



**SUMMARY MINUTES OF THE
SAINT PAUL CITY COUNCIL
Wednesday, October 6, 2010 - 3:30 p.m.**

PUBLIC HEARINGS - 5:30 P.M.

**CITY COUNCIL CHAMBERS, 3RD FLOOR
City Hall and Court House
15 West Kellogg Boulevard**

Note: All City Council meetings are on the City of Saint Paul's website. Meetings can be viewed in their entirety or a specific item can be viewed. Visit our website at www.stpaul.gov/council and click on Watch the Live Webcast.

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

Present – 6 – Bostrom, Carter, Harris, Helgen, Lantry, Stark

Absent – 1 – Thune (arrived after Consent Agenda)

COMMUNICATIONS AND ADMINISTRATIVE ORDERS

1. Administrative Orders:

- D002816 Extending the contract completion date from August 30, 2010 to September 17, 2010 for the Snelling/Juno Sewer Cleaning and TV Inspection Project.
- D002817 Creating a new activity in the Department of Financial Services in Fund 925 to deposit ISP Bond Fund allocated in the 2010 Council adopted Capital Improvement Budget.

On file with the City Clerk

CONSENT AGENDA (Items 2 - 21)

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED BY A COUNCILMEMBER, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

Councilmember Bostrom moved approval of the Consent Agenda.

Adopted Yeas – 6 Nays – 0

2. Approval of minutes of July 21 and 28, 2010.
Adopted Yeas – 6 Nays – 0
3. Resolution – 10-1098 – Accepting a donation from the Department of Justice to cover costs for Therese Skarda, City Attorney's Office, to attend an Evidenced Based Decision Making Initiative (EBDMI) Workshop in Bethesda, Maryland on October 5 and 6, 2010.
Adopted Yeas – 6 Nays – 0
4. Resolution – 10-1099 – Setting public hearing date of November 3, 2010 for the 2011 Sanitary Sewer and Storm Sewer rates.
Adopted Yeas – 6 Nays – 0
5. Resolution – 10-1100 – Authorizing the Department of Public Works to enter into a cooperative agreement with Ramsey County for the installation of Emergency Vehicle Preemption systems at Larpenteur Avenue and Dale Street and Larpenteur Avenue and Victoria Street.
Adopted Yeas – 6 Nays – 0
6. Resolution – 10-1101 – Authorizing the Water Utility to execute an amendment to the site lease agreement between the Board of Water Commissioners and Clear Wireless, LLC allowing for additional equipment at the Board's Highwood Standpipe site at 670 McKnight Road, Maplewood.
Adopted Yeas – 6 Nays – 0
7. Resolution – 10-1102 – Authorizing the Police Department to enter into an amendment to a City contract between the Police Department and the public Housing Agency.
Adopted Yeas – 6 Nays – 0
8. Resolution – 10-1103 – Authorizing the Fire Department to accept a donation of \$3,000.00 from the Allina Health System in support of the Fire Department Grand Opening Celebration at Fire Station 1, 1000 7th Street West, on September 10, 2010.
Adopted Yeas – 6 Nays – 0
9. Resolution – 10-1104 – Authorizing the Fire Department to accept a donation of \$3,000.00 from HealthPartners in support of the Fire Department Grand Opening Celebration at Fire Station 1, 1000 7th Street West, on September 10, 2010.
Adopted Yeas – 6 Nays – 0

10. Resolution – 10-1105 – Waiving the 45-day notice requirement and granting an extension of the On-Sale Wine and On-Sale Malt (Strong) Liquor Service Area into the lower level beneath the current licenses premises for the Nook, 492 Hamline Avenue, formerly used as the Ram Ham Bowling Lanes at 490 Hamline Avenue.
Adopted Yeas – 6 Nays – 0
11. Resolution – 10-1106 – Approving the issuance of a Liquor Outdoor Service Area (Patio) license to Pizza Mafia, 2447 West 7th Street.
Adopted Yeas – 6 Nays – 0
12. Resolution – 10-1107 – Approving adverse action against the Auto Body Repair/Painting Shop license held by Perfect Auto Body, 204 Bates Avenue.
Adopted Yeas – 6 Nays – 0
13. Resolution – 10-1108 – Approving adverse action against the Taxicab Driver (Provisional) license application submitted by Lyle A. Robinson for the City of Saint Paul.
Adopted Yeas – 6 Nays – 0
14. Resolution – 10-1109 – Approving adverse action against the Mobile Food license held by Steve Martinez, d/b/a Valley Ice Cream for the City of Saint Paul.
Adopted Yeas – 6 Nays – 0
15. Resolution – 10-1110 – Amending C.F. 10-129 to delete the assessment for collection of delinquent vacant building fees re-invoiced in September 2009 at 1233 Galtier Street.
Adopted Yeas – 6 Nays – 0
16. Resolution – 10-1111 – Memorializing City Council taken August 18, 2010 granting the appeal for property at 263 Syndicate Street South.
Adopted Yeas – 6 Nays – 0
17. Resolution – 10-1112 – Deleting assessments made in error for properties located at 2139 Goodrich Avenue, 1033 Colne Street and 752-754 Bush Avenue.
Adopted Yeas – 6 Nays – 0
18. Resolution – 10-1113 – Amending Council File 10-872 to reduce the assessment for collection of delinquent Certificate of Occupancy fees re-invoiced in March 2010 from \$519.00 to a total of \$500.00 for property at 217 Oxford Street North.
Adopted Yeas – 6 Nays – 0

