



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, May 18, 2011

3:30 PM

Council Chambers - 3rd Floor

Public Hearings at 5:30 p.m.

ROLL CALL

The meeting was called to order by Council President Lantry at 3:31 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 11-10** Letter from the Department of Safety and Inspections declaring 806 Edmund Avenue as a nuisance property. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)

 Received and Filed

- 2 **AO 11-9** Amending the 2011 spending budget for Public Works Sewer Utility Fund for payments on the 2011C revenue bonds.

 Received and Filed

- 3 **AO 11-12** Authorizing the Fire Department to pay for all costs incurred to hold a graduation ceremony for the new firefighters on May 20, 2011 at Saint Paul College.

 Received and Filed

- 4 **AO 11-15** Amending the 2011 capital improvement financing and spending plans in the amount of \$1,526,585 to allocate funding for capital maintenance projects to the appropriate departments.

 Received and Filed

- 16 **RES 11-868** Approving the City's cost of providing Collection of Vacant Building Fees services during March 2011, and setting date of Legislative Hearing for June 7, 2011 and City Council Public Hearing for July 6, 2011 to consider and levy the assessments against individual properties. (File No. VB1109)

Sponsors: Lantry

Adopted

- 17 **RES 11-869** Approving the City's cost of providing Graffiti Removal services from February 22 to March 21, 2011, and setting date of Legislative Hearing for June 7, 2011 and City Council Public Hearing for July 6, 2011 to consider and levy the assessments against individual properties. (File No. J1111P)

Sponsors: Lantry

Adopted

- 18 **RES 11-870** Approving the City's cost of providing Boarding and Securing services in February 2011, and setting date of Legislative Hearing for June 7, 2011 and City Council Public Hearing for July 6, 2011 to consider and levy the assessments against individual properties. (File No. J1108B)

Sponsors: Lantry

Adopted

- 19 **RES 11-871** Approving the City's cost of providing Demolition services during March 2011, and setting date of Legislative Hearing for June 7, 2011 and City Council Public Hearing for July 6, 2011 to consider and levy the assessments against individual properties. (File No. J1111C)

Sponsors: Lantry

Adopted

- 20 **RES 11-872** Approving the City's cost of providing Tree Removal services during March 2011, and setting date of Legislative Hearing for June 7, 2011 and City Council Public Hearing for July 6, 2011 to consider and levy the assessments against individual properties. (File No. 1107T)

Sponsors: Lantry

Adopted

- 21 **RES 11-844** Replacing the Administrative Code Appendix Chapter A-1, Council Rules of Procedure.

Sponsors: Lantry

Adopted

FOR DISCUSSION

- 22 **RES 11-932** Recognizing the work of Penumbra Theatre and proclaiming Founder & Artistic Director Lou Bellamy and Playwright & Associate Artistic Director Dominic Taylor as honorary goodwill ambassadors for the City of Saint Paul.

Sponsors: Carter III

Councilmember Carter highlighted Penumbra Theatre's accomplishments, on the occasion of their presentation of "I Wish You Love" at the Kennedy Center in Washington, DC. He read the resolution and presented it to Sarah Bellamy, daughter of founder and artistic director Lou Bellamy. Ms. Bellamy accepted the resolution and made brief comments.

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

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

- 23 **Ord 11-43** Amending Chapter 16 of the Administrative Code entitled "Council Personnel."
- Sponsors:** Lantry
- Laid over to May 25 for second reading**
- 24 **Ord 11-44** Amending Chapter 15 of the Administrative Code entitled "Council Meetings and Meetings of Committees, Boards and Commissions."
- Sponsors:** Lantry
- Laid over to May 25 for second reading**
- 25 **Ord 11-50** Amending Chapter 376.16 of the Saint Paul Legislative Code to update prerequisites for taxicab licenses.
- Sponsors:** Lantry
- Laid over to May 25 for second reading**

- 26 **Ord 11-51** Amending Chapter 157 of the Saint Paul Legislative Code pertaining to miscellaneous parking restrictions and mobile food vehicles.

Sponsors: Stark

Laid over to May 25 for second reading

The meeting recessed at 3:37 p.m.

PUBLIC HEARINGS

The Council reconvened for public hearings at 5:30 p.m.

Present 6 - Councilmember Dan Bostrom, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

Absent 1 - Councilmember Melvin Carter III

- 27 **Ord 11-32** Amending Chapter 64 of the Zoning Code pertaining to signs.

Sponsors: Thune

Councilmember Thune expressed disappointment in the lack of substantive changes coming out of the Planning Commission, and said he had amendments which he would move and which he felt were pro-business. He said there were still specific issues to be discussed and addressed, and said his intention was to hold the public hearing and lay the matter over to allow time for further discussion.

