Helgen moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

31 RES 10-1126 Establishing the 2011 Residential Street Vitality Program Assessment Rates.

Sponsors: Lantry

Councilmember Thune moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

- 32 **RES 10-1115** Setting the recycling service fee for 2011 and allowing Public Works to request \$597,750 in SCORE grant funds from Ramsey County to support the curbside recycling program under contract with Eureka Recycling.

Sponsors: Lantry

Councilmember Carter moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

- 33 **RES 10-1043** Setting the 2011 Sanitary Sewer and Storm Sewer Rates.

Sponsors: Lantry

Councilmember Harris moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

- 34 **RES 10-1108** Establishing the Water Rates for 2011.

Sponsors: Harris

Councilmember Harris moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

- 35 **RES 10-1464** Approving the Saint Paul Regional Water Services 2011 Budget.

Sponsors: Harris

Councilmember Harris moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

36 **RES 10-1534** Approving the Saint Paul RiverCenter Convention and Visitors Authority 2011 Budget

Sponsors: Lantry

Councilmember Bostrom moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

Councilmember Bostrom moved that the Council meeting recess.

Meeting recessed

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

The Council reconvened as the Housing and Redevelopment Authority and as the Public Library Agency to adopt their budgets. (See separate minutes for those meetings.)

37 **RES 10-1273** Adopting the 2011 HRA Budget and Property Tax Levy.

Sponsors: Thune

Councilmember Thune moved approval. (This Council action on the HRA budget was taken out of order at the beginning of the public hearings portion of the meeting.)

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

38 **RES 10-1536** Approving and Adopting the Saint Paul Public Library Agency Budget.

Sponsors: Harris

Councilmember Harris moved approval. (This Council action on the Public Library Agency budget was taken out of order at the beginning of the public hearings portion of the meeting.)

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

Council President Lantry reconvened the meeting of the City Council.

Meeting reconvened

ROLL CALL

Present 7 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

39 RES 10-1537 Approving the 2011 City Tax Levy.

Sponsors: Lantry

Councilmember Carter moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

40 RES 10-1474 Adopting the 2011 Budgets.

Sponsors: Lantry

Councilmember Stark moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

41 RES 10-1597 Adopting the 2011 Dollar List and Policy Plan.

Sponsors: Lantry

Councilmember Harris moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

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

- 42 **Ord 10-59** An ordinance amending Appendix G. Energy Park Utility Company Franchise - Port Authority of the Saint Paul Legislative Code pertaining to the Energy Park Utility Company (EPUC) franchise agreement.

Sponsors: Stark

Laid over to December 22 for second reading

- 43 **Ord 10-60** An Ordinance creating election rules for municipal elections under ranked voting.

Sponsors: Stark

Councilmember Helgen said he felt some of the language was unclear and "archaic," and that the Council would benefit from a briefing and the opportunity to make changes to the language prior to the public hearing.

Councilmember Stark said it was his expectation that the public hearing might be moved back to allow time for type of things Councilmember Helgen was suggesting.

Council President Lantry suggested holding a working policy session separate from and prior to the public hearings.

Councilmember Thune said the ordinance was "daunting" and suggested that someone be hired to draft a layperson's guide for voters. Councilmember Bostrom agreed that it was complicated.

Councilmember Stark said input from Ramsey County Elections would be important, but because of the timing of the issue and the recount currently taking place, they had just begun to get comments back from Ramsey County. He suggested a January 5 morning work session, and said he had been telling people the public hearing would probably not take place on January 5. He said there was money in the 2011 budget for training.

Laid over to December 22 for second reading

SUSPENSION ITEMS

Councilmember Carter moved suspension of the rules to introduce the following resolution:

RES 10-1633 Authorizing the Department of Parks and Recreation to accept donations from community partners for a community gathering to be held at the Oxford Community Center and Jimmy Lee Rec Center on Saturday, December 18, 2010.

Sponsors: Carter III

Councilmember Carter moved approval.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

Councilmember Bostrom moved suspension of the rules to introduce the following item:

RES 10-977 Preliminary Order to establish public hearing date for Final Order to acquire property rights at 1190 and 1194 Payne Avenue for the Payne/Maryland Intersection Widening/Channelization project

Sponsors: Bostrom

Councilmember Bostrom moved approval.