19. Resolution – 10-1114 – Memorializing City Council action taken September 15, 2010 for properties at 1007 Oxford Street North and 1635 Sherburne Avenue.
Adopted Yeas – 6 Nays – 0
20. Resolution – 10-1115 – Approving the June 15, 2010 decision of the Legislative Hearing Officer on an Appeal of Letter to the change in status of the vacant building from a Category I to a Category II for property at 1751 Suburban Avenue.
Adopted Yeas – 6 Nays – 0
21. Resolution – 10-1116 – Approving the July 13, 2010 decisions of the Legislative Hearing Officer on Appeals of Letters, Deficiency Lists, and Denial of Building Permits to Replace Egress Windows at 940 Burr Street, 2179-2181 Glenridge Avenue, 1455 Osceola Avenue, 931 Otto Avenue, 1447 Seventh Street East, 908 Cleveland Avenue South, 1220 Selby Avenue, 317 Washington Street, 1258 Albmarle Street, 403 Wilder Street, 1789 James Avenue, ~~254~~ 34 Front Avenue, 2204 Sixth Street East, 1510 Stillwater Avenue, 1359 Thomas Avenue, 194 Summit Avenue, 1805 Jefferson Avenue, and 1035 Jessamine Avenue.
Adopted Yeas – 6 Nays – 0

FOR DISCUSSION

22. Resolution Ratifying Assessment – 10-918 – In the matter of the assessment of benefits, cost, and expenses for demolition of a vacant building at 507 Dale Street North in March 2010 (non-CDBG funds). [J1005C1] [Public hearing held, closed, and laid over from August 18; laid over from September 1] (Legislative Hearing Officer recommends approval)

Councilmember Carter moved an amendment to the resolution to spread the payments over 120 equal installments. Councilmember Helgen said ten years was a long time and he wouldn't support the amendment. Council President Lantry noted that the cost of the assessment was six figures. Council members Harris and Bostrom asked that it be clarified to say 120 equal monthly installments over ten years.

Adopted as amended (payments spread over 10 years)
Yeas – 6 Nays – 1 (Helgen)

ORDINANCES

NOTE: 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.

23. Final Adoption – 10-1013 – An ordinance memorializing City Council action approving the rezoning from B2 Community Business to TN2 Traditional Neighborhood for property at 2186 Marshall Avenue. [ZF 10-511-437]
Councilmember Stark moved approval.
Adopted Yeas – 7 Nays – 0
24. Second Reading – 10-1096 – An ordinance adopting the Geographic Information Systems (GIS) based zoning map as the official zoning map.
Laid over to October 20 for third reading/public hearing
25. First Reading – 10-1117 – An ordinance amending Chapter 43.04 of the Saint Paul Legislative Code to correct Reference Citations.
Laid over to October 13 for second reading
26. First Reading – 10-1118 – An ordinance amending Chapters 65 and 66 of the Saint Paul Legislative Code regarding currency exchanges and alternative financial establishments.
Laid over to October 13 for second reading
27. First Reading – 10-1119 – An ordinance memorializing City Council action granting the application of Zamzam, Inc. to rezone property from RM1 Low-density Multiple-Family Residential to B1 Local Business at 1555 Maryland Avenue East, and amending Chapter 60 of the Saint Paul Legislative Code pertaining to zoning. [ZF 10-603-211] [Public hearing held September 15, 2010]
Laid over to October 13 for second reading

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

Yeas – 7 Nays – 0

Resolution – 10-1150 – Declaring Sunday, October 10, 2010 to be *Temple of Aaron Centennial Celebration Day* in the City of Saint Paul.

Councilmember Harris read the resolution and moved approval.

Adopted Yeas – 7 Nays – 0

Council members Bostrom and Helgen moved suspension of the rules to introduce the following item:

D002818 Amending the budget for the Neighborhood STAR Year Round Program awards.

On file with the City Clerk

Councilmember Harris welcomed visiting students from Cretin-Derham Hall High School.

The meeting was recessed at 3:40 p.m. and reconvened for public hearings at 5:30 p.m.

PUBLIC HEARINGS

Present – 4 – Carter, Lantry, Stark, Thune

Absent – 3 – Bostrom, Harris, Helgen (all excused)

28. Third Reading – 10-1014 – An ordinance amending Chapter 324.03 of the Saint Paul Legislative Code to update the definition of Tobacco and Other Regulations.

Representatives from the Ramsey Tobacco Coalition appeared in support, and made brief comments. Councilmember Carter congratulated the Coalition on an award received from the Campaign for Tobacco Free Kids.

Councilmember Carter moved to close the public hearing. Yeas – 4 Nays – 0
Laid over to October 13 for final adoption

29. Third Reading – 10-1015 – An ordinance amending Chapter 55 of the Saint Paul Legislative Code to clarify requirements for Tent Permits.
No one appeared in opposition; Councilmember Thune moved to close the public hearing. Yeas – 4 Nays – 0
Laid over to October 13 for final adoption

30. Third Reading – 10-1031 – An ordinance amending Chapters 87, 90, and 94 of the Saint Paul Legislative Code pertaining to the rules and regulations of the Board of Water Commissioners.
No one appeared in opposition; Councilmember Carter moved to close the public hearing.
Yeas – 4 Nays – 0
Laid over to October 13 for final adoption

31. Resolution – 10-1120 – Approving the application of Schroeder's Bar and Grill for a sound level variance in order to present amplified live music, with limitations, in an outdoor tent from 3:00 p.m. to 8:00 p.m. on October 9, 2010 at 605 Front Avenue during a booya event.

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

Adopted Yeas – 4 Nays – 0

32. Resolution – 10-1121 – Amending the budget in the Department of Financial Services by establishing a Financing and Spending Plan in the amount of \$14,900.00 for installation of a fire protection system on the third and fourth floors of Lowry Square, 345 Wabasha Street.