Yeas - 7 Nays - 0 (Amendments introduced)

Councilmember Harris asked whether another public hearing would be held on the amended version. Deputy City Attorney Gerald Hendrickson reviewed the notice requirements and said a second hearing would be required.

Council President Lantry said it was clear from comments received in her office that people needed more information.

Council members discussed the appropriate length of layover.

In opposition:

Benita Warns, owner of Mr. Michael Recycles Bicycles (520 N. Prior Avenue), described the donated dynamic display sign being used at her business. She said she'd had trouble deciphering what the effect of the ordinance would be for her business, but all she wanted was to continue to use the existing sign without having to pay an excessive amount of money. She said she felt the overall product coming out of the process would be a good one and she supported a certain amount of regulation and being able to see inside of businesses, but the sign she was using was necessary and the best option for her business.

Michael Belaen, St. Paul Area Chamber of Commerce (401 Robert Street N., Suite 150), said they supported the sign proposal as introduced on May 4, 2011 but opposed the additional regulations in Councilmember Thune's amendment. He said the initial proposal was the result of a long period of study and was consistent with

the recommendations of City staff and the Planning Commission, and had broad community support. He distributed a letter of opposition signed by twelve St. Paul businesses and organizations.

In Support:

Jabray Martin (167 Mount Airy), advocate with Mount Airy Boys and Girls Club and Ramsey Tobacco Coalition, said her group had collected tobacco data comparing income levels and two ethnicities and found that most tobacco advertising was in low income African American communities. She said regulating signs in a way that was not based on content and did not limit freedom of speech helped address many other issues such as safety, and advertising for alcohol and unhealthy junk foods and snacks.

Dionna Clark (1772 Minnehaha Avenue W.), Vision in Living Life "Change is Possible", displayed photographs demonstrating how excessive signage could be a safety issue, stereotyping, and offensive. She displayed photographs of appropriate signage.

Rossie Anderson Howze (98 Cook Avenue W.), concerned citizen, shared an anecdote involving a shooting outside a store during which her and her daughter's safety were jeopardized by the inability to see in or out the windows because of excessive signage.

Carissa Ontiveros (759 Sims Avenue) and Esmeralda Gonzalez (2308 Stillwater Road), said they had gathered letters of support from the District 3, 4, 5, 7, 8, 11, 12, 13, 14 and 17 Community Councils and several other organizations while working on the signage project. They addressed some of the counter arguments they encountered.

Lisa Marshall, on behalf of Martha Gabler Lunde, owner of Martha's Gardens at Snelling and Selby, said Ms. Gabler Lunde had selected her business location based on aesthetics and safety which were related to signage restrictions.

Joel Clemmer, representing Scenic St. Paul, showed a DVD with dynamic display signs. He said the issue was about setting a community standard within which all businesses would be treated equally. He said many business districts already regulated window signage, and he noted the safety effects of signs. He said he felt the ordinance could be enforced on a complaint basis.

Robert Straughn, 2200 Hoyt Avenue W., said two important changes to the purpose of the sign code were the need to promote traffic safety and the need to deter crime. He said the current proposal addressed interior and temporary signs which were not covered under the original ordinance. He referred to a map of the areas studied by Councilmember Thune and noted that 20 of 23 communities within the area had regulations in line with what Councilmember Thune was proposing.

Councilmember Thune asked those present in support to stand. He said every District Council but one supported his amendments, and that one just had questions. He said safety was high on the list of reasons for the changes. He said the proposal would put St. Paul in line with other communities and with individual business communities that had their own restrictions, and he reiterated that the proposed amendments were pro-business. He acknowledged there were a few things to iron out, and he moved to continue the public hearing to November 16. He said it could be brought back sooner if things were worked out and with proper notice.

Councilmember Helgen applauded the young people on their well-prepared

testimony, and he cited examples of the effects of excess signage. He said he felt the new regulations would provide a means for controlling the amount of signage in businesses that would not comply on their own, and he looked forward to the continued discussion.

Councilmember Stark said he was supportive of the amendments. He said the dynamic display issue was complex and perhaps needed more discussion, but the coverage issue was straightforward. He noted coverage requirements in surrounding communities and in successful retail communities in the region. He said he looked forward to continued conversation.

Amended; public hearing continued to November 16, 2011

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

Nay: 0

- 28 **Ord 11-46** Amending Legislative Code Chapter 74 by enacting a new section designating the Jacob Schmidt Brewing Company Historic District as a Saint Paul Heritage Preservation Site.

