



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 Amy Brendmoen
Councilmember Melvin Carter III
Councilmember Russ Stark
Councilmember Dave Thune
Councilmember Chris Tolbert

Wednesday, December 5, 2012

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 3:32 p.m.

- Present** 6 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Melvin Carter III, City Council President Kathy Lantry, Councilmember Russ Stark and Councilmember Chris Tolbert
- Absent** 1 - Councilmember Dave Thune

Councilmember Thune arrived after roll call.

- Present** 7 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Melvin Carter III, City Council President Kathy Lantry, Councilmember Russ Stark, Councilmember Dave Thune and Councilmember Chris Tolbert

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 1 - 23)

Item 14 was withdrawn. Item 19 was laid over to the 5:30 portion of the meeting for a public hearing.

Councilmember Tolbert moved approval of the balance of the Consent Agenda.

Consent Agenda adopted as amended

- Yea:** 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

- 1 RES 12-2052** Approving the City's cost of providing Property Clean Up Services from September 4 to October 1, 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. J1303A, Asmt No. 138502)

Adopted
- 2 RES 12-2054** Approving the City's cost of providing Trash Hauling Services from September 5 to September 26, 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. J1303G, Asmt No. 138702)

Adopted
- 3 RES 12-2055** Approving the City's cost of providing Collection of Vacant Building Fees Services billed March 20 to August 7, 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. VB1304, Asmt No. 138803)

Adopted
- 4 RES 12-2056** Approving the City's cost of providing Boarding and/or Securing Services during September 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. J1304B, Asmt No. 138103)

Adopted
- 5 RES 12-2057** Approving the City's cost of providing Graffiti Removal Services from July 31 to September 30, 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. J1303P, Asmt No. 138402)

Adopted
- 6 RES 12-2058** Approving the City's cost of providing Tree Removal Services during September 2012, and setting date of Legislative Hearing for January 8, 2013 and City Council Public Hearing for February 20, 2013 to consider and levy the assessments against individual properties. (File No. 1302T, Asmt No. 139001)

Adopted

- 7 **RES 12-2067** Approving the City's cost of providing Replacement of Lead Water Service Line on private property during August to October 2012, and setting date of City Council Public Hearing for January 16, 2013 to consider and levy the assessments against individual properties. (File No. 1301LDSRP, Asmt No. 134000)
Adopted
- 8 **RES 12-2068** Approving the City's cost of providing Repair of Sanitary Sewer Line on private property during August to October 2012, and setting date of City Council Public Hearing for January 16, 2013 to consider and levy the assessments against individual properties. (File No. SWRP1301, Asmt No. 133000)
Adopted
- 9 **RES 12-2104** Deleting the assessment for Removal of Diseased Tree on Private Property in 2004 at 767 PIERCE BUTLER ROUTE. (File No. 0501T, Asmt No. 9041)
Adopted
- 10 **RES 12-2201** Authorizing the Fire Department to accept a donation of \$500 from the Saint Patrick's Association.
Adopted
- 11 **RES 12-2079** Authorizing the Police Department to enter into a Joint Powers Agreement with the State of Minnesota to further develop the existing real time officer reporting tool.
Adopted
- 12 **RES 12-2128** Authorizing the Police Department to accept the grant/donation from the St. Paul Police Foundation in the amount of \$62,953.40 for community programs and SWAT unit safety equipment.
Adopted
- 13 **RES 12-2195** Approving adverse action against all licenses held by Coale, Inc., d/b/a Coale's Bar & Grill, 719 Dale Street North.
Adopted
- 14 **RES 12-2161** Approving adverse action against the Laundry/Dry-Cleaning Plant license and Alarm Permit (Renew) held by Stoltz Cleaners, 1580 Grand Avenue.
Withdrawn

- 15 **RES 12-2124** Approving adverse action against all licenses held by Dethvongxay Sonvanaphong, d/b/a Thai Ginger Deli, 1001 Johnson Parkway, Unit #7.
Adopted
- 16 **RES 12-2198** Approving adverse action against the Taxicab Driver (Provisional) license application submitted by Howard C. Melquist.
Adopted
- 17 **RES 12-2199** Approving adverse action against the Taxicab Driver (Provisional) license application submitted by Charles A. McNeal.
Adopted
- 18 **RES 12-2179** Authorizing the carryforward of unused private activity bond volume cap.
Adopted
- 19 **RES 12-2182** Approving the Victoria Park vacation of right of way and release of easements.
Laid over to the 5:30 p.m. portion of the meeting
Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
Nay: 0
- 20 **RES 12-2176** Approving a Purchase Agreement for the City's acquisition of a vacant parcel of land owned by the BNSF Railway for the Lowertown Ballpark Project.
Adopted
- 21 **RES 12-2158** Requesting that the Commissioner of the Minnesota Department of Transportation approve a speed limit reduction from 40 MPH to 30 MPH on Otto Avenue from West Seventh Street to Shepard Road.
Adopted
- 22 **RES 12-2164** Memorializing City Council action taken on November 7, 2012 sustaining adverse licensing action against all licenses held by Abdishakur Adbi Hassan, d/b/a Capitol Tobaccos, 152 University Avenue West.
Adopted

- 23 **Min 12-41** Approving the minutes of the November 7 and 14, 2012 City Council meetings.