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

Adopted Yeas – 4 Nays – 0

33. Resolution – 10-1122 – Amending the budget in the Police Department by establishing a Financing and Spending Plan for a donation received from Target in the amount of \$2,500.00 for the 2010 National Night Out event held through the City.

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

Adopted Yeas – 4 Nays – 0

34. Resolution – 10-1123 – Amending the budget in the Police Department by establishing a Financing and Spending Plan for the Title II Juvenile Justice 2010 grant received from the State of Minnesota in the amount of \$60,000.00.

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

Adopted Yeas – 4 Nays – 0

35. Resolution – 10-1124 – Amending the budget in Emergency Management by establishing a Financing and Spending Plan for the 2008 Homeland Security – Metropolitan Medical Response System grant received from the State of Minnesota in the amount of \$100,000.00.

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

Adopted Yeas – 4 Nays – 0

36. Resolution – 10-1125 – Amending the budget in Emergency Management by establishing a Financing and Spending Plan for the 2009 Metropolitan Medical Response System grant received from the State of Minnesota in the amount of \$180,000.00.

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

Adopted Yeas – 4 Nays – 0

37. Resolution – 10-1126 – Amending the budget in the Department of Financial Services by adding \$3,495.00 to the Financing and Spending Plans for the additional costs of installing a fire protection system for the Lowry Hotel, 345 Wabasha Street.
No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
38. Resolution – 10-1127 – Amending the budget in the Department of Parks and Recreation by adding \$20,000.00 to the Financing and Spending Plan for additional parks and trails funds received through the Metropolitan Council for updating the 1975 Phalen Park Master Plan.
No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
39. Resolution – 10-1128 – Amending the budget in the Department of Parks and Recreation by establishing a Financing and Spending Plan for parks and trails funds received through the Metropolitan Council in the amount of \$590,000.00 for the design and renovation of the Lily Pond in Como Regional Park.
No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
40. Resolution – 10-1129 – Amending the budget in the Department of Parks and Recreation by establishing a Financing and Spending Plan for parks and trails funds received through the Metropolitan Council in the amount of \$350,000.00 for developing a new east entrance and parking area at Crosby Farm Regional Park, including new trail connections to the Sam Morgan Regional Trail.
No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
41. Resolution – 10-1130 – Approving adverse action against all licenses held by Kim Huoy Chor Asian Cuisine, 1664 University Avenue.

Rachel Tierney, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report. She said the situation was unique in that licensing had never asked for license revocation based on environmental health. She reviewed the code citations and referred the Council to the inspection report. She said the penalty recommendation was based on the serious repeated violations.

The following appeared in opposition:

Jay Benanov (111 E. Kellogg Boulevard W., #310) appeared representing the owner. He said they were not disputing the facts but were asking that the Council not impose a “death sentence.”

He said changes had been made, and they did not feel it was right to deviate from the matrix. He said the owner understood the seriousness of the situation and knew this was a last chance.

Vutey Tang, business owner, apologized to the Council and outlined new procedures and equipment. He said the business employed thirty people, used local vendors and paid local taxes, and he asked that the Council find another solution. He said he believed the complaints were from a disgruntled former employee and he provided a petition of support from customers and neighbors.

The new general manager introduced himself, and reviewed his experience and the changes implemented.

Councilmember Stark moved to close the public hearing. Yeas – 4 Nays – 0

Councilmember Thune asked Mr. Benanov to suggest an alternative penalty. Mr. Benanov suggested the penalty be imposed but stayed.

Councilmember Thune said the Council’s function was not to shut down businesses. He suggested that allowing the business to operate under conditions agreed to by Environmental Health and under close scrutiny would serve to correct rather than punish.

Councilmember Stark said he agreed with that sentiment but the restaurant had been given many chances, and DSI was suggesting an unprecedented penalty based on unprecedented conditions. He said the Council also had a responsibility to protect public health.

Councilmember Carter said inspection records and photographs showed a business that was flawed at its core, and he was leaning towards Councilmember Stark’s position in spite of community support for the restaurant.

Council President Lantry said it was clear the owner took the situation seriously, but should have two years ago. She said City staff had made every accommodation to help make the restaurant successful, but it didn’t appear they could be.

Councilmember Stark agreed. He asked whether a new violation after a stayed penalty would result in automatic revocation or another hearing before Council. Ms. Tierney said the violation would come back before Council.

Mr. Benanov said the owner was willing to pay the costs for additional City inspections on whatever schedule the Council imposed.

Councilmember Thune said he would still like to check with licensing on the practicality of determining whether the restaurant had come into compliance. He asked whether a one-week layover would allow licensing to report back on the practicality of that and with suggestions for the business to reimburse the City for the costs.

Ms. Tierney suggested a one week layover for licensing to meet with the owner to discuss license conditions, possibly including an inspection schedule and increased fees. She also suggested that an inspection be conducted the following day.

Councilmember Thune reiterated his desire to find a way to allow the business to stay open.

Councilmember Carter said he would support a one-week layover but would still have serious concerns even if there were a perfect inspection at this time, given the history.

Councilmember Stark moved a one week layover, with the conditions that an inspection be scheduled as soon as possible and a meeting scheduled between licensing and the property owner.

Ms. Tierney clarified that DSI might come back after one week with a recommendation of revocation if an acceptable compromise was not reached.

Laid over to October 13

Yeas – 4 Nays – 0

42. Resolution – 10-1131 – Ratifying the 2010 Right-of-Way Maintenance Program.

John Maczko (Public Works) gave a staff report. He said Public Works was recommending ratification of the 2010 fees which were proposed last fall and represented a 6.8% increase. He described the services covered by the fees, and said 2010 spending was in line with projections.