Sponsors: Thune

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

Public hearing held and closed; laid over to May 25 for final adoption

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

Nay: 0

- 29 **Ord 11-48** Amending Chapter 38 of the Administrative Code by deleting Sec. 38.07(b) in its entirety for the purpose of allowing the City the option to negotiate when severance payments are made to employees who are represented by bargaining units and are due severance upon separation from the City.

Sponsors: Lantry

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

Public hearing held and closed; laid over to May 25 for final adoption

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

Nay: 0

- 30 **RES 11-838** Approving the application of the Minnesota Children's Museum for a sound level variance in order to present amplified speakers, videos, and band music from 6:00 p.m. until 10:30 p.m. on June 25, 2011 in a tent at 10 Seventh Street West. (Public hearing continued from May 4.)

Sponsors: Thune

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

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 11-854** Approving the application of Renee McCuen for a sound level variance in order to present amplified band music during a wedding reception from 6:00 p.m. until 10:00 p.m. on August 13, 2011 in Mears Park.

Sponsors: Thune

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

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 11-875** Approving the application of the CapitolRiver Council for a sound level variance in order to present amplified music from 6:00 p.m. until 9:00 p.m. on Thursdays - June 9, 16, 23, 30, July 7, 14, 21 & 28, and August 4, 11, 18, & 25, 2011; and to show movies from 9:00 p.m. until 11:30 p.m. on Thursdays - July 21 & 28, and August 4, 11, 18, & 25, 2011 in Mears Park.

Sponsors: Thune

In support:

Event organizer Brian Horst said there would be no movies this year, just music until 9:00 p.m.

Councilmember Thune said the variance request would stay as is and the event could work within that window.

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

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 PH 11-908** Approving the establishment of a Tax Increment Financing District and approving the Tax Increment Plan and modification of the Riverfront Redevelopment Plan (Cossetta Project).

Sponsors: Thune

Councilmember Carter moved an amendment. Councilmember Thune said the

amendment put in writing the commitments made as to the number of jobs at living wage. He said having the commitments in writing had been a condition on the project, and the amendment gave basically the same numbers as those submitted in writing by the Cossetta team.

Councilmember Carter said passage of the waiver was based in no small part on information presented by the developer that 78% of current full time employees were earning above the living wage, and on a written commitment to health and vacation benefits, a 401k plan, and 75% of full time employees being paid a living wage.

Councilmember Helgen said he appreciated the effort but would like to see a commitment to 100% of the employees receiving living wage.

Councilmember Thune said he had spoken to Anne Hunt regarding Cossetta's green certification, and they were well on their way to being certified at one of the levels.

In response to Councilmember Helgen's comments, Councilmember Carter said they would all like to see 100% living wage but what he was attempting to do was avoid an all or nothing type of prospect. He said the agreement represented a practical step forward for the City and its families in challenging economic times and created the ability for staff to monitor the progress.

Councilmember Stark said he appreciated having the commitments in writing and agreed with Councilmember Helgen. He said moving closer to a requirement for 100% living wage made him question why the waiver was needed.

Yeas - 7 Nays - 0 (Amendment introduced)

In opposition:

Bernie Hess (1602 Thomas), Organizer for the Food and Commercial Workers' Union Local 1189, spoke in opposition to the inclusion of the Cossetta development in the tax increment financing (TIF) district and to the approval of the TIF funds for the development. He also raised an objection to the previous month's HRA hearing with no materials available for public viewing and to the absence of the public Council book from the chambers that afternoon. He said said the plan document and Cossetta jobs data failed to make the compelling case for the TIF subsidy. He said if the development was truly a "can't miss" opportunity, a commercial lender should be lined up. He said the waiver opened the door for other businesses to come with their hands out. He asked the Council to vote no on the TIF and to come back and rework a deal that worked for everyone in St. Paul.

Jim Ivey (300 Wall Street, #708) said he was opposed to a living wage waiver at any time but even more so during the current economy when short term hospitality positions were becoming careers for many people. He said the choice to subsidize the project set a dangerous precedent, undermined the living wage ordinance, and left the City with no strong criteria for determining whether other developers should get the same waiver. He urged the Council to find creative ways to close the small remaining gap.

Kris Jacobs (436 Portland Avenue, #12), Executive Director of the Minnesota Jobs Now Coalition, distributed data and said if the development was a good deal a bank would be involved. She asked why the employees and taxpayers should be put at risk.