Adopted

FOR DISCUSSION

- 24 **RES 12-2159** Awarding the sale of General Obligation Capital Notes, Series 2012D, in order to finance certain capital improvements; fixing the form and specifications of the Series 2012D Notes; directing the execution and delivery of the Series 2012D Notes; and providing for the payment of and levying a tax for the Series 2012D Notes.

Jonathan North, Office of Financial Services, provided amended completion forms with sale results from the bond sale that had taken place that morning, as well as the recommendation from Springsted, the City's financial advisor. He noted that both rating agencies had affirmed the City's excellent rating. He thanked the Council, City staff, and the professional staff at Kennedy Graven and Springsted for helping with the bond sale, and said the staff recommendation was to approve the resolution as amended. In response to a question from Councilmember Stark he said there were some savings to the City resulting from interest rates that were lower than what was budgeted for.

Councilmember Stark moved to approve the resolution as amended.

Council President Lantry thanked finance staff.

Adopted as amended

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

Nay: 0

25 RES 12-2231 Approving the City of Saint Paul's 2013 Legislative Agenda.

Council President Lantry moved the following amendments under Capital Investments: Changing the Children's Museum appropriation amount from \$12 million to \$14 million, adding \$500,000 for predesign and design of Pigseye Park, and 3.5 million for the Bruce Vento Nature Sanctuary building. Councilmember Stark moved amendments under Economic and Community Stability adding support for more incentives for mediation and avoidance of foreclosures. In response to a question from Councilmember Tolbert, Council President Lantry clarified that the additional items were not in competition with the Children's Museum. She said she had discussed the items with the administration.

Councilmember Stark called for a vote on the amendments. Yeas - 7 Nays - 0

Councilmember Thune asked to temporarily remove support for the police facility to allow time for more conversation. He said it was a large amount of money and would result in a facility being taken off of the tax rolls. He said the potential for cooperative use of existing facilities had not been fleshed out. Council President Lantry said the administration might not support a delay, and passing the item did not preclude continued discussion. Councilmember Thune said the Council was expected to answer for anything put before the Legislature, and he felt it was a bad proposal as it stood.

Councilmember Bostrom said there should be something supporting playgrounds and recreation centers.

Councilmember Tolbert said he did not support removing the police facility request from the resolution. He said he didn't feel the Baldinger Bakery site was the best location, but the Legislative Agenda had more to do with requesting money from the state and did not specify a site.

Councilmember Thune said taking property off the tax rolls and incurring additional debt service at this time would not send the right message to the Legislature or the public, and the proposal would keep moving if it was started. He said the needs that would be met by a new facility could be met in other ways, and he had been assured by the Sheriff that, although there had not been meetings to look at schedules, there was time for St. Paul to use the County shooting facility.

Councilmember Stark said the question of sharing the shooting facility with Ramsey County had been asked and answered, and it was his understanding that St. Paul's needs exceeded those of all other users combined. He said options utilizing other City facilities should be explored, but he supported the idea of keeping the request in the resolution and felt there was a need for a new facility.

Council President Lantry said she felt the question had been answered by the Police Department.

Assistant Police Chief Wourinen said the existing range was an East Metro Range, not a Ramsey County Range, and 21 weeks were reserved for all of Ramsey County jurisdictions combined. She said she had sat down with the schedules, and St. Paul would need 16 of the 21 weeks Ramsey County was allowed.

Councilmember Thune said he would like to wait two weeks and have the schedule looked at, since the shooting range was the prime factor driving the need for a new space.

Assistant Chief Wourinen said there were other needs other needs that could not be met in existing facilities as suggested by Councilmember Thune.

Councilmember Bostrom said given the conversation, the matter should be laid over for two weeks, which would also allow time for something to be added for rec centers.

Council President Lantry said the resolution could be adopted and the conversation could continue.

Councilmember Thune moved to amend the Legislative agenda to remove the request for funding for a regional public safety facility.

Yeas - 2 Nays - 5 (Brendmoen, Carter, Lantry, Stark, Tolbert)

Councilmember Tolbert moved to approve the resolution with Council President Lantry's amendments.

Councilmember Carter noted concerns raised about data security and privacy issues included in the Legislative Agenda. He said good questions were raised that should be discussed with the police department.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark and Councilmember Tolbert

Nay: 1 - Councilmember Thune

**26 RLH RR
12-68**

Ordering the rehabilitation or razing and removal of the structures at 601 WESTERN AVENUE NORTH within fifteen (15) days after the September 5, 2012 City Council Public Hearing. [Amended to remove or repair within 30 days of the passage of the resolution]

Laid over to the 5:30 portion of the meeting for a public hearing

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

ORDINANCES

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

Final Adoption

27 **Ord 12-71** Amending Chapters 60 and 62 of the Legislative Code pertaining to nonconforming lots, uses, and structures.