Adopted

Council President Lantry acknowledged the amount of time and work that went into preparing the budget for adoption. She thanked the administration and expressed appreciation for the cooperative nature of the process. She specifically mentioned Margaret Kelly, Scott Cordes, and Margaret Egan. She thanked the rest of the Council, especially Councilmember Harris. Councilmember Harris reiterated the appreciation to OFS and the administration. He thanked Council President Lantry for her leadership.

The meeting was recessed at 4:10 p.m. and reconvened for public hearings at 5:30 p.m.

PUBLIC HEARINGS

ROLL CALL

Present 7 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

Council President Lantry asked that Items 37 and 38 be re-read and voted on as the City Council.

Councilmember Helgen requested that Item 55 be taken out of order after Item 45.

44 Ord 10-54

An Ordinance amending Chapter 106 of the Saint Paul Legislative Code to clarify requirements for sidewalk cafés and sidewalk sales displays.

Sponsors: Thune, Lantry and Stark

Councilmember Thune introduced an amended ordinance. He said the language regarding closing time had been removed, the language regarding the curb had been clarified, and license applications would involve only one City department. He proposed that the public hearing be continued to January 5 to allow one more opportunity for testimony from business owners after the holidays, and that final adoption take place the following week.

The amendments were introduced.

Yeas - 7

Nays - 0

Councilmember Stark asked why there was a minimum requirement of 24 inches between the curb and a sidewalk cafe, especially if the closest thing between the cafe and curb was a planter or other buffer from the street. Paul St. Martin, Public Works, said for cafes adjacent to the street rather than the building, the two foot buffer was necessary for safety and for access between the sidewalk and parked vehicles.

Councilmember Harris expressed concern about requirement to post the site plan, and about the cost of the site plan requirement for existing businesses that were obviously in compliance. Rachel Tierney, Assistant City Attorney representing the Department of Safety and Inspections (DSI), explained that it was important for enforcement purposes that the site plan be accessible. She said the intention was for all establishments to have new site plans, but they did not necessarily have to be professionally prepared. Councilmember Thune noted that "obviously in compliance" was subjective.

Council President Lantry asked whether moving tables in a sidewalk cafe would be a violation of the site plan. Ms. Tierney said it wouldn't be a violation of the site plan unless the sidewalk was obstructed, and the intent was to make sure the tables and chairs were within the delineated boundaries of the sidewalk cafe. Council President Lantry said it was important that the ordinance supersede the site plan. Ms. Tierney said the site plan would give DSI a means to enforce the ordinance as it applied to each specific site.

No one appeared in opposition.

The following appeared in support:

Rick Cardnes (66 E. 9th Street, #106) said he was more concerned with the actual accessibility of the sidewalk than with the site plan. He cited specific restaurants with inadequate clear right-of-way. He said St. Paul did not have a good record for complying with ADA at a number of sites that he monitored.

Mark Hughs (739 Lawson Lane, Shoreview, MN 55126) asked Council members to think about what they would do if they were in his situation and the ordinance didn't pass.

Councilmember Thune thanked Mr. Hughs for all of his hard work.

Kari Sheldon, member of the Mayor's Advisory Committee for Persons with Disabilities, read a statement of support.

Scott Coleman, Mayor's Advisory Committee for Persons with Disabilities, asked the Council to subscribe to the letter law of the ADA.

Jim Thayer (176 Kent Street, St. Paul 55102), Mayor's Advisory Committee for Persons with Disabilities, said he had a daughter with a disability and it was always his goal to make sure she could get around the city of St. Paul and never be impeded.

Nancy Breimeier, Grand Avenue business owner, said she was in favor of posting the site plan so customers and employees understood the reasoning for maintaining the clear space.

Public hearing continued to January 5, 2011

Yea: 7 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

Rich Lallier, Public Works Director, and John Maczko, City Engineer, gave a report on snow removal.

Mr. Lallier said the response to the snow event represented a great joint effort between departments. He said staff in public works and other departments had worked hard in he felt they had done a great job. He said a lot had been accomplished but a lot of work remained.

Mr. Maczko noted that only 108 hours had passed since the first snowfall and all streets were plowed with few exceptions. He said they were currently working on heavy snow removal downtown. He said first runs were complete in the neighborhoods. He said drivers had been instructed to skip streets that had cars, but clean-up was now being done both systematically and in response to calls. He said they would begin snow removal at major intersections that night. He said property owners needed to be reminded that it was illegal to move snow from private property to the street. He acknowledged the dedication of the Public Works' crews.