The following appeared in opposition:

Matt Anfang appeared representing the St. Paul Business Owners and Managers Association (BOMA). He commended staff for their work on the fee structure and said progress had been made on breaking down the fees and on the expected level of service provided for the fees. He said BOMA would be active in challenging the discrepancies in the way residential versus business properties were charged as well as discrepancies in the way downtown properties were charged. He said they were encouraged by the new accounting system Public Works would be implementing, and they were committed to partnering with the City to provide services in a cost-effective, efficient manner.

Gretchen Heinen (420 Herschel Street) said she was speaking on behalf of commercial property owners in St. Paul and asked for reconsideration of the increase, because not all commercial

property owners were making money. Angela Anderson submitted a written proposal.

Mike Schumann, Traditions Home Furnishings (1037 Grand Avenue) said he was speaking on behalf of owners of commercial properties located on corners. He questioned the legality of assessing the corner property owner for the alley access for everyone on the block, and he suggested that commercial properties be assessed in the same way as residential.

Lynda Rhodes (374 Wheeler St. N, #1) said she had purchased a condemned building on a corner lot and brought it up to the standards of the Minneapolis St. Paul Tour of Homes. She said if the City was going to charge they should provide the services for which they were charging. She provided photographs of her poorly maintained boulevard.

Scott Hesselgrave (1896 Ames Avenue) said he'd purchased a five-plex on the East Side in 1999. He spoke about the rate increases since then, and said that as a commercial property owner on a corner lot he paid nine times what his neighbor did. He said he had put a lot of money into the property and maintained it well, but was no longer able to make money. He said the City was pushing good landlords out.

Tony Voh (with Dong Vo), Stryker Auto Service (542 Stryker Ave.), said the discrepancy between residential and commercial property assessments was unfair. He said the previous year's 6.35% increase should be taken into account when considering the current increase. He asked the Council to think about the way corner properties were assessed.

Pao Lee Vang (1324 Payne Avenue) said he owned commercial and residential properties, and the charges for the commercial buildings were more than triple those of the residential. He said commercial buildings provided jobs and revenue, and he asked the Council to reconsider.

Danli Wong (1482 Arlington Avenue E.) said she had purchased three residential properties and brought them up to standards. She said she was not there to oppose the increase but to ask that the sidewalk be repaired.

Jamal Musse (767 Reaney) said his income as low, and his has assessment had increased from \$144 to \$154 with no increase in services.

Councilmember Thune moved to close the public hearing. Yeas – 4 Nays – 0

Council President Lantry asked how long there had been a long side subsidy for corner residential properties and full charge for corner commercial properties. Bruce Engelbrekt (Public Works) said he wasn't sure when it had originated and it had been at least eight years. Council President Lantry asked what amount of front footage would be lost if the city only charged for one side of the commercial properties. Mr. Engelbrekt said he couldn't venture a guess but it was a significant amount.

Councilmember Stark said it had been suggested that costs could be spread among the commercial properties on a commercial block. He said it was a policy question that should be discussed.

Councilmember Thune asked whether it was a legal issue given that ROW charges were supposed to be based on service provided. Assistant City Attorney Gerald Hendrickson said the current policy was legal but there were other options.

Mr. Engelbrekt said a starting point would be to take a sample area and calculate the additional costs to other properties if corner commercial lots were charged for only one side.

Councilmember Carter concurred that it was a complicated issue and one that merited discussion.

Council President Lantry said that what was before the Council was the rate. She said it was clear the Council members were interested in revisiting the policy.

Councilmember Carter moved approval.

Councilmember Stark said the rate for commercial properties was based on the assumption that there was more street use associated with commercial than residential. He also noted that the fees covered plowing and street sweeping as well as street repair, and costs for those services naturally increased over time.

Adopted Yeas – 4 Nays – 0

43. Final Order – 10-976 – In the matter of construction and/or reconstruction of sidewalk along the south side of Arlington Avenue East from Arkwright to Desoto Streets and from Westminster to Arkwright Streets. [S1003] [Public hearing continued from September 1]

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

Adopted Yeas – 4 Nays – 0

44. Final Order – 10-1132 – In the matter of acquiring temporary construction easements and permanent bridge easement to construct a bicycle/pedestrian bridge for the public purpose of an asphalt bicycle/pedestrian path adjacent to Lexington Parkway, between Minnehaha Avenue and Energy Park Drive. [AE2010-02]

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

Adopted Yeas – 4 Nays – 0

45. Resolution Ratifying Assessment – 10-1133 – In the matter of the assessment of benefits, cost, and expenses for replacement of lead water service lines, as requested by property owners, from April to July 2010 [1003LDSRP]
No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
46. Resolution Ratifying Assessment – 10-1134 – In the matter of the assessment of benefits, cost, and expenses for repair of sanitary sewer connections, as requested by property owners, from April to July 2010. [SWRP1007]
No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
47. Resolution Ratifying Assessment – 10-1135 – In the matter of improving the area referred to as the Hoyt/Kennard Residential Street Vitality Project area, by constructing new bituminous surface streets with concrete curb and gutter, concrete driveway aprons and outwalks, boulevards landscaped with sod and trees, a new lantern style lighting system, and all other necessary work to complete the project for the area surrounded by Larpenteur Avenue East on the north, White Bear Avenue on the east, Arlington Avenue on the south, and Hazelwood Street on the west.

The following appeared in opposition:

Pete Kalal (1734 California) said the project looked great. He asked that the Council reconsider the 5% interest rate for spreading the payments over 20 years; he suggested a 2.5% rate.