Robyn Hansen (150 S. Fifth Street, Minneapolis), from the office representing Dave Cossetta, said they were flummoxed to come to the meeting and find that an issue

they thought was put to bed at the April meeting reopened and revisited. She said it was her understanding that Mr. Cossetta had said he'd use his best efforts and it was his intention to pay a living wage to the extent that he could within the restrictions of a very competitive business, but there was no guarantee. She said it was not something they had agreed to make a condition of the financing, and the action was a surprise to them. She said they were willing to work with the City and the HRA on a best efforts or something, but reiterated there was no guarantee. She said that was not at all what the deal was, they were surprised, and it just didn't work.

Javier Morillo (89 King Street), President of Local 26, said he hadn't intended to speak, until he heard the previous speaker. He said he had questioned the necessity of the exemption given Cossetta's argument that most employees were already receiving a living wage but understood now that this was not a deal but intentions and best efforts. He said the City of St. Paul and the living wage ordinance and the intentions behind it could do better than that. He said the point was that businesses that chose not to abide by the ordinance could get private financing, and he didn't understand why an exception was being made in this case and why taxpayers were being expected to take on the investment risk.

Councilmember Thune moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Thune read the waiver conditions in a proposal he said had been received from the applicant some time before. He moved to approve the resolution. He said it was in writing and should come as no surprise.

Councilmember Carter agreed and said a very strong representation had been made a couple of weeks before, and that the commitment was something the developer had brought to the Council. He said none of the language in the document read as a best effort but rather as a strong commitment. He reiterated that the language had come from the representative of the developer.

Councilmember Helgen said he felt putting the amendment in writing was necessary, particularly given the testimony. He suggested taking time to get the issue resolved and said he was not prepared to vote for it until it was clarified.

Councilmember Thune said there were always conditions on forgivable loans. He said he would rather go ahead and pass the resolution and make the conditions firm, and it would be up to the applicant to decide if they could meet the conditions.

Councilmember Thune asked for a vote on the resolution. The vote was taken.

Councilmember Helgen said he wanted to understand what the attorney's testimony meant in terms of their intention to move forward.

Council President Lantry said the item would be before the HRA the following week and there could be better communication in the meantime.

Adopted as amended

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

Nay: 1 - Councilmember Stark

Items 38 and 39 were taken out of order at the request of Councilmember Bostrom.

- 38 RES 11-778** Final Order approving streetscape improvements along Payne Avenue from Cook Avenue to Orange Avenue.

Sponsors: Bostrom

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

Adopted

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

Nay: 0

- 39 RES 11-779** Approving the ongoing operation and maintenance costs for the above standard lighting improvement along Payne Avenue from Cook to Orange. (File No. 19096OP)

Sponsors: Bostrom

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

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 11-842** Approving the application of The City of Saint Paul for an interim use permit to allow additional business signage within the area of the Central Corridor Light Rail Construction Project.

Sponsors: Stark

Councilmember Stark moved an amendment to include information about historic properties. Yeas - 6 Nays - 0 (Bostrom not present for vote)

In support:

Zach Short, St. Paul Area Chamber of Commerce, expressed support for the resolution and encouraged it's adoption. He reviewed the advantages it would bring to affected Central Corridor businesses, and applauded the measures taken by Council members Stark and Carter, their staffs, and other City staff.

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

Councilmember Stark pointed out that, while the resolution waived the permit fee, businesses were still encouraged to obtain a permit for additional temporary signage.

Councilmember Carter said the resolution represented a small but important means of showing support for affected businesses.

Adopted as amended

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 35 RES PH 11-909** Approving a 2011 housing finance program and the issuance and/or reissuance by the Minneapolis/Saint Paul Housing Finance Board of single family mortgage revenue bonds and/or mortgage credit certificates.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 36 RES 11-887** Amending the financing and spending plans in the Department of Parks and Recreation in the amount of \$63,284 to accept grant funds from a competitive grant process through the Minnesota Legacy Amendment, Arts and Cultural Heritage Fund.

Sponsors: Stark

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 37 RES 11-825** Amending the financing and spending plans in the Department of Parks and Recreation in the amount of \$38,625 to accept a grant from the Department of Natural Resources to plant 261 native trees to improve canopy diversification in City Council Ward 4.

Sponsors: Stark

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

Adopted

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

Nay: 0

Absent: 2 - Councilmember Bostrom and Councilmember Harris

40 RES 11-840

Approving adverse action against the Cigarette/Tobacco license held by West St. Paul BP, Inc. d/b/a West St. Paul BP, Inc., 657 Seventh Street West.

Sponsors: Thune

Kyle Lundgren, Assistant City Attorney representing the Department of Safety and Inspections (DSI), reviewed the violation, and said the licensee had requested a public hearing before the Council. He said DSI recommended the \$400 matrix penalty for a second violation.

