



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
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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, July 20, 2011

3:30 PM

Council Chambers - 3rd Floor

Public Hearings at 5:30 p.m.

ROLL CALL

Council President Lantry called the meeting to order at 3:31 p.m.

(Councilmember Stark excused)

Present 6 - Councilmember Dan Bostrom, Councilmember Melvin Carter III,
Councilmember Pat Harris, Councilmember Lee Helgen, City Council
President Kathy Lantry and Councilmember Dave Thune

Absent 1 - Councilmember Russ Stark

CONSENT AGENDA

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

Approval of the Consent Agenda

Items 7 and 10 were removed from the Consent Agenda for separate consideration.

Councilmember Helgen moved approval of the Consent Agenda as amended.

Consent Agenda adopted as amended

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

Nay: 0

Absent: 2 - Councilmember Thune and Councilmember Stark

1 RES 11-1341 Approving the Labor Agreement (January 1, 2011 - December 31, 2012) between the City of Saint Paul and the International Union of Operating Engineers Local 70.

Sponsors: Lantry

Laid over to July 27 for adoption

- 2 **RES 11-1203** Authorizing the City Attorney's office to accept a gift of a scholarship of \$1,922.00 for travel, lodging and conference fee for Yamy Vang to attend the 2011 Annual Drug Court Training Conference, July 17-20, 2011 in Washington, D.C.

Sponsors: Lantry

Adopted

- 3 **RES 11-1291** Authorizing the City Attorney's Office to accept a gift of \$601.31 from the National Center for Victims of Crime to pay for the conference fee, lodging, airfare, transportation, and meals for Tara Patet to attend the conference held on June 20-22, 2011 in Washington, D.C.

Sponsors: Lantry

Adopted

- 4 **RES 11-1364** Authorizing the Department of Planning and Economic Development to accept funds from Leadership Louisville for Lucy Thompson, Principal City Planner, to attend a Best Practices Session on July 21, 2011 in Louisville, Kentucky.

Sponsors: Lantry

Adopted

- 5 **RES 11-1241** Authorizing the Police Department to enter into a Joint Powers Agreement with the Minnesota State Agricultural Society (State Fair).

Sponsors: Lantry

Adopted

- 6 **RES 11-1294** Authorizing the Police Department to enter into the agreements with the United States Department of Justice to participate in the Organized Crime Drug Enforcement (OCDETF) for the period of January 1, 2011 through December 31, 2011.

Sponsors: Lantry

Adopted

- 7 **RES 11-1319** Authorizing the City of Saint Paul to request funds from the FY 2013 MnDOT Metro Municipal Agreement Program for various projects, and committing to provide the local share of funding if grants are awarded.

Sponsors: Thune, Harris and Lantry

Councilmember Thune moved approval.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Stark

FOR DISCUSSION

No discussion items

ORDINANCES

An ordinance is a city law enacted by the City Council. It is read at four separate council meetings and becomes effective after passage by the Council and 30 days after publication in the Saint Paul Legal Ledger. Public hearings on ordinances are held at the third reading.

First Reading

- 20 **Ord 11-59** Amending the Zoning Map of Saint Paul as recommended in the Saint Anthony Park Como 2030 Plan and Zoning Study.

Sponsors: Stark

Laid over to July 27 for second reading

Council President Lantry welcomed visitors from Boy Scout Troop 107 at St. Matthews.

The meeting was recessed at 3:36 p.m.

PUBLIC HEARINGS

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

- Present** 4 - Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen and City Council President Kathy Lantry
- Absent** 3 - Councilmember Dan Bostrom, Councilmember Dave Thune and Councilmember Russ Stark

Council members Thune and Bostrom arrived after roll call was taken.

- 21 **Ord 11-62** Creating Chapter 375 of the Legislative Code to establish a license for Pedicabs.

Sponsors: Lantry and Thune

No one appeared in opposition; Councilmember Thune moved to continue the public hearing to August 17.

Public hearing continued to August 17

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

Nay: 0

Absent: 1 - Councilmember Stark

- 22 **Ord 11-63** Amending Chapter 310 of the Legislative Code to impose licensure fees for pedicab vehicles and drivers.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to continue the public hearing to August 17.

Public hearing continued to August 17

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

Nay: 0

Absent: 1 - Councilmember Stark

- 23 **RES PH 11-979** Approving the application of OptumHealth Performance for a sound level variance in order to provide use of P. A. amplified sound from 6:00 a.m. until 12:00 noon. on July 24, 2011 during the Twin Cities Triathlon at Harriet Island.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Stark

- 24 **RES PH 11-981** Approving the application of HSR Events for a sound level variance in order to present amplified sound for a Public Address (PA) system from 2:00 p.m. until 10:00 p.m. on September 23 & 24, 2011 during the Festa Italiana at Harriet Island.