Councilmember Carter moved to close the public hearing. Yeas – 4 Nays – 0

Councilmember Carter asked how interest rates were set. Bruce Engelbrekt, Public Works, said the Council approved the interest rates every year in January or February based on the City's cost of borrowing when bonds were issued plus a small amount for internal administrative costs.

Councilmember Carter moved approval.

Adopted Yeas – 4 Nays – 0

48. Resolution Ratifying Assessment – 10-1136 – In the matter of improving the area referred to as Phase II of the Magnolia/Earl Residential Street Vitality Project, by constructing a new bituminous surface street with concrete curb and gutter, concrete driveway aprons and outwalks, boulevards landscaped with sod and trees, a new lantern style lighting system, and doing all other necessary work to complete said project for the area surrounded by Magnolia Avenue East on the north, Barclay Street on the east, Aguirre Street on the south, and Payne Avenue on the west.

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

Adopted Yeas – 4 Nays – 0

49. Resolution Ratifying Assessment – 10-1137 – In the matter of improving the Seventh Douglas Residential Street Vitality Project, by constructing a new bituminous surface street with concrete curb and gutter, concrete driveway aprons and outwalks, boulevards landscaped with sod and trees, a new lantern style lighting system, and doing all other necessary work to complete said project for the area surrounded by Grand Avenue on the north, Chestnut Street on the east, Randolph Avenue on the south, and Toronto Street on the west.

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

Adopted Yeas – 4 Nays – 0

50. Resolution – 10-1041 – Ordering the owner to remove the building(s) at 365 Burgess Street within fifteen (15) days from adoption of resolution. [Public hearing continued from September 15 to October 20; to be recalled] (Legislative Hearing Officer recommends approval)

Legislative Hearing Officer Marcia Moermond said a representative from Wells Fargo had appeared before the Council two weeks before to request more time for bids, but none had come in. She said her recommendation was to recall the item and order that the structure be removed within 15 days.

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

Adopted Yeas – 4 Nays – 0

51. Resolution – 10-979 – Ordering the owner to remove or repair the building(s) at 1036 Bush Avenue within fifteen (15) days from adoption of resolution. [Public hearing continued from September 1] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond said the Bank of England was interested in donating the property to Habitat for Humanity and the HRA; she asked that the matter be referred back to Legislative Hearings on November 9 and the public hearing be continued to November 17.

No one appeared in opposition; Council President Lantry moved to continue the public hearing to November 17

Public hearing continued to November 17 Yeas – 4 Nays – 0

52. Resolution – 10-980 – Ordering the owner to remove or repair the building(s) at 694-696 Fourth Street East within fifteen (15) days from adoption of resolution. [Public hearing continued from September 1] (Legislative Hearing Officer recommends laying over to the November 9 Legislative Hearing and November 17 City Council public hearing)
No one appeared in opposition; Council President Lantry moved to continue the public hearing to November 17
Public hearing continued to November 17 Yeas – 4 Nays – 0

53. Resolution – 10-985 – Ordering the owner to remove or repair the building(s) at 688 Sherburne Avenue within fifteen (15) days from adoption of resolution. [Public hearing continued from September 1] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond recommended ordering the structure removed or repaired within 15 days.

No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0

54. Resolution Ratifying Assessment – 10-1138 – In the matter of the assessment of benefits, cost and expense for collection of delinquent certificate of occupancy fee (re-invoiced) at 520 Grace Street in March 2010. (Laid over from August 4) (Legislative Hearing Officer's recommendation is forthcoming)
No one appeared in opposition; Councilmember Thune moved to close the public hearing and adopt the recommendation of the Legislative Hearing Officer.
Adopted as amended (delete the assessment) Yeas – 4 Nays – 0

55. Resolution Ratifying Assessment – 10-991 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 1136 Ross Avenue on May 6, 2010. [Public hearing continued from September 1] (Legislative Hearing Officer's recommends continuing the public hearing to October 20)
No one appeared in opposition; Councilmember Carter moved to continue the public hearing to October 20.
Public hearing continued to October 20 Yeas – 4 Nays – 0

56. Resolution Ratifying Assessment – 10-1051 – In the matter of the assessment of benefits, cost, and expenses for collection of vacant building fee (re-invoiced) at 887 Third Street East in May 2010. [VB1005B] [Public hearing continued from September 15] (Legislative Hearing Officer recommends approval)

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

Adopted Yeas – 4 Nays – 0

57. Resolution Ratifying Assessment – 10-1052 – In the matter of the assessment of benefits, cost, and expenses for tenant remedies action payment at 916 Marshall Avenue in 2010. [TR1001] [Public hearing continued from September 15] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond said she had reviewed the property record and her recommendation was approval of the assessment.

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

Adopted Yeas – 4 Nays – 0

58. Resolution Ratifying Assessment – 10-1056 – In the matter of the assessment of benefits, cost, and expenses for demolition of a vacant building at 947 St. Anthony Avenue in June 2010 (CDBG funds). [J1009C] [Public hearing continued from September 15] (Legislative Hearing Officer recommends approval)

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

Adopted Yeas – 4 Nays – 0

59. Resolution Ratifying Assessment – 10-1139 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 333 Atwater Street on June 1, 2010. [J1011A1] [Laid over from September 15] (Legislative Hearing Officer recommends deleting the assessment)

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendation of the Legislative Hearing Officer.

Adopted Yeas – 4 Nays – 0

Adopted as amended (delete the assessment) Yeas – 4 Nays – 0

60. Resolution Ratifying Assessment – 10-1140 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 61 Cook Avenue West on June 23, 2010. [J1012A1] [Laid over from September 15] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond asked that the public hearing be continued to October 20.