Council President Lantry moved amendments in 62.106 to correct unintended consequences that made it less restrictive rather than the intent which was to make it more restrictive. Yeas - 7 Nays - 0

Councilmember Stark moved an amendment to 62.105b which essentially restored what was recommended by the Planning Commission except in the River Corridor Overlay Districts. He requested a staff report from Patricia James, Planning and Economic Development, on the implications of the language changes.

Ms. James gave a staff report on the amendment dealing with expansions of properties with nonconforming structures with conforming uses. She said those properties were typically single family houses in areas zoned single family, and the usual nonconformity was that they didn't meet the yard setback of the code. She described the type of changes allowed.

Councilmember Thune expressed concern about encouraging "pop top" houses. Councilmember Stark said the limit for a vertical change was 10 feet and structures would still have to comply with the zoning code for the location. Ms. James clarified the types of expansions that would be permitted.

Council President Lantry expressed concern that neighboring property owners would not have to be notified of vertical or horizontal expansions that complied with code.

Councilmember Stark said he shared the same basic concerns but the set-back second floor concerned him more than expanding straight up from an existing nonconforming structure.

Councilmember Bostrom noted that buildings were classed as nonconforming with the idea that they would be phased out. He said the current system allowed property owners to appeal variance application decisions, and he didn't see any reason to change that. He said he'd hate to see an expansion get built in a neighborhood where nobody ever saw it coming.

In response to a question from Councilmember Brendmoen, Council President Lantry said the current system required a variance for an expansion of a nonconforming structure, and neighbors could appear before the Board of Zoning Appeals (BZA).

Councilmember Stark said take was to make it easier for the times it was going to work as opposed to worrying about the few times there might be problems.

Councilmember Carter said he agreed with points made by Council President Lantry and Councilmember Stark and wasn't sure how to vote on the amendment.

Councilmember Brendmoen said she would support the amendment because she felt anytime something could be made easier it should be.

Council President Lantry said however the Council voted there would not be a significant impact.

Councilmember Stark withdrew the amendment, and moved an amendment to 62.106h.

Ms. James said the section dealt with re-establishment of nonconforming uses that

had been discontinued for more than a year. She reviewed the current policy, and said the Planning Commission proposal carved out an exception to the policy for residential buildings for which the Planning Commission had never denied an application under current process. She explained the amendments proposed by Council President Lantry and Councilmember Stark.

Council President Lantry stressed the importance of having procedures for determining a property's former use.

Councilmember Thune asked if there was an appeal process for the District Council or neighbors if they disagreed with the zoning administrator's determination.

Council President Lantry said there was an appeal process under the current system, but the problem was whether neighbors would know (about the proposed re-establishment of a nonconforming use). Ms. James said there might be some procedural things the zoning administrator could do to inform the District Council and neighbors. She suggested notification through ENS, and said she wasn't sure whether a zoning administrator determination was included in ENS regulations but it could be added by resolution. Councilmember Thune said he was comfortable with the amendments as long as the ENS notification requirement could be added by resolution.

Council President Lantry called for a vote on Councilmember Stark's second amendment. Yeas - 7 Nays - 0

Amended; laid over to December 12 for final adoption

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

Nay: 0

First Reading

- 28 Ord 12-79** Memorializing City Council action granting the application of Amherst H. Wilder Foundation for the rezoning of 941 Lafond Avenue between Victoria and Chatsworth from RT1 & RM2 Residential to T1 Traditional Neighborhood, and amending Chapter 60 of the Saint Paul Legislative Code pertaining to the Saint Paul zoning map. (Public hearing held October 17, 2012)

Laid over to December 12 for second reading

- 29 Ord 12-80** Enacting Section 99.01 of the Saint Paul Administrative Code pertaining to the availability of the Lowertown Regional Ballpark facility for Saint Paul high school varsity baseball, varsity softball, and adaptive softball games.

Laid over to December 12 for second reading

- 30 Ord 12-81** Granting authority to the Port Authority to issue and sell bonds in the aggregate principal amount of approximately \$17,500,000 and to use the proceeds derived from the sale of such bonds for the costs and expenses incurred by the Port Authority for the acquisition, remediation and improvement of blighted and marginal lands located in the City; and to refund the Series 2003-8 Bonds previously issued by the Port Authority for similar purposes, pursuant to the provisions and by authority of Minnesota Statutes 1992, Chapter 469, as amended; and prescribing the amount and form of such bonds and the manner for establishing the rate of interest.

Laid over to December 12 for second reading

- 31 Ord 12-82** Amending Chapter 14 of the Saint Paul Legislative Code pertaining to the disposal of abandoned and unclaimed property.

Laid over to December 12 for second reading

The Council recessed at 4:50 p.m.

PUBLIC HEARINGS

- RES 12-2182** Approving the Victoria Park vacation of right of way and release of easements.

(This item was placed on the Consent Agenda in error and moved to public hearings)

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

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

- 32 Ord 12-77** Amending Chapter 64 of the Legislative Code pertaining to nonconforming signs.