Sponsors: Thune

Steve Heckler described and plugged the event. He said they didn't anticipate a need for the sound level variance, but had applied as a courtesy to neighbors.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Stark

- 25 **RES PH 11-989** Approving adverse action taken against the Cigarette/Tobacco license held by M Z R Family, LLC, d/b/a Payne Ave's Shop-N-Go, 1050 Payne Avenue.

Sponsors: Bostrom

Kyle Lundgren, Assistant City Attorney representing the Department of Safety and Inspections (DSI) described the violation. He said there was no prior license history, and DSI recommended imposing a \$200 fine.

In opposition:

Victor Mashni appeared representing the licensee. He said the violation was committed by a new clerk who was not trained and was asked to watch the register while Mr. Mashni unloaded a delivery. He said the clerk made the sale without being asked to, and did not work after the incident.

Councilmember Bostrom moved to close the public hearing and adopt the recommendation of DSI.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Stark

Councilmember Helgen was excused from the meeting at this time.

- 26 **AHPC 11-1** Public hearing to consider the appeal of Shari Wilsey and Susan Foote to a decision of Heritage Preservation Commission Staff for conditionally approving a 78 feet by 34 feet galvanized steel panel fence with cedar posts and top in the front yard at 797 Summit Avenue, House of Hope Presbyterian Church, Hill Historic District. (Laid over from August 10)

Sponsors: Carter III

Amy Spong, Heritage Preservation Commission (HPC), added testimony letters to the record and distributed a staff report. She noted that it was an appeal of an HPC staff decision rather than a committee decision. She reviewed the findings in staff report and clarified that the HPC regulated fences but not plantings. She read from the Hill District Design Review Guidelines and said staff now believed staff did err in their decision to approve the application.

Councilmember Carter noted that he'd heard from a number of people, and the goals of both sides were not mutually exclusive. He said his intention was to ask for a 3 week layover to try to get the two sides together.

Appellant:

Shari Wilsey reviewed her communication with the HPC regarding the fence and said she felt they had erred. She said she did not oppose the garden but did oppose the fencing. She distributed photographs of churches without fences and said churches were intended to be open. She said if this was allowed it would open it up for everyone else on Summit Avenue to

Other testimony

Joann Lee (1055 Laurel Avenue), Pastor at House of Hope, read a statement about how the garden and its protecting fence supported their mission.

Mary Senkbeil (2184 Dahl Avenue) said she had applied for the fence permit and felt it was fundamentally unfair to accept the appeal and revoke the permit now. She read the description of the fence included in the permit application, and said the permit was issued for that fence specifically.

Councilmember Carter asked how much the fence cost. Ms. Senkbeil said it had cost a substantial sum but she would not disclose the amount unless the City reimbursed them in the event they were forced by the City to take it out.

At Councilmember Thune's request, Ms. Senkbeil clarified the amount of time between permit approval and the appeal. She said the fence was completed within the time specified on the permit, and the appeal was filed after the fence was completed.

Susan Rostkosky, Development Director at Neighborhood House (179 Robie Street) said without the fence, the Neighborhood House community wouldn't have access to fresh vegetables.

Tim Sheldon (1409 Englewood Avenue), church member, spoke about the importance of the garden to the community.

Paula Westmoreland (4105 Washburn Avenue N., Minneapolis) said the fence was carefully researched and designed for aesthetics and to be appropriate for the area.

Nadja Berneche, Program Director at Gardening Matters, spoke about the importance of a fence in a community garden.

Joe Beckman (768 Summit Avenue) reiterated the points about the fence description being included in the permit application, and the amount of time that passed before the appeal.

Scott Hayman (776 Summit Avenue) said he felt the fence was done tastefully and was a good compromise as is.

Linda Lane (1920 Eleanor Avenue), member House of Hope, spoke of the importance of a fence and of the garden's current location.

Councilmember Carter moved to close the public hearing. Yeas - 4 Nays - 0 (Bostrom not present for vote)

Councilmember Carter moved a 3 week lay over. He said it was not his intention to ask the church to move the garden but to come up with a different fence design, and that Ward 1 might have had funds to help pay for it.

Councilmember Thune said he agreed that the garden should not be moved. He said community gardening had begun to be more prevalent in the city and should be embraced. He encouraged Councilmember Carter to wait until the season was over to change the fence, and said the use of NIF funds was a good idea.

Councilmember Harris said he would like someone to address the timing issue. Councilmember Carter said because it was a staff decision there had been no formal public notice, and public notice was when the fence went up.