No one appeared in opposition; Councilmember Stark moved to continue the public hearing to October 20.

Public hearing continued to October 20 Yeas – 4 Nays – 0

61. Resolution Ratifying Assessment – 10-1141 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 670 Desoto Street on June 14 and 15, 2010. [J1012A2] [Laid over from September 15] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond recommended was to reducing the assessment from \$560 to a total of \$100

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendation of the Legislative Hearing Officer.

Adopted as amended (reduce the assessment from \$560 to a total of \$100)

Yeas – 4 Nays – 0

62. Resolution Ratifying Assessment – 10-1142 – In the matter of the assessment of benefits, cost, and expenses for excessive consumption of inspection services at 670 Desoto Street for property code violations billed on May 3, 2010. [J1005E1] [Laid over from September 15] (Legislative Hearing Officer recommends deleting the assessment)

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendation of the Legislative Hearing Officer.

Adopted as amended (delete the assessment) Yeas – 4 Nays – 0

63. Resolution Ratifying Assessment – 10-1143 – In the matter of the assessment of benefits, cost, and expenses for emergency boarding and securing and/or boarding of vacant buildings in May 2010 at 1066 Lafond Avenue. [J1007B1] [Laid over from September 15] (Legislative Hearing Officer's recommendation is forthcoming)

Legislative Hearing Officer Marcia Moermond recommended approving the assessment.

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

Adopted Yeas – 4 Nays – 0

64. Resolution Ratifying Assessment – 10-1144 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent certificate of occupancy fees (re-invoiced) in July 2010 [CRT1006]. (Legislative Hearing Officer recommends the following:

1863 Ames Avenue - delete the assessment per DSI;

100 George Street East - approve the assessment;

391 Brimhall Avenue - recommendation is forthcoming; reduce the assessment from \$355 to a total of \$150).

Legislative Hearing Officer Marcia Moermond read her recommendations.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Adopted as amended Yeas – 4 Nays – 0

65. Resolution Ratifying Assessment – 10-1145 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent vacant building fees (re-invoiced) in July 2010 [VB1007]. (Legislative Hearing Officer recommends the following:

174 Charles Avenue - delete the assessment per DSI;
607 Hyacinth Avenue East - delete the assessment per DSI;
271 Maria Avenue - delete the assessment per DSI;
718 Orange Avenue East - approve the assessment)

Additional address:

1050 Walsh Street - reduce the assessment from \$1235 to a total of \$300

Adopted as amended Yeas – 4 Nays – 0

Legislative Hearing Officer Marcia Moermond read the changes and additions to her recommendations.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Adopted as amended Yeas – 4 Nays – 0

66. Resolution Ratifying Assessment – 10-1146 – In the matter of the assessment of benefits, cost, and expenses for emergency boarding and securing and/or boarding of vacant buildings in June 2010 [J1008B]. (Legislative Hearing Officer recommends the following:

342 Bates Avenue - withdrawn per DSI;
706 Sims Avenue - approve the assessment)

Additional address:

607 Hyacinth Avenue East - delete the assessment

Legislative Hearing Officer Marcia Moermond read the changes and additions to her

recommendations.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Adopted as amended Yeas – 4 Nays – 0

67. Resolution Ratifying Assessment – 10-1147 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private properties from June 30 to July 15, 2010 [J1013A]. (Legislative Hearing Officer recommends the following:

1160 Beech Street - approve the assessment;
1749 Carroll Avenue - approve the assessment;
1787 Carroll Avenue - delete the assessment;
434 Fry Street - forthcoming; reduce the assessment from \$428 to a total of \$214;
871 Hamline Avenue North - forthcoming; approve the assessment;
149 Jessamine Avenue East - approve the assessment;
360 Kennard Street - approve the assessment;
916 Magnolia Avenue East - approve the assessment;
2256 Margaret Street - forthcoming; approve the assessment;
1486 Sherburne Avenue - approve the assessment;
846 Smith Avenue South - approve the assessment;
316 Superior Street - approve the assessment;
925 Wilson Avenue - approve the assessment;
1083 York Avenue - approve the assessment.

Additional address:

1119 Charles Avenue - approve the assessment

Legislative Hearing Officer Marcia Moermond read the changes and additions to her recommendations.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Adopted as amended Yeas – 4 Nays – 0

68. Resolution Ratifying Assessment – 10-1148 – In the matter of the assessment of benefits, cost, and expenses for weekly garbage hauling services from July 7 to 14, 2010 [J1013G]. (Legislative Hearing Officer recommends approval)

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

Adopted Yeas – 4 Nays – 0

69. Resolution Ratifying Assessment – 10-1149 – In the matter of the assessment of benefits, cost, and expenses for graffiti removal on private properties from June 22 to 29, 2010 [J1011P]. (Legislative Hearing Officer recommends approval)
No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve.
Adopted Yeas – 4 Nays – 0
70. Appeal of Brenden Goldfarb to a Certificate of Occupancy Deficiency List for property at 1964 Marshall Avenue. [Public hearing continued from September 1] (Legislative Hearing Officer recommends denying the appeal of the order to replace the sheetrock walls in the first floor stairwell, granting the appeal for the second and third floor stairwells, and granting an extension to December 31, 2010.)

Legislative Hearing Officer Marcia Moermond read the changes to her recommendations, based on a subsequent inspection of the back stairway.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied with conditions Yeas – 4 Nays – 0

Council President Lantry thanked Ms. Moermond for taking the time to review the situation.