Council President Lantry stated that the public hearing will be continued to December 19, 2012 due to notification issues.

No one appeared in opposition; Councilmember Carter moved to continue the public hearing to December 19.

Public hearing continued to December 19

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

33 Ord 12-78

Amending Section 32.01(d) of the Saint Paul Administrative Code pertaining to compensation of the City Council in accordance with the applicable provisions of State Law and the City Charter.

No one appeared in opposition; Councilmember Stark moved to close the public hearing and lay over to December 12 for final adoption.

Public hearing held and closed; laid over to December 12 for final adoption

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

**34 RES PH
12-345**

Approving the application of the Metropolitan Council for a sound level variance to allow construction activity associated with the Central Corridor Light Rail construction work from December 6, 2012 to December 31, 2012 on Cedar Street between 7th Street and 11th Street for an unlimited number of double shifts (6:00 a.m. to 10:00 p.m.) and up to 15 overnight shifts (10:00 p.m. to 7:00 a.m.).

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

Councilmember Carter noted that a major threshold was passed with the ending of Light Rail major construction and the re-awakening of University Avenue even though work continues,

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

- 35 RES PH 12-330** Approving the application of Doug Hawkinson for a sound level variance for construction work from 7:00 a.m. until 5:30 p.m. from November 22, 2012 to August 1, 2013 at 1515 Brewster Street. (Public hearing continued from November 20)
- No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 37 RES PH 12-333** Amending the City's 2012 Capital Improvement Budget to reflect the issuance of the Series 2012D General Obligation Capital Notes.
- No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the resolution*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 38 RES PH 12-332** Setting the recycling service fee for 2013, and authorizing Public Works to request \$589,209 in SCORE grant funds from Ramsey County to support the curbside recycling program under contract with Eureka Recycling.
- No one appeared in opposition. Council President Lantry said the resolution will be laid over to December 12 and passed as part of the 2013 budget .*
- Councilmember Stark moved to close the public hearing and lay over to December 12*
- Public hearing held and closed; laid over to December 12 for adoption**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

- 39 RES PH**
12-336 Establishing the financing and spending plan in the Fire Department for the donation of \$13,331.65 received from the Saint Paul Police Foundation 100 Club Committee to purchase universal gym exercise equipment for three fire stations.
- No one appeared in opposition; Councilmember Brendmoen moved approval of the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 40 RES PH**
12-354 Amending the financing and spending plans in the Fire Department in the amount of \$110,000 for a contribution received from the Minnesota Board of Firefighter Training and Education to pay for training for firefighters.
- No one appeared in opposition; Councilmember Carter moved approval of the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 41 RES PH**
12-341 Amending the 2011 financing and spending plans in the Department of Parks and Recreation in the amount of \$236,000 to establish the required local funding match and provide design and engineering funds for construction improvements for the Como Historic Bridge in Como Regional Park.
- No one appeared in opposition; Councilmember Brendmoen moved approval of the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

- 42 RES PH**
12-356
- Amending the 2012 budget in the amount of \$16,000,000 to accept a grant from the State of Minnesota for the Ordway Center for the Performing Arts; and approving and authorizing execution of the grant agreement, amended lease documents with the Ordway, and related documents.
- No one appeared in opposition; Councilmember Thune moved approval of the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 43 RES PH**
12-338
- Accepting a redevelopment grant from the Department of Employment and Economic Development for the Hamms Brewery site, and amending the 2012 Budget.
- No one appeared in opposition; Councilmember Thune moved approval of the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 44 RES PH**
12-323
- Amending the financing and spending plans in the Department of Public Works to close out completed capital projects.
- No one appeared in opposition; Councilmember Carter moved approval of the resolution*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

- 45 RES PH**
12-327
- Amending the financing and spending plans in the Department of Public Works in the amount of \$100,000 to accept FHWA funds and outside contributions for the Nice Ride Minnesota Capital Area Expansion Project.
- No one appeared in opposition; Councilmember Brendmoen moved approval of the resolution*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 46 RES PH**
12-343
- Amending the financing and spending plans in the Department of Public Works Solid Waste and Recycling Fund in the amount of \$145,000 for additional expenditures related to refuse disposal and recycling, for use of grant funds carried forward from 2011, and for new grant funds awarded in 2012.
- No one appeared in opposition; Councilmember Brendmoen moved approval of the resolution*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom
- 47 RES PH**
12-337
- Amending the financing and spending plans in the Department of Public Works in the amount of \$30,000 for the addition of an above standard lighting maintenance district.
- No one appeared in opposition; Councilmember Stark moved approval of the resolution*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
- Nay:** 0
- Absent:** 1 - Councilmember Bostrom

**36 RES PH
12-334**

Approving the petition of 180 Degrees Inc. to vacate a portion of English Street and the adjacent alley abutting its property at 1291 and 1301 Seventh Street East. (Public hearing held December 5)