Councilmember Harris requested clarification from Deputy City Attorney Jerry Hendrickson; he questioned where the burden was if it was a staff error. He asked that Mr. Hendrickson respond specifically to the issue of the timeliness of the appeal as noted in a letter from Brian Alton (representing House of Hope) and to copy the Council.

Public hearing held and closed; laid over to August 10

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

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Stark

27 AHPC 11-2

Public hearing to consider the appeal of Dave Brooks to a decision of the Heritage Preservation Commission denying the installation of glass block walls at the corner of the building on floors two through four at 255 E. 6th Street, Lowertown Ramp, Lowertown Historic District.

Sponsors: Thune

Amy Spong, Heritage Preservation Commission (HPC), gave a staff report including a brief history and description of the rehabilitation steps and HPC decisions. She displayed photographs. She said in October the HPC denied installation of glass block on the store front level, but the decision on glass block on the upper floors was not clear at that time. The applicant was allowed to apply again for glass block on the upper levels and the HPC denied the application on June 9, and that decision was appealed.

At Councilmember Harris' request, Ms. Spong showed additional photographs and discussed the guidelines for modern buildings in the historic area.

Councilmember Thune noted that the red fire escapes on the building were an architectural design element, and glass block was used in a similar way on the the Cosmopolitan Building. Ms. Spong said the architect had talked about the exposed fire escape as an homage to the historic fire escapes in the district, but the Commission felt the glass block on the Cosmopolitan was used in a very different way, and was recessed and less visible. She said there was limited use of glass block in the district.

Appellant:

Dave Brooks (366 E. 6th Street), developer/owner of the parking ramp and 60,000 sq. ft. of office building. He said the parking ramp was condemned by the City for structural problems and Control Data had moved out of the offices and hazardous material. He said he had invested 2.85 million in the property, he reviewed his other development projects, and described credentials of architect and designer.

Ed Hauksford (114 N. 4th St, Bayport, MN), designer, displayed photographs of the building and said the HPC responded favorably to initial designs. He described the process and communications with the HPC, and said the process became lengthy and complicated and they lost a potential tenant. He said there were guidelines for historic buildings and new construction but not for non-contributing existing structures, and guidelines adopted for this project were those for new construction.

Councilmember Thune asked whether the vertical fins were original to the building. Mr. Hauksford said they thought the structure was originally just a parking ramp and the vertical fins were added to obscure the parking and make it look more like an office building.

Mr. Hauksford said they'd drawn on design keys on other buildings in the area; he showed photographs. He said glass block was a significant feature to the Cosmopolitan Building. He said they felt glass block would accentuate the entrance to the building, relate it to the streetscape, and provide visual interest.

In response to a question from Council President Lantry, Mr. Hauksford said back-lighting would be addressed when they got a tenant; he said the addition of public art would be determined by building tenants as well. Council President Lantry noted that the appeal dealt only with glass block on the upper floors. Mr. Hauksford said the glass block was to obscure the parking and seal off the abandoned fire escape from public use.

Dan Gleason (1175 Highway 36), architect, said this presented a great opportunity to do something with a building that was difficult to deal with in this context, and an opportunity to take an old building and bend the rules a little bit to make it look marvelous. He said glass block would be a small element and not in front.

Councilmember Thune moved to close the public hearing. Yeas - 5 Nays - 0

Councilmember Thune said he hated to deviate from the HPC's decision because they were a smart and consistent group, and this was a tough design problem because it was an existing building. He said he respected the developer's experience with historic buildings and appreciated the design. He said he couldn't find an argument against use of glass block, and the appellant's arguments were sufficient to uphold the appeal. He moved to grant the appeal, and said he felt there was a strong enough rationale for going against the HPC's decision in this situation that the Council wouldn't be setting a precedent.

Councilmember Harris said he wholeheartedly supported that. He expressed appreciation for Mr. Brooks' work and Mr. Thune's motion.

Councilmember Bostrom said the renovated building would provide a good welcome into downtown St. Paul.

Appeal granted

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

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Stark

28 ABZA 11-5

Public hearing to consider the appeal of the Payne Phalen District 5 Planning Council to a decision of the Board of Zoning Appeals (BZA) approving a variance of the west side yard setback of three feet in order to allow the construction of a deck with a stairway to the second floor of the existing duplex at 674 Hawthorne Avenue East.

Sponsors: Bostrom

Yaya Diatta described the variance request and appeal. He displayed photographs.

Appellant:

Leslie McMurray, Executive Director of the District 5 Planning Council (506 Kenny Road) distributed and read a letter outlining their responses to the findings of the Board of Zoning Appeals (BZA). She asked that the Council reject the findings.