In opposition:

Lisa McCormick appeared representing the licensee and thanked the Council for the opportunity to be heard. She said an additional violation would result in a license suspension, which the store might not survive due to the low profit margins on gasoline. She asked the Council to consider that the licensees had made their best efforts and felt they had been diligent in trying to prevent inadvertent tobacco sales to minors, and that the penalty be waived or dismissed. She described efforts made by the licensee to ensure compliance, and explained the error made by the clerk. She displayed an example of the type of identification presented to the clerk.

Council President Lantry noted that the identification said the holder would be age 18 on a particular date. Ms. McCormick said employees often did not speak English as a first language and had trouble reading dates. She said the clerk had learned at another job that the type of identification shown meant the card holder was 18. She said they didn't feel anything else could be done and had tried unsuccessfully to have swiping software installed.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

41 PH 11-13

Approving the imposition of a \$50.00 administrative fine against Michael Yousry Sawiers for selling tobacco products to a minor at the West St. Paul BP, Inc., 657 Seventh Street West, on March 28, 2011.

Sponsors: Lantry

Kyle Lundgren, Assistant City Attorney representing the Department of Safety and Inspections (DSI), said the situation arose from same incident as in the previous item. He reviewed the violations and said Mr. Sawiers had requested public hearing. He said DSI recommended imposition of the \$50 fine.

In opposition:

Lisa McCormick, appearing on behalf of the licensee, said since previous item was not granted she had no further comments.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

42 PH 11-11

Public hearing to consider the application of Saldi LLC to rezone property at 150 Cesar Chavez Street from TN2 Traditional Neighborhood to B3 General Business.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and lay the matter over for two weeks.

The following further action was taken following item 52:

Councilmember Thune moved to reconsider Item 42. Yeas - 6 Nays - 0 (Bostrom not present for vote)

Councilmember Thune said the public hearing had been held and there had been no one from either side to testify. He said he would like to just deny the appeal.

Laid over to June 1; reconsidered; motion of intent - application denied

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

Nay: 0

Absent: 1 - Councilmember Bostrom

43 PH 11-10

Public hearing to consider the application of Eugene Sitzmann to rezone property at 45 S. Syndicate Street from RM2 Medium-density residential to TN1 Traditional Neighborhood. (ZF#11-102-646)

Sponsors: Harris

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

Motion of intent - application granted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 44 PH 11-12 Public hearing to consider the report of the Administrative Law Judge concerning the Taxicab Driver license application submitted by Michael Anthony Spann.

Sponsors: Lantry

Kyle Lundgren, Assistant City Attorney representing the Department of Safety and Inspections (DSI), reviewed the application and said it had been denied based on a conviction for felony-level theft. The applicant requested a hearing in front of an Administrative Law Judge (ALJ), and the ALJ recommended that the Council affirm DSI's denial. Mr. Lundgren said DSI's recommendation was for the Council to adopt the findings of fact, conclusions of law, and recommendation of the ALJ.

At Council President Lantry's request, Mr. Lundgren reviewed the applicant's license history.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and adopt the findings of fact, conclusions of law, and recommendation of the Administrative Law Judge.

Motion of intent - application denied

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

Nay: 0

Absent: 1 - Councilmember Bostrom

LEGISLATIVE PUBLIC HEARINGS

- 45 RLH RR 11-15 Ordering the rehabilitation or razing and removal of the two primary structures at 1407-1415 MARSHALL AVENUE within ninety (90) days after the May 18, 2011 City Council Public Hearing, and the rehabilitation or razing and removal of the polebarn/warehouse structure within one hundred eighty (180) days after the May 18, 2011 City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said there were three buildings on the site; Concordia was removing two and would like to rehab the third for storage use. She recommended granting 180 days for the rehabilitation and 90 days for the removal. She noted that Concordia was cooperating with the Fire Department to allow some training exercises to be conducted before the buildings were demolished.

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

Adopted as amended (90 days to remove two primary structures, 180 days to rehabilitate polebarn/warehouse structure)

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 46 **RLH RR 11-12** Ordering the rehabilitation or razing and removal of the structures at 695 BRADLEY STREET within fifteen (15) days after the May 18, 2011 City Council Public Hearing.

Sponsors: Thune

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 47 **RLH RR 11-14** Ordering the rehabilitation or razing and removal of the structures at 845 AGATE STREET within fifteen (15) days after the May 18, 2011 City Council Public Hearing.

Sponsors: Helgen

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 48 **RLH RR 11-11** Ordering the razing and removal of the structure at 604 HATCH AVENUE within fifteen (15) days after the May 18, 2011 City Council Public Hearing.