Councilmember Helgen thanked Public Works staff and crews. He said he appreciated the email updates and the department's response to constituent concerns.

Councilmember Stark said that any resources the City devoted to being prepared for a once-very-twenty-years snowfall would be unavailable for day to day operations. He expressed appreciation for the hard work and said his one concern was with pedestrians having to walk in traffic because sidewalks were impassable. Mr. Maczko reiterated that they were going to start on major intersections, and said they would be partnering with Parks to work on sidewalks beginning the next day. He said private contractors were helping with downtown snow removal, and MNDot and Ramsey County had been called in to help on arterial streets.

- 45 **RES 10-1362** Authorizing vacation of City property at 260 5th Street East and conveyance to the Housing and Redevelopment Authority (HRA).

Sponsors: Thune

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

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - Councilmember Carter III

- 55 **ALH 10-430** Appeal of Michael Gross to a Notice of Condemnation Unfit for Human Habitation Order to Vacate at 852 ALBEMARLE STREET.

Sponsors: Helgen

No one appeared in opposition; Councilmember Helgen moved to close the public hearing and approve the recommendation of the Legislative Hearing Officer (deny the appeal).

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Helgen, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Harris and Councilmember Thune

- 46 **RES 10-1559** Amending the financing and spending plans in multiple capital project budgets across several departments to close out inactive projects.

Sponsors: Lantry

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

Adopted

Yea: 4 - Councilmember Bostrom, Councilmember Carter III, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 3 - Councilmember Harris, Councilmember Helgen and Councilmember Thune

- 47 **APC 10-5** Appeal of 2446 University Avenue LLC to a decision of the Planning Commission upholding the Zoning Administrator's determination at 2446 University Avenue West.

Sponsors: Stark

Tom Beach, Department of Safety and Inspections (DSI), gave a staff report. He said the issue was access to parking at 2446 University Avenue. He displayed an aerial

photograph of the building, parking, and easement, and he reviewed the situation. He said a site plan for additional parking at 2446 University had been approved in 2004, and the site plan had included the parking spaces currently in question. He said the owner of the neighboring property at 2420 University had asked the City about the access to the parking spaces a couple of years ago, and he had delayed taking action thinking it was a private matter between the property owners. He said the question was raised among City staff as to what the decision would be if the neighboring property owner applied for a permit to erect a fence along the property line to block access to the parking; they determined at that time was that the parking spaces were not legal since the owner of 2446 did not have legal access to them. Mr. Beach said he wrote a letter to the owners of 2446 University stating that the parking spaces were not legal and the site plan was incorrect. The owner of 2446 University appealed that decision to the Planning Commission on the grounds that the parking spaces had been used for 50 years, had been previously approved by the City, and if there was an issue it was a private dispute between property owners and should not involve the City. Staff's response was that aerial photographs did not show a long history of parking, and the 2004 site plan dealt primarily with another parking area and contained inaccurate information. The Planning Commission voted unanimously to deny the appeal.

Council President Lantry asked about an easement agreement in 2009. Mr. Beach said that easement agreement updated and clarified an earlier easement agreement, possibly from the 70s. Council President Lantry questioned why the newer easement agreement had not addressed the current issue.

Kyle Hegna (7300 Metro Boulevard, Suite 300, Edina, MN 55439), attorney representing the appellant, said he'd learned from Mr. Beach that the appeal had been denied by Council at an earlier public hearing; he asked that the matter be continued for 60 to 90 days to allow time for the two parties to resolve the matter themselves. Council President Lantry explained that Council had voted on the appeal at an earlier public hearing because staff and the appellant had not appeared due to a miscommunication. She said the matter was being brought back before Council as a courtesy.

Mr. Hegna displayed a schematic showing the disputed parking area and easement area agreed upon in 2009, which had come as the result of a lawsuit to clarify the deed that referenced the area. He displayed a 2009 aerial photograph of the parking and alley, and photographs showing the parking locations of some of Mr. Cemensky's (owner of 2420 University) vehicles. He said their position was that it was a private matter between the two parties and should be addressed between the two parties. He asked to be given more time, and said Mr. Cemensky had expressed willingness to negotiate.