Bruce Engelbrekt, Department of Financial Services/Real Estate, appeared. He said this is a request from the property owner and 180 Degrees, Inc. to vacate a portion of English Street which is next to the alley that runs from Case Avenue to East 7th Street. He showed map of the area and what is owned by 190 Degrees. Originally the proposal was to vacate a portion of English St. which is 30 ft. wide and which is adjacent to the 12 foot alley. The proposal was to vacate a portion between the property on the east and west to create a seamless campus and connect the two areas. The alley would dead-end just to the north. The proposal ended being to vacate the entire area of English St. The 12-ft. alley would still dead end but one area would need to be larger for a turnaround. As part of the vacation resolution, there is also a condition that there be a rededication; they would in turn dedicate an easement over a portion of the dedicated English Street to create a turnaround and also add an additional 8 ft. along the west edge of English which would create a 20' wide alley instead of the existing 12 ft. English Street is a platted street but it has also functioned as a street and an alley because they are adjacent. A lumber yard had owned the property now owned by 180 degrees and functioned as a service area. It is gravel so is considered an unimproved street.

Richard Gardell, applicant, 180 Degrees, Inc., appeared. He said the own the former W.D. Lumber Company which has been vacant for many years and they are in the process would like to develop a Youth Development Campus on this site. Both the road and the alley are dirt. He showed pictures and explained what they want to do with the area. He said it looks like an abandoned military operation. They want to have a land plot that allows pedestrians to walk between the buildings. They would make a dirt road green space and reduce the dust and improve air quality. They also want to reduce some of the traffic in the alley. It would also reduce the curb cuts by one on Seventh Street. He noted that the noise and the trash that accumulates in the alley would be reduced. They have been working with Dayton's Bluff Community Council and many issues were raised by neighbors that they have attempted to address. One was police and fire safety issues because of the narrowness of the alley and police and fire have no issues with it. Fire tested for turnaround and found it is not a problem. That is the reason they would leave a 45 ft. square large enough for commercial vehicles to turn around which was a recommendation from Public Works. They were also concerned about the width of the alley so 180 Degrees agreed to provide the easement so they would widen the alley to 20 feet. The intersection at Johnson Parkway and York Avenue where vehicles would come out of the dead-end alley and make a turn. Public Works addressed it did not find the traffic levels were enough to justify a traffic light. They also did not find an issue with the line of sight. He said they are happy to be able to provide these services to the East Side where there is a need

They have a garage for their 14 ft. van and they would like to provide better access to it which will happen with the vacation. Also, it will add permeable surface area for water runoff into the storm sewer.

Appearing in opposition:

Barbara Elfstran, 865 Johnson Pkwy.

- Access to her property would be cut in half. All of them would have to go to Johnson and Case which is at least a three-minute wait at any given time;*
- If they use their garages, the alley is blocked;*
- Have no parking on Johnson Pkwy. and space they want to take is needed;*
- Feels property values would drop;*

- She has a duplex and feels it would be hard to get renters;
- Emergency vehicles need to get through;
- Concerned that homeowners insurance might rise;
- If any work is done in the 12 ft. space, they are stuck in their homes;
- Their client base in Minneapolis is ex-cons; this would be juvenile delinquents and nearby is Special Services with vulnerable adults.

Lisa McGee, 831 Johnson Pkwy

- She lives the closest to the property;
- On a night plow road;
- Not many streets to get to the Phalen area;
- Traffic has been diverted many times to this street in the years she has lived there;
- She will be blocked and will have to go by ten houses to get out
- Suggested someone drive down the alley and take a look;
- The 8 ft. Gardell talked about widening is only their property.
- There is no parking on Johnson Parkway; people park on English Street.

Councilmember Brendmoen asked about the 12 ft. vs. 20 ft.

Barbara Elfstrand:

- Eight houses would have an 8 ft. alley and four houses would have the wider alley
- Does not know who this will benefit; the client base is undefined, what they're going to do with the property is undefined, and she does not know how it warrants their inconvenience, safe, homes, comfort levels for an idea of someone they don't know.
- Believes the cost is \$1200 for the amount of property and the inconvenience.

Lisa McGee:

- Traffic has increased with Hmong Village and Phalen improvements.

Mike Schouveller, 873 Johnson Parkway:

- 180 Degrees seem like they will be good neighbors, he does not have a problem with the clientele, and the buildings look a lot better; however, access to Johnson Parkway would be a huge inconvenience for him; it would be hard to make a left turn and it would increase his commute time.

-

Sean Schouveller, 873 Johnson Parkway

- Opposed because of traffic issues.

Thomas Ewalt, 885 Johnson Parkway

- With the bakery and Hmong Village, traffic has tripled. It's very hard to get on Johnson Parkway. Does not mean it's worth it for the inconvenience of the residents.

Councilmember Stark moved to close the public hearing. Yeas – 6 Nays – 0
(Bostrom not present)

Council President Lantry asked Mr. Engelbrekt for additional info on the width of the alley. Mr. Engelbrekt pointed out on a map the layout and various widths of the alley.