Sponsors: Helgen

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 49 **RLH RR 11-10** Ordering the razing and removal of the structure at 600 HATCH AVENUE within fifteen (15) days after the May 18, 2011 City Council Public Hearing.

Sponsors: Helgen

Councilmember Helgen asked that the properties on Hatch be bundled and done

quickly. Legislative Hearing Officer Marcia Moermond said she would pass the request along.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 50 RLH RR 11-13** Ordering the rehabilitation or razing and removal of the structures at 763 FOURTH STREET EAST within fifteen (15) days after the May 18, 2011 City Council Public Hearing. (Public hearing continued from May 18) (To be referred back to Legislative Hearing on August 9, 2011 and City Council public hearing on August 17, 2011)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond asked that the matter be referred back for a June 14 Legislative Hearing, and the Council public hearing be continued to July 6.

No one appeared in opposition; Council President Lantry moved to continue the public hearing to July 6.

Referred back for a June 14 Legislative Hearing; Council public hearing continued to July 6

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 51 RLH VO 11-14** Appeal of Larry Alexander to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 224 AVON STREET NORTH.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said her recommendation was to uphold the orders and ask for a short turn-around time. She reviewed the inspection history and conditions at the property, and said the inspector's report indicated that conditions had deteriorated since the original inspection in the fall. She noted that the Council had voted to remove the property from the Certificate of Occupancy program, but the existing orders still applied. She said the appellant had cited financial constraints, but the Council shouldn't consider that when determining whether the house was habitable. She said due to the dilapidated condition a Code Compliance should be completed and the property certified before reoccupation. At Council President Lantry's request she clarified that the vacate deadline had past and her recommendation was to order immediate vacation.

In opposition:

Property owner Larry Alexander appeared. He displayed photographs of the property and said the principal violations had been addressed. He explained the circumstances leading to the garbage service violation, which was one of two he said he disputed.

Council President Lantry said the garbage service was only one of a number of issues leading to the condemnation; she asked him to confine his testimony to the larger issues.

Mr. Anderson said he also disputed the raccoon infestation. He said he told pest control to abate even though no evidence of infestation was found, and one squirrel was caught on the roof.

Council President Lantry asked whether the roof had been replaced. Mr. Anderson said he had been given an extension until the end of the summer, and was in negotiations with the insurance company for payment.

Councilmember Stark noted that the photographs were date-stamped January 2010. Mr. Anderson said he didn't know why that would be, he said he had just printed them. He said he had tried to contact Mr. Essling to confirm things were addressed, but he'd been on vacation. He said Inspector Essling had given him a manageable list and he'd addressed everything line item by line item.

Council President Lantry said it didn't appear that permits had been pulled for the work done; she read from an order requiring work by a licensed electrician. Mr. Anderson said Mr. Essling told him to sheetrock the ceiling but no specific electrical issues were noted. He reiterated that the condemnation was tied to the garbage issue which was a falsehood and the raccoons which did not exist. He said the tenant would not allow him access and he waited until she moved out before allowing inspectors in. He reiterated that a licensed electrician wasn't something that Mr. Essling had pointed out.

Council President Lantry said it was in the letter with the orders. Mr. Anderson reiterated that all of the principal violations save the electrical had been addressed, and he'd wanted Mr. Essling to come out to verify but he was on vacation.

Councilmember Carter moved to close the public hearing. Yeas - 6 Nays - 0
(Bostrom not present for vote)

Councilmember Carter asked whether the language used in the order referring to the electrical work was "generic" "cut and paste" language or written by the inspector to specifically address the issue. Ms. Moermond said the language in the orders was written specifically; she said there was some "punch list" language regarding light fixtures and electrical wiring in the August 23 orders written by Fire inspectors. She said based on both sets of orders she felt there was a systemic electrical problem in the building and certification by an electrician was necessary.

Councilmember Carter moved to adopt the recommendation of the Legislative Hearing Officer and order immediate vacation. (Mr. Anderson said the unit was currently vacant.)

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 52 **RLH VO 11-13** Appeal of Jenny Chin to a Condemnation (Correction Notice - Complaint Inspection) at 289 FIFTH STREET EAST.

Sponsors: Thune

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

Item 42 was reconsidered at this time (see minutes for Item 42 above).

LEGISLATIVE HEARING 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.

Councilmember Harris moved approval of the Consent Agenda.

Consent Agenda adopted

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

Nay: 0

Absent: 1 - Councilmember Bostrom

- 53 **RLH FCO 11-11** Appeal of Russell Senn to a Fire Inspection Correction Notice at 231 LEXINGTON PARKWAY NORTH.

Sponsors: Carter III

Adopted

- 54 **RLH FCO 11-27** Appeal of James Swartwood to a Fire Inspection Correction Notice at 697 WESTERN AVENUE NORTH.