Patricia Jordan (433 East Lake Street, Minneapolis, MN 55408), chief manager of the LLC that owned the property, said they had understood that Mr. Beach wouldn't interfere in a private matter and believed in good faith that they were negotiating with Mr. Cemensky to resolve the matter. She said Mr. Cemensky had purchased the property in 2001 and, according to neighbors, had always parked his vehicles in the easement area. She said the parking area in question was established in 2004, and they acquired the property in 2006 assuming that they had access to the parking spaces. She said they had improved the building and increased occupancy and now needed access to all of their parking. She said they had proposed to Mr. Cemensky that the alley area under his ownership be flipped with the his parking area in the easement. She said the city's decision interfered with the negotiations and created an unfair circumstance. She said she'd been assured by Mr. Beach that the Planning Commission decision would not be enforced, and she asked that the appeal or an

extension be granted.

The following appeared in opposition:

Mark Cemensky (2343 Swan Drive) and Bradley Beisel (288 U.S. Trust Building, Minneapolis, MN 55402), attorney for Mr. Cemensky, appeared. Mr. Beisel said it was his understanding that the appeal had been denied based on the City Attorney's opinion that the Council could revoke a parking permit that had been granted in error. Council President Lantry reiterated that the Council had not already heard the matter.

Mr. Beisel displayed a 1974 drawing of the property and said Ms. Jordan did not do due diligence when she purchased the property and didn't realize she didn't have access to the parking area. He said Ms. Jordan sued Mr. Cemensky to try to modify the easement, and the resulting 2009 easement clarified but did not change the one from the 70s. He said it was their belief that the matter had been addressed in the courts, and there was no access to the parking. He said the Council did not have to grant the appeal to allow the parties to negotiate an agreement.

Council President Lantry asked how long Mr. Cemensky had owned his building. Mr. Cemensky said he'd owned it since 2001. Ms. Lantry noted that the site plan including the spaces in question had been approved in 2004; she asked why the owners of 2446 University had been allowed to park in the spaces since that time. Mr. Cemensky said the building had been a warehouse and the area hadn't been used for parking until Ms. Jordan purchased it, put in office space and increased occupancy. Council President Lantry asked why the 2004 site plan included those parking spaces if that area wasn't used for parking at that time. Mr. Cemensky said it was included because the owners had wanted to add parking there.

Councilmember Stark moved to close the public hearing.

Yeas - 5

Nays - 0 (Helgen and Thune not present for vote)

Councilmember Stark said the City's only interest was whether there was legal access to those parking spaces in the site plan, and he hadn't seen anything that indicated any errors made by the Planning Commission. He moved to deny the appeal and uphold the decision of the Planning Commission, and hope that the property owners could still come to some better understanding.

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

48 PH 10-9

Public hearing to consider the application of Minnwest Bank Metro to rezone property at 1870 Old Hudson Road from B3 General Business to RM2 Medium Density Multiple family Residential.

Sponsors: Lantry

No one appeared in opposition.

Gerald Frisch (2350 W. 7th Street, Saint Paul, 55105) appeared on behalf of the applicant. He spoke about the developer, property condition, proposed use for senior housing, and potential demand for the proposed housing. He noted that the owner and developer were not seeking assistance from the City. He said the development

had satisfied all staff requirements and he felt it would be an enhancement to the community.

Council President Lantry moved to close the public hearing.

Yeas - 5

Nays - 0 (Helgen and Thune not present for vote)

Council President Lantry said the couple of letters in opposition had to do with a similar development was being proposed for an adjacent property, and shouldn't affect the Council's decision on the current matter. She said she felt the development at 1870 Old Hudson Road would be an asset, and met all of the conditions set out for the rezoning; she moved to grant the application.

Motion of Intent - Application granted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

LEGISLATIVE PUBLIC HEARINGS

- 49 RES 10-920** Ratifying vacant building fee assessment for fees reinvoiced in June 2010 for 1368 MARION AVENUE. [VB1006A, 108990] (laid over from September 15, 2010 for separate consideration)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond said it was the request of the real estate office to have the matter laid over to Janaury 19, at which it point it could be ratified for that year's taxes.

No one appeared in opposition; Councilmember Stark moved to continue the public hearing to January 19, 2011.

Public hearing continued to January 19, 2011

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

- 50 RES 10-1182** Ordering the rehabilitation or razing and removal of the structures at 578 THOMAS AVE within fifteen (15) days after the November 3, 2010, City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said the Council had continued the public hearing from November 3 because there was a potential investor and some conditions had been met. She said the Council's requirements of a work order and financial documentation had not been met and her recommendation now was to order removal of the structure within 15 days with no option for repair. She said someone was there to testify on behalf of the property owner who was in California.