Councilmember Thune asked how far the people at the end of the alley have to drive to get out onto the street. Mr. Engelbrekt said the 12 ft. wide section of the alley about 350 ft. The alley right angles to get onto Johnson Parkway, Lantry stated. That is the only exit to Johnson Parkway.

Councilmember Thune asked if any tradeoffs have been talked about such as 180

paving the alley, snow plowing, etc. Mr. Gardell responded that several issues were raised at the Dayton's Bluff meeting. The section of English St. where parking is an issue they did not want to get involved with.

He said he can assure the neighbors that they will have parking as they currently are parking. They plan to engage with the neighbors to keep the alley clear.

Councilmember Bostrom feels this project is improving the area. She suggested having Public Works look at the intersection.

Councilmember Brendmoen moved noted that Councilmember Bostrom indicated he was in favor felt the area would be improved. She suggested Public Works take a look at the traffic issues.

Councilmember Stark said he feels the matter should be laid over to allow Councilmember Bostrom to review the testimony.

Councilmember Brendmoen moved to lay over one week. Yeas – 6 Nays 0

Public hearing held and closed; laid over to December 12

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

LEGISLATIVE HEARING ITEMS REQUIRING DISCUSSION

**RLH RR
12-68**

Ordering the rehabilitation or razing and removal of the structures at 601 WESTERN AVENUE NORTH within fifteen (15) days after the September 5, 2012 City Council Public Hearing. [Amended to remove or repair within 30 days of the passage of the resolution]

Marcia Moermond, Legislative Hearing Officer, said the Council referred this matter back to Legislative Hearings in November. The first hearing was missed but the second was attended and plans were reviewed. An assessment was done by Mark Balay Architects and he indicated that the existing condition of the building, for its age, is reasonably good physically and the most damage to be repaired resulted from water intrusion over time and natural aging of materials. The foundation may require moderate repairs to make it structurally sound again. The report also indicates that the condition of the roof is an imminent threat to the stability of the building and should be addressed immediately to provide a weather-proof barrier. This will also be a major financial component of their budget.

Ms. Moermond said the structure is in need of attention sooner than later. It is a very complicated rehabilitation project and she would like to see a chance for development of a work plan and better financials to address all of the things going on. She earlier talked about the licensing and zoning issues that are unique to this area. Whatever use they would be looking at, whether it be a retail shop or a restaurant, the use would need to be taken into account when a building permit is pulled so it would be reviewed for the appropriate end use. There are a couple of parcels involved – B2 and Residential. It is on the Residential that the parking exists. All of these are complications but there were clear instructions six weeks ago that they should be meeting with DSI to sort out the problems. Larry Zangs attended the Legislative Hearing to talk about DSI concerns. There was a hand-written verbal bid for \$160,000 to do the job but it was not anything specific. The other bid is from Reiling Construction for \$224,000. The cash amounts presented in the hearing consisted of \$32,000 in the bank, \$50,000 line of credit, and approximately \$75,000 in another account for a grand total of \$157,000 which is significantly short of the Reiling bid of \$224,000. Frogtown CDC has given some money but it's still a significant shortfall. Also, the \$75,000 was in an account that had experienced some \$15,000 fluctuation from one month to the next so she questioned how solid it is.

At this juncture, Ms. Moermond said she does not feel she's making progress in the hearing room developing a better plan to bring to the Council. Therefore, she recommended that the building be removed within 30 days. However, to develop the project further, she feels it's time to look at involving an outside project manager, putting money in an escrow account to assure it's available for the project, and that a scope of work be developed that would demonstrate how the project needs to be executed in order to get it accomplished. This is an historic structure even though it's not designated as such.

Ms. Moermond reiterated that she recommended 30 days to remove or repair the building but if the Council wants to give more time, she suggested the following be done:

- Appropriate amount of money be escrowed to do the rehabilitation;*
- A third party project manager so there's a second individual making the recommendations on the day-to-day rehabilitation; and*
- A scope of work be developed and provided to the city so there is assurance that there is a broad understanding.*

Council President Lantry noted that requests were made three months ago and now

the project manager is being recommended.

Appearing:

Jason LeTourneau, current project manager, 605 Western Avenue, said he was hired about three weeks ago to evaluate the building and come up with some feasible options for it to be leased. At the time, they did not realize the complexity of what was issued prior to this but now are aware of it. They received an eight-page inspection report and called to inquire about it but did not know there was an abatement order on the project. He said it was his issue and not the clients so he would like more time to present a plan to the client and the city. He has been in contact with the structural engineer who was working on the project but he has not yet talked to the former architect.

Ameena Samatar, 67 Western Avenue North, property owner, said they need more time to carry out their plan. They will have the money from various sources which she explained.

Alex Jerome, owner and husband of Ms. Samatar said they have shown structural reports and have already spent a lot of money. He questioned the "why" of some of the requirements and who can tell them what to do.

Councilmember Carter responded that the city is going to have a lot to say as to what they can and can't do with the property and if they are objecting to the city's standards as to how this project can and can't work, he has a new set of concerns. Mr. Carter reiterated what Ms. Moermond had requested be done.

