



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, March 16, 2011

3:30 PM

Council Chambers - 3rd Floor

ROLL CALL

The meeting was called to order by Council Vice President Helgen at 3:31 p.m.

- Present** 5 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen and Councilmember Russ Stark
- Absent** 2 - City Council President Kathy Lantry and Councilmember Dave Thune

COMMUNICATIONS & RECEIVE/FILE

- 1 [CO 11-6](#) Letters from the Department of Safety and Inspections declaring 1509 7th St E, 1091 Cook Ave E, 936 Earl St, 1025 Lawson Ave E and 922 Westminster St as nuisance properties. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)
- Sponsors: Helgen, Lantry and Bostrom
- Received and Filed**
- 2 [AO 11-4](#) Outlining spending and financing changes in the Year-Round Neighborhood STAR Program.
- Received and Filed**

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

Councilmember Bostrom moved approval of the Consent Agenda.

Consent Agenda adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 3 [RES 11-219](#) Authorizing the Police Department to enter into an amended agreement with the State of Minnesota to continue participation in the Safe Streets Task Force.

Sponsors: Lantry

Adopted

- 4 [RES 11-341](#) Stay of Council File 10-1185, An Order to Remove or Repair the Buildings at 578 THOMAS AVENUE.

Sponsors: Carter III

Adopted

- 5 [RES 11-448](#) Amending the assessment to delete the Collection of Certificate of Occupancy Fees (Re-Invoiced) October 2010 for property at 46 Elizabeth Street East.

Sponsors: Thune

Adopted

- 6 [RES 11-449](#) Amending the assessment to delete the Collection of Certificate of Occupancy Fees (Re-Invoiced) August 2010 (RE Project #CRT1101, Assessment #118968) for property at 1769 Selby Avenue.