Sponsors: Carter III

Adopted

55 **RLH FCO 11-35** Appeal of Steve Jacque, Saint Paul City Church, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 827 AURORA AVENUE.

Sponsors: Carter III

Adopted

56 **RLH FCO 11-96** Appeal of Will Rolf to a Correction Notice-Complaint Inspection at 501 ASHLAND AVENUE.

Sponsors: Carter III

Adopted

57 **RLH VBR 11-37** Appeal of Robert H. Nollet to a Certificate of Occupancy Revocation Vacant Building and Vacant Building Registration Renewal Notice at 676 RIVOLI STREET.

Sponsors: Thune

Adopted

59 **RLH FCO 11-95** Appeal of John L. Ricci to a Fire Inspection Correction Notice at 692 DESOTO STREET.

Sponsors: Thune

Adopted

60 **RLH WP 11-20** Appeal of Window Concepts of Minnesota to an Egress Window Non-Compliance Determination at 1214 JAMES AVENUE.

Sponsors: Harris

Adopted

61 **RLH FCO 11-6** Appeal of Georgina E. Frankel to a Fire Inspection Correction Notice at 1439 PALACE AVENUE.

Sponsors: Harris

Adopted

62 **RLH FCO
11-100** Appeal of Shari Gesche to a Fire Inspection Correction Notice at 1682 ST. CLAIR AVENUE.

Sponsors: Harris

Adopted

63 **RLH WP 11-6** Appeal of Erika Hanson to an Egress Window Non-Compliance Determination at 2157 TEMPLE COURT.

Sponsors: Stark

Adopted

- 64 **RLH WP 11-8** Appeal of Jim Fitzenberger to an Egress Window Non-Compliance Determination at 1123 MINNEHAHA AVENUE WEST.

 Sponsors: Stark

 Adopted
- 65 **RLH FOW 11-50** Appeal of Nick Birk to a Fire Inspection Correction Notice at 1251 BLAIR AVENUE.

 Sponsors: Stark

 Adopted
- 66 **RLH FCO 11-89** Appeal of Larry Abdo to a Fire Inspection Correction Notice at 1813 DAYTON AVENUE.

 Sponsors: Stark

 Adopted
- 67 **RLH VBR 11-32** Appeal of Paul Mai to a Vacant Building Registration Notice at 457 LAWSON AVENUE WEST.

 Sponsors: Helgen

 Adopted
- 68 **RLH WP 11-7** Appeal of Minnesota Exteriors, representing Adam and Alita LaBrie, to an Egress Window Non-Compliance Determination at 1140 JACKSON STREET.

 Sponsors: Helgen

 Adopted
- 69 **RLH FOW 11-6** Appeal of Garnet Real Estate Services, representing Kevin J. Wood, to a Fire Inspection Correction Notice at 1151 BREEN STREET.

 Sponsors: Bostrom

 Adopted
- 70 **RLH FCO 11-5** Appeal of James Schoffman to a Fire Inspection Correction Notice at 1012 ROSS AVENUE.

 Sponsors: Bostrom

 Adopted
- 71 **RLH FCO 11-10** Appeal of Mary Hooper to a Fire Inspection Correction Notice at 1952 ORANGE AVENUE EAST.

 Sponsors: Bostrom

 Adopted

- 72 **RLH FCO 11-42** Appeal of Mark Underdahl to a Fire Certificate of Occupancy Approval With Corrections at 1106 BREEN STREET.
Sponsors: Bostrom
Adopted
- 73 **RLH FOW 11-27** Appeal of Bill Persson to a Correction Notice-Complaint Inspection at 779 SIXTH STREET EAST.
Sponsors: Lantry
Adopted
- 74 **RLH FOW 11-7** Appeal of Joe Palen to a Fire Inspection Correction Notice at 1505 OLD HUDSON ROAD.
Sponsors: Lantry
Adopted
- 75 **RLH FOW 11-8** Appeal of Lynne Dressen to a Fire Inspection Correction Notice at 1665 MARGARET STREET.
Sponsors: Lantry
Adopted
- 76 **RLH FOW 11-49** Appeal of William B. Becker to a Fire Inspection Correction Notice at 2072 MOHAWK AVENUE.
Sponsors: Lantry
Adopted
- 77 **RLH FCO 11-98** Appeal of Anny Dang to a Fire Inspection Correction Notice at 1517 OLD HUDSON ROAD.
Sponsors: Lantry
Adopted
- 78 **RLH FCO 11-7** Appeal of Guillermo Segui to a Fire Inspection Correction Notice at 1368 MARGARET STREET.
Sponsors: Lantry
Adopted
- 79 **RLH FCO 11-8** Appeal of Zoua Lo to a Fire Inspection Correction Notice at 1800 WILSON AVENUE.
Sponsors: Lantry
Adopted