The following appeared in opposition:

Nghi Huynh (417 University Avenue, St. Paul), property manager at 578 Thomas, displayed a photograph of the house and said it had a new roof, plumbing, and electrical, and was in perfect condition. He said interior water damage had occurred during a storm-related roof repair, and the owners had had problems recouping money paid to a contractor for work that wasn't done. He said they'd had an interested investor but hadn't been able to transact the sale because of the rehab delays. He said they'd learned the building had to be deconverted to a single family home, and that process would take some time. He said the Code Compliance inspection was scheduled for the following week and they would use that list to get bids from contractors. He said GMAC had sent purchase documents to him by email but he'd been unable to open them. He said the realtor would print them and they would be signed and submitted to Ms. Moermond by the following week. He said it was a complicated situation and he asked for 15 or 30 more days. He reiterated that the house was in very good condition and all improvements had been completed and paid for except the interior water damage. He asked for the Council's consideration.

Councilmember Carter moved to close the public hearing.

Yeas - 5

Nays - 0 (Helgen and Thune not present for vote)

Council President Lantry asked whether conditions set at the October 12 Legislative Hearing had been met by October 26. Ms. Moermond said some extra time had been granted because there had been an error in the letter sent to the property owner, but the Code Compliance inspection had not been applied for until December 10, which did not bode well for completion of the project. She also noted the complexity of the project, the stop and start nature of negotiations, and the fact that there had been a request for a refund of the performance bond.

Councilmember Carter said his predisposition was to offer the opportunity to rehab whenever possible, but he did not want to lay the matter over and risk allowing the situation to drag out. He said since Mr. Huynh seemed confident that the matter could be resolved, he would move to order the building removed or repaired within 30 days.

Adopted as amended (30 days to remove or repair)

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

51 ALH 10-412 Appeal of Philip Black and Dan Boler to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 256 MARSHALL AVENUE.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said the matter was a Condemnation/Order to Vacate. She said a number of corrections were to have been made by the date of the public hearing, but a follow-up inspection had not yet been conducted. She said she'd expected at least the heating facility report and record of an electrical permit, and neither of those things had been provided. She said her recommendation was going to be to order the building vacated by Friday, but Southern Minnesota Regional Legal Services had contacted her and would be filing a tenant remedies action to ensure the work was done. She asked that the matter be laid over for three weeks for followup.

No one appeared in opposition; Councilmember Carter moved to continue the public hearing to January 5.

Public hearing continued to January 5, 2011

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

- 52 ALH 10-421** Appeal of Helen E. Fairbanks to a Notice of Condemnation Unfit for Human Habitation Order to Vacate and Vacant Building Registration Notice at 911 DALE STREET NORTH.

Sponsors: Carter III

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

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

- 53 ALH 10-451** Appeal of Wally Nelson, Renovation Inc. to a Condemnation, Order to Vacate and Vacant Building Registration Notice at 513 VAN BUREN AVENUE.

Sponsors: Carter III

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

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

- 54 ALH 10-114** Appeal of William Wengler to a Fire Certificate of Occupancy Correction Notice at 857 GRAND AVENUE.

Sponsors: Thune

Legislative Hearing Officer Marcia Moermond asked that the matter be laid over to January 19 for public hearing.

No one appeared in opposition; Councilmember Stark moved to continue the public hearing to January 19.

Public hearing continued to January 19

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

56 ALH 10-354 Appeal of A. Espinosa to a Notice of Condemnation Unfit for Human Habitation Order to Vacate at 211 KIM PLACE.

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond said a reasonable accommodation had been reached with the appellant and the work was being done and supervised through the House Calls program. She recommended that the appeal be granted.

No one appeared in opposition; Council President Lantry moved to close the public hearing and grant the appeal.

Appeal granted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

57 ALH 10-414 Appeal of Janice and Jim Mott to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 642 WHITE BEAR AVENUE.

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond said the conditions leading to the condemnation no longer existed, but had existed previously. She recommended that the appeal be denied.

No one appeared in opposition; Council President Lantry moved to close the public hearing and deny the appeal.

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Stark

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Thune

The meeting was adjourned at 7:20 p.m.

Adjourned

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