Mr. LeTourneau asked for 30 days saying he hopes to have the majority of the scope of work and at least a solid sworn construction statement from one or two contractors committing to it.

Councilmember Carter moved to close the public hearing and layover two weeks.

Ms. Moermond also requested that the contract between Mr. LeTourneau and the owners be provided to the city which not only demonstrates that there is some project managing happening right now with interpreting the difference of experience by the city but also follow through as to how the project management is going to develop throughout the rehabilitation.

Public hearing held and closed; laid over to December 19

Yea: 6 - Councilmember Brendmoen, Councilmember Carter III, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Bostrom

**52 RLH OA
12-80****Appeal of Mohammed Shahidullah to a Code Compliance Report at
1132 CENTRAL AVENUE.**

Marcia Moermond, Legislative Hearing Officer, stated that some weeks ago the City Council adopted a resolution ordering this building be removed. After the Council voted, The Code Compliance Inspection, which had been ordered, arrived. The Code Compliance Inspection was being appealed because the owner did not feel it was an accurate list of things that had to be done to bring the building into compliance. He believed a fire inspection report from some years ago was the appropriate list to look at. She feels it's a moot point because the Council did not have any of the other things in front of them in order to grant time for the rehabilitation. However, the owner still has a right to appeal the inspection report.

Mohammed Shahidullah, 1132 Central Avenue, appeared. He said the Council made a decision on September 5, and the Code Compliance report was done on September 10. At that time he could not argue the case as it would have been his word against someone else's. He told the inspectors to come and inspect the building as soon as possible. Jim Seeger came on September 10. Because he has a problem with communication, he asked Mr. Seeger to write everything down "on the spot" from his findings so as not to get mixed up with other inspections. Mr. Shahidullah displayed the correction list that was given to him. One item was smoke detectors and he showed pictures that they are installed. He said an electrical permit was pulled and the work was done but an inspector refused to come.

Another items ordered to be done included:

- . Cleaning up the area. He said previous renters and left things there and he kept them in case they came back for them;*
 - . A shed for storage needed some minor adjustments which were fixed;*
 - . A handrail needed some adjustment;*
 - . Door – He put a large piece of steel around it so it couldn't be forced open.*
- Inspections sent a private contractor to secure the building. He feels it was like a home invasion*
- . Windows – when the contractors went to cover the windows, they broke some and he installed new ones. He pulled a permit and all the work was done.*
 - . Was asked to cut a tree which he did*

There were eight items that needed to be fixed. In a previous hearing the Council was told it would be \$100,000 to fix the property which he said was not true based on the city's inspection report. He said he has spent a lot of time and money making repairs and he showed additional pictures of his work.

Stan Hanson, Licensed Contractor, appeared. He said the building is in nice shape. There's a bulldozer there now to tear it down; it's a heartbreaking situation and it doesn't deserve to be torn down. He confirmed that the pictures shown are accurate.

Mr. Shahidullah asked the Council to be reasonable and said this was a case of injustice.

*Councilmember Brendmoen moved to close the public hearing
Yeas - 5 Nays - 0 (Carter and Bostrom not present)*

Ms. Moermond said it appears that Mr. Seeger made a few notes in the field but that the Code Compliance Inspection is in formal language and includes not only his items but the other trades' inspection items so there may be some confusion. What's before the Council at this time is not the order to remove or repair the building but rather an inspection report that is being appealed. Ms. Moermond's recommendation

was to deny the appeal.

Councilmember Brendmoen noted that the order to remove or repair was issued in September and the code compliance inspection was done in August and came out a month later.

Ms. Moermond clarified that one of the things that happens with code compliance reports for a Category 3 building is that when a person gets an order to abate a nuisance building, in the order it says the person needs to get a code compliance report. Often by time she gets the case, the work has not been done which was the situation with this property. When one is so late, as this one was, she would ask that a professional assess the building for what needs to be done, develop a work plan and then amend the work plan depending on anything different the professional might see from what showed up on the code compliance report. That was not forthcoming in this case.

Council President Lantry said they want to be sure that Mr. Shahidullah was given every opportunity to come into compliance with a number of things. She noted that it was vacant in 2010.

Ms. Moermond again clarified the time frame for Councilmember Brendmoen saying that one of the things that happens with code compliance reports for a Category 3 building is that the person gets an order to abate a nuisance building which tells them they must get a code compliance inspection report. It says that in all the annual vacant building reports as well so it's not a new message but often when she gets the case it still hasn't been done and that was the situation with this case. It's simply a "to do" list to come into compliance.

Councilmember Brendmoen said with the issuance of the orders and the code compliance report that it seems like conflicting information.

Ms. Moermond said it happens sometime with enforcement that on one hand the city is issuing an enforcement order and at the same time a person would have to pull a building permit to comply with that order. They are two distinct activities and asking for the "to do" list simply to come into compliance so she does not feel there's a conflict there. There may be a conflict if there's an existing building permit and someone is working hard on a property.

Ms. Brendmoen asked if a remove or repair order is issued whether permit are still issued.