71. Appeal of Thomas Hanten to a Notice of Condemnation and Order to Vacate for property at 929 Seventh Street West. [Public hearing continued Laid over from September 1] (Legislative Hearing Officer recommends denying the appeal)
No one appeared in opposition; Councilmember Thune moved to close the public hearing and deny the appeal.
Appeal denied Yeas – 4 Nays – 0
72. Appeal of Joe Isaacs to a Vacant building Registration Notice and Fee for property at 482 Lawson Avenue West. [Public hearing continued from September 15] (Legislative Hearing Officer recommends denying the appeal)

Legislative Hearing Officer Marcia Moermond referred to a follow-up memo from September 7; she said the issue was the vacant building status and category. She reviewed the property history and said her recommendation was to order that the building be included in the vacant buildings program with a Certificate of Code Compliance requirement.

In opposition:

Joe Isaacs said the property had only been vacant for 13 or 14 days before it was placarded, and most of the items from the Certificate of Occupancy list had been addressed. He said additional items had been added to the list including an order to have the structural integrity of the front

porch foundation certified and he didn't know how to address that. He said the work to be completed required permits that could not be pulled because the building was a Category 2. He said he had experience with Category 2 proprieties and didn't feel this property met the definition.

Councilmember Stark moved to close the public hearing. Yeas – 4 Nays – 0

Council President Lantry noted that the original orders were dated June 16. She asked when the Legislative Hearing was. Ms. Moermond reviewed the Legislative Hearing and reinspection dates. She said an electrical permit had been pulled after an August Legislative Hearing and was still open.

Councilmember Stark said Councilmember Helgen had reviewed the situation with him, and after hearing the testimony was comfortable moving Ms. Moermond's recommendation to deny the appeal and order a Code Compliance inspection.

Appeal denied Yeas – 4 Nays – 0

73. Appeal of Jared Murphy to a Notice of Revocation of Fire Certificate of Occupancy and Order to Vacate for property at 517 Asbury Street. (Legislative Hearing Officer recommends denying the appeal and granting an extension to October 31, 2010) No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied and extension granted Yeas – 4 Nays – 0

74. Appeal of Tyler Hansen to a Notice of Revocation of Fire Certificate of Occupancy and Order to Vacate for property at 1548 Ashland Avenue. (Legislative Hearing Officer recommends denying the appeal) No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied Yeas – 4 Nays – 0

75. Appeal of Larry Alexander to a Correction Notice for property at 224 Avon Street North. (Legislative Hearing Officer recommends denying the appeal and granting an extension to October 15, 2010 to address the bed bug situation. Status on owner occupy is forthcoming)

Legislative Hearing Officer Marcia Moermond said her recommendation was to grant the appeal and exempt the property from the Certificate of Occupancy requirements. She said it was an owner-occupied duplex.

No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Appeal granted Yeas – 4 Nays – 0

76. Appeal of Ronald Staeheli to a Summary Abatement Order for property at 906 Charles Avenue. (Legislative Hearing Officer recommends denying the appeal)

Legislative Hearing Officer Marcia Moermond gave a staff report; she said the issue was whether the building should be a registered vacant building. She said there had been a fire and condemnation at the property on March, and a second fire on May 14. Mr. Staeheli wanted to apply for a 90-day fire extension from the date of the second fire, although a waiver had not been requested after the first fire and the property was still condemned and ordered vacated at the time of the second. A vacant buildings file was opened on June 28 and the building was reoccupied at the beginning of July. Ms. Moermond noted that Mr. Staeheli said he had directed questions regarding vacant building status to DSI staff and regarding building occupancy to someone in DSI administration. She said the items in play were the vacant building fee and whether a code compliance inspection should be required for reoccupancy. She said the building had been reoccupied while still condemned from the first fire and without a code compliance inspection or Certificate of Occupancy, and she didn't feel it was consistent with the spirit of the city code to grant additional time. Ms. Moermond said her recommendation was to deny the appeal and require a Certificate of Code Compliance for occupancy.

The following appeared in opposition:

Property owner Ronald Staeheli (353 Meadow Green Drive, Davenport, FL) stated that there had not been a fire in March and the house was condemned because a tenant had stopped up the toilet, removed the smoke detector, and called the City to complain. He said all repairs were made in April but he hadn't been able to get an inspector out to reinspect. He provided copies of receipts for the work. He'd been planning to rent the property on May 15, but there was a fire in the basement on the 14th. He painted and cleaned and was ready to move tenants in again when he noticed the placards. He said he received the vacant building notification; he read from the letter that if the building was vacant due to a fire he should return the registration within 30 days. He reviewed his correspondence with City staff from the time of the placarding until tenants moved in, including faxing in the vacant building registration, and said he felt he'd been in compliance. He said the fire exemption was something a property owner claimed and did not have to apply for; he read from the fire exemption form.

Ms. Moermond reviewed her notes from the hearing and confirmed that Mr. Staeheli was correct that there had not been a fire in March.

Councilmember Carter moved to close the public hearing. Yeas – 4 Nays – 0

Councilmember Carter asked whether the fact that the initial condemnation was not due to fire

changed Ms. Moermond's recommendation. Ms. Moermond said she had developed the recommendation in the hearing room when the accurate information was before her and it still made sense to confirm that building was currently code compliant. She noted that the building was reoccupied without a Certificate of Occupancy and there was some culpability in that.

Council President Lantry read from the hearing minutes that Inspector Martin had made a reinspection on May 15. Ms. Moermond reviewed inspection records and said the May 15 date was an error. She said given the quality of the records from the hearing she would ask that the matter be laid over for two weeks so a Certificate of Occupancy inspection could be conducted..