Chuck Repke (1365 Prosperity), Executive Director of the District 2 Community Council, read a letter stating that complying with the setback requirements in the zoning code should not be considered a "practical difficulty." He said the property owner wanted to build a deck for the use of both tenants and was using the "practical difficulty" provision of the code to get around the setback requirement intended to protect the neighbor. He expressed the concern about the precedent that would be set if the Council upheld the BZA decision.

Ed Davis (1169 Lane Place), District Council Land Use Committee, addressed the impact of the variance on the neighborhood. He referred to letters in packet, and stressed the need to protect the quality of housing.

Cheryl Peterson, District 5 resident and committee member, addressed the applicant's argument that the stairway was needed for safety. She said an covered, enclosed stairway was safer than an exterior one.

Applicant:

Property owner David Hartman (784 Cottage Avenue E.) said the property was being completely rehabbed because of a fire. He said tenants were screened, and he didn't want tenants who were going to destroy the property. He provided photos of other properties within a block with exterior decks or stairwells. He said he would like a second exit for safety.

Sean Sellers (1288 Galtier Street), contractor, said he discovered during the rehab that the interior stairway to the second level was not up to code, and he decided to add a code-compliant stairwell. He said the interior stairway was not on the Code Compliance list, but it was his responsibility as the contractor to make sure everything was up to code. He said when the variance was applied for, one of the first comments by someone at the District Council meeting was that they just didn't like decks. Mr. Sellers said information provided the on variance application demonstrated that they were consistent with the Comprehensive Plan of St. Paul. He said the owner just wanted to make a building that was safe and affordable.

Councilmember Bostrom moved to close the public hearing. Yeas - 5 Nays - 0

Councilmember Bostrom said he appreciated the work of the owner, but was hard pressed to see a purpose to the side deck and stairway other than to raise the rent. He moved to grant appeal.

Appeal granted

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

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Stark

- 29 RES PH 11-964** Approving the use of assessment financing in accordance with City policy for the installation of a fire protection system requested by Cinema Ballroom for 1560 St. Clair Avenue. (File No. FP2011-01, Assessment No. 117100)

Sponsors: Harris

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

Adopted

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

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Stark

- 30 RES PH 11-972** Amending the financing and spending plans in the Department of Parks and Recreation in the amount of \$300,000 for funds raised by the Saint Paul Parks Conservancy for construction and installation of a new artificial turf soccer field at Oxford Community Center.

Sponsors: Carter III

Department of Parks and Recreation Director Mike Hahm gave a report on the status of the project, and the Parks Conservancy's commitment to provide the needed additional funding.

No one appeared in opposition; Councilmember Carter moved to close the public hearing. Yeas - 4 Nays - 0 (Bostrom not present for vote)

Councilmember Carter thanked Mr. Hahm for his response to the unexpected problems encountered. He noted the "athletic campus" being developed between Jimmy Lee, Central High School, Dunning Recreation Center and Concordia College. He thanked the Conservancy, and moved approval.

Adopted

Yea: 4 - Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Thune

Nay: 0

Absent: 3 - Councilmember Bostrom, Councilmember Helgen and Councilmember Stark

- 31 **RES PH 11-973** Amending the financing and spending plans in the Department of Parks and Recreation in the amount of \$625,000 to reflect capital campaign funding to be received from Como Friends.
- Sponsors:** Stark
- No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.*
- Councilmember Harris thanked the Parks Conservancy and Como Friends.*
- Adopted**
- Yea:** 4 - Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Thune
- Nay:** 0
- Absent:** 3 - Councilmember Bostrom, Councilmember Helgen and Councilmember Stark

- 32 **RES 11-689** Ratifying the assessment for Construction of a Water Service Connection at 796 Stewart Avenue as requested by the property owner in connection with the Seventh/Bay RSVP. (File No. 19034WC; Assessment No. 096038) (Public hearing continued from June 1)
- Sponsors:** Thune
- No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 4 - Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Thune
- Nay:** 0
- Absent:** 3 - Councilmember Bostrom, Councilmember Helgen and Councilmember Stark

LEGISLATIVE HEARING ITEMS

- 33 **RES 11-471** Ordering the razing and removal of the structures at 260 MARIA AVE within fifteen (15) days after the April 20, 2011 City Council Public Hearing.
- Sponsors:** Lantry
- No one appeared in opposition; Council President Lantry moved to continue the public hearing to October 5.*
- Public hearing continued to October 5**
- Yea:** 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry and Councilmember Thune
- Nay:** 0
- Absent:** 2 - Councilmember Helgen and Councilmember Stark

ADJOURNMENT

Councilmember Thune moved adjournment at 7:13 p.m.

Meeting adjourned

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

Nay: 0

Absent: 2 - Councilmember Helgen and Councilmember Stark

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