- 80 **RLH FCO 11-12** Appeal of Kyle Dalton, Azingo LLC, to a Fire Inspection Correction Notice at 2007 MINNEHAHA AVENUE EAST.
Sponsors: Lantry
Adopted
- 81 **RLH FCO 11-88** Appeal of Brian Cox to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 1013 MARGARET STREET.
Sponsors: Lantry
Adopted
- 82 **RLH FCO 11-92** Appeal of Charles McCarty to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 889 SIXTH STREET EAST.
Sponsors: Lantry
Adopted
- 83 **RLH FCO 11-98** Appeal of Anny Dang to a Fire Inspection Correction Notice at 1517 OLD HUDSON ROAD.
Sponsors: Lantry
Adopted
- 84 **RLH FCO 11-99** Appeal of Robert Bray to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 2068 SUBURBAN AVENUE.
Sponsors: Lantry
Adopted
- 85 **RLH VBR 11-38** Appeal of Pheng Xiong to a Vacant Building Registration Renewal Notice at 1072 MINNEHAHA AVENUE EAST.
Sponsors: Lantry
Adopted

LEGISLATIVE HEARING ITEMS REQUIRING DISCUSSION

- 58 **RLH FCO 11-90** Appeal of Cheri Kappas to a Fire Inspection Correction Notice at 241 SEVENTH STREET EAST. (Laid over from May 18)
Sponsors: Thune

Legislative Hearing Officer Marcia Moermond reviewed the issues being appealed (door swing, panic release hardware, and an exhaust hood for a second cooking area), and said the code was clear and her recommendation was to deny the appeal and order compliance by September 1.

In opposition:
Property owner Cheri Kappas appeared. She said the bar was small and the door was used for ventilation, and the Environmental Health Code said if a door was used

for ventilation there had to be a screen door. She said they'd offered to adjust the screen door in the winter and keep the inner door open at all times to allow easier access. She said they'd been broken into more than once, and the inner door was used for security purposes. She said there was no other way to make an alcove for a code compliant door without blocking off the bathrooms. She said the door was put in in 1990 and the door swing and panic release hardware had passed many Certificate of Occupancy inspections since. She said she had a problem with a "\$2000 doorknob" and was willing to post signs and remove the latch from the screen door, which she felt would accomplish the same thing as installing panic release hardware. She noted that other newer downtown bars such as Barrio and Bulldog didn't have panic release hardware. With regards to the exhaust hood, she said the second cooking area was used only for reheating and not for cooking. She said soup on a double boiler emitted steam and not grease. She said space was limited, and a second ventilation system couldn't be tied to first, so more things would have to be added on the roof. She said any construction would mean her appliances could no longer be grandfathered and would have to have wheels. She noted the difficult economy and said the \$100,000 cost was impossible. She said she had a fire extinguisher next to the stove as she'd been directed in the past. She said she'd been told there was no variance or extension available but had since learned from the Minnesota Fire Department that there was a way to apply for a variance or up to a five year extension.

Council President Lantry asked whether the code specifically addressed soup reheating. Ms. Moermond said the code addressed the cooking surface.

Councilmember Thune asked whether the use of the second cooking area could be verified and a condition added. Council President Lantry said that was the sort of solution she was suggesting as well. Councilmember Thune asked that the the public hearing be continued and the matter referred back to Legislative Hearing. He said it was a small establishment and patrons could get to the door quickly. He said it hadn't been a problem in previous inspections and he questioned putting the hammer down now.

Ms. Moermond noted that the discussion ran counter to her recommendation, but there were things that could be done to mitigate the hazard, and there were other bars and restaurants in the same situation. She said arrangements were being crafted on a case by case basis.

Referred back for a May 24 Legislative Hearing; Council public hearing continued to June 15

86 RLH AR 11-19 Ratifying the assessment for Tree Removal services during November 2010 at 1344 FOURTH STREET EAST. (File No. 1104T2, Asmt No. 119097)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond asked that the matter be referred back for a June 7 Legislative Hearing, and the Council public hearing be continued to July 6.

Referred back for a June 7 Legislative Hearing; Council public hearing continued to July 6

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

Nay: 0

Absent: 1 - Councilmember Bostrom

ADJOURNMENT

Councilmember Harris moved adjournment; the meeting was adjourned at 7:55 p.m.

Meeting adjourned

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

Nay: 0

Absent: 1 - Councilmember Bostrom

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