Ms. Moermond responded that DSI will not issue a permit unless the vacant building fees are paid and a \$5,000 performance deposit has been posted. They City Council would then have to grant time for the work to be done.

Council President Lantry noted that she did not see that a heating permit had been pulled.

Council President Lantry moved to accept the recommendation of the Legislative Hearing Officer to deny the appeal.

Adopted (appeal denied)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

**58 RLH FCO
12-593**

Appeal of Roger and Dorothy Anderson to a Fire Inspection Correction Notice at 592 LINCOLN AVENUE.

Legislative Hearing Officer Marcia Moermond stated that she spoke earlier in the evening with Mr. Anderson and a neighbor. She showed a photo of the garage in question and noted that it has at least a four-inch lean and if it falls, it will fall on the neighbor's garage. Mr. Anderson has done some work to shore it up. Building Inspections would like an engineer's report saying that it will stay put but there is no such report. The neighbor has said when this garage comes down, he will re-build his as well. Based on the neighbor's comments, Ms. Moermond said she is going to modify her recommendation and recommend that the garage should be removed by June 1, 2013.

No one appeared, in opposition; Councilmember Thune moved to approve the Hearing Officer's recommendation that the garage be removed by June 1, 2012.

Adopted as amended (Extension granted to June 1, 2013 for bringing the garage into compliance)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

61 RLH RR
12-85

Ordering the razing and removal of the structures at 1278 POINT DOUGLAS ROAD SOUTH within fifteen (15) days after the December 5, 2012 City Council Public Hearing. (Public hearing held December 5)

Legislative Hearing Officer Marcia Moermond said the conditions she had set for allowing more time were to post a \$5000 bond and pursue a shortened redemption period, and those conditions had not been met. She recommended ordering removal of the property within 15 days.

In opposition:

Stephanie Nelson, attorney for the loan servicer SLS LLC, and lien holder Bank of New York Mellon, said the foreclosure on the property had not been completed, but her client intended to foreclose and pursue a shortened redemption period as soon as possible.

Council President Lantry asked when that would take place. Ms. Nelson said the foreclosure sale would be done by advertisement, which usually took about two months, after which the redemption could be shortened by a court action. She said she had posted the \$5000 bond that day. She read a letter into the record requesting a one month layover to allow time for development of a rehabilitation plan. She said she felt payment of the bond indicated that the owner intended to take the project on and move forward with repairs.

Council President Lantry noted that the City had been maintaining the property, and allowing the building to stand would allow the City to recoup those costs. She said the building wasn't that old and should be able to be rehabilitated. She moved to close the public hearing and lay the matter over to January 2, 2013.

Public hearing closed; laid over to January 2

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

66 RLH RR
12-77

Ordering the rehabilitation or razing and removal of the structures at 1009 WHITE BEAR AVENUE NORTH within fifteen (15) days after the November 20, 2012 City Council Public Hearing. (Amended to grant 180 days.)

Legislative Hearing Office Marcia Moermond said she reviewed the work plan and the financials with the project manager and she feels the plans are more than adequate to meet what she had put before the Council. She recommended the Council grant 180 days for the building's rehabilitation.

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and grant 180 days for rehabilitation.

Adopted as amended (180 days granted to remove or repair)

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

LEGISLATIVE HEARING CONSENT AGENDA

Note: Items listed under the Consent Agenda will receive a combined public hearing and be enacted by one motion with no separate discussion. Items may be removed from the Consent Agenda for a separate public hearing and discussion if desired.

Approval of the Consent Agenda (Items 48 - 66)

Legislative Hearing Consent Agenda adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

- 48** **RLH VO** Appeal of Albert M. Johnson to a Correction Notice-Complaint
12-121 Inspection (includes condemnation of First Floor) at 699 ARCADE
 STREET.
Adopted
- 49** **RLH FCO** Appeal of Catherine Plessner to a Fire Certificate of Occupancy
12-622 Correction Notice at 2003 ASHLAND AVENUE.
Adopted
- 50** **RLH FCO** Appeal of Vatou Her to a Fire Certificate of Occupancy Correction
12-618 Notice at 991 BEECH STREET.
Adopted
- 51** **RLH VBR** Appeal of Sandra Graves Priesnitz to a Vacant Building Registration
12-88 Notice at 1550 CANFIELD AVENUE.
Adopted
- 53** **RLH VO** Appeal of Tovah Flygave, Southern Minnesota Regional Legal
12-116 Services (SMRLS), on behalf of Brandy Patterson, to a Revocation of
 Fire Certificate of Occupancy and Order to Vacate at 951 DESOTO
 STREET.
Adopted

- 65** **RLH VBR** Appeal of Robert Cox to a Vacant Building Registration Notice at 437
 12-85 WHEELER STREET NORTH.

Adopted

ADJOURNMENT

Councilmember Thune moved adjournment.

The meeting was adjourned at 7:21 p.m.

Yea: 6 - Councilmember Bostrom, Councilmember Brendmoen, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert

Nay: 0

Absent: 1 - Councilmember Carter III

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