Councilmember Carter moved to lay the matter over for two weeks.

Laid over to October 20 Yeas – 4 Nays – 0

77. Appeal of Patricia Owen to a Summary Abatement Order for property at 1240 Churchill Street. (Legislative Hearing Officer recommends denying the appeal and granting an extension to September 30, 2010 for removal of the wood garden box structure, including the legs, from the boulevard.)

Legislative Hearing Officer Marcia Moermond referred Council members to the packet and photos. She said the garden bed was an encroachment into the boulevard and was in violation of vegetation height restrictions. She recommended that the appeal be denied and an extension granted to the end of the growing season.

In opposition:

Pat Owen (1240 Churchill Street) read a statement in defense of clear rules and vegetable gardens. She said she hadn't received clear consistent information from the city and she spoke about the broader issue of urban gardening.

Councilmember Stark moved to close the public hearing. Yeas – 4 Nays – 0

Councilmember Stark moved to accept the recommendation of the Legislative Hearing Officer but said he appreciated the points raised by Ms. Owens.

Appeal denied and extension granted to November 15

Yeas – 4 Nays – 0

78. Appeal of Leslie Miller & James Skoog to a Summary Abatement Order for property at 766 Forster Street. (Legislative Hearing Officer recommends granting the appeal)
No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal granted Yeas – 4 Nays – 0

79. Appeal of Marcos and Maria Cardenas to a Notice of Condemnation and Order to Vacate for property at 585 Jefferson Avenue. (Legislative Hearing Officer recommends denying the appeal and extension granted to September 27, 2010, in order for loan funds to be secured and electric and gas turned back on)
No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied and extension granted Yeas – 4 Nays – 0
80. Appeal of Robert J. McCarthy to a Vehicle Abatement Order for property at 1356 Jefferson Avenue. (Legislative Hearing Officer recommends denying the appeal and granting an extension to September 21, 2010 to fix the flat tire, ensure vehicle is operable, show the inspector that the vehicle is movable, remove barrels of lawn/garden debris, and cover with tarp. Extension granted to December 31, 2010 to move the vehicle into the garage.)

Legislative Hearing Officer Marcia Moermond said the property owner had requested a layover to October 20.

No one appeared in opposition; Councilmember Stark moved to continue the public hearing to October 20.

Public hearing continued to October 20 Yeas – 4 Nays – 0

81. Appeal of Mary C. Sullivan to a Summary Abatement Order for property at 1942 Juliet Avenue. (Legislative Hearing Officer recommends withdrawal, per DSI.)
Withdrawn
82. Appeal of Nancy Yang to a Vehicle Abatement Order for property at 226 Maple Street. (Legislative Hearing Officer recommends denying the appeal and granting an extension to October 15, 2010 to have the vehicle fixed or removed from the property)
No one appeared in opposition; Council President Lantry moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied and extension granted Yeas – 4 Nays – 0
83. Appeal of Leonard Anderson to a Summary Abatement Order and Vehicle Abatement Order for property at 559 McKnight Road South. (Legislative Hearing Officer recommends denying the appeals, follow-up inspection scheduled for October 5)

Legislative Hearing Officer Marcia Moermond described the circumstances involving a truck, van and open trailer, and materials stored in the truck and trailer, at the time of the inspections and Legislative Hearings. She said her recommendation was to deny the appeals on the licensing of the van and on the materials stored in the trailer based on the conditions present at the time of the inspection.

In opposition:

Leonard Anderson (559 McKnight Road) said the vehicles were licensed and he wasn't sure why he'd had to appear.

Council President Lantry said the material in the truck had to be removed.

Mr. Anderson said the only items remaining in the truck were a chain and spare tire. He said he'd sent a fax Robert Humphrey (DSI) because Inspector Seely had been rude to him.

Ms. Berg (appeared with Mr. Anderson) confirmed that the only items remaining in the truck were a chain and spare tire.

Council President Lantry said the City would have to verify that. She moved to close the public hearing and accept the recommendation of the Legislative Hearing Officer.

Appeal denied Yeas – 4 Nays – 0

84. Appeal of Hank Cu to a Certificate of Occupancy Deficiency List for property at 1657 Minnehaha Avenue. (Legislative Hearing Officer recommends denying the appeal)

Legislative Hearing Officer Marcia Moermond said she had met with one of the property owners outside of Council Chambers and her recommendation now was to order specific painting and repair to be completed by October 31.

No one appeared in opposition; Council President Lantry moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Appeal granted with conditions Yeas – 4 Nays – 0

85. Appeal of Bebe Jacque to a Certificate of Occupancy Deficiency List for property at 234 Mississippi River Blvd North. (Legislative Hearing Officer recommends denying the appeal with conditions)

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Appeal denied with conditions Yeas – 4 Nays – 0

86. Appeal of James Swartwood to a Vacant Building Registration Notice and Fee for property at 518 Van Buren Avenue. (Legislative Hearing Officer recommends denying the appeal)

No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.

Appeal denied Yeas – 4 Nays – 0

87. Appeal of Southern Minnesota Regional Legal Services (SMRLS) on behalf of Pamela and Crystal Jackson, to a Condemnation and Order to Vacate 68 Jessamine Avenue West. (Legislative Hearing Officer recommends denying the appeal and granting an extension of the vacate date to September 30, 2010)
No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the recommendations of the Legislative Hearing Officer.
Appeal denied and extension granted Yeas – 4 Nays – 0

ADJOURNED at 8:28 P.M.

ATTEST:

Mary Erickson
Assistant Council Secretary

Kathy Lantry, Council President

Submitted by:
Katie Burger

Minutes approved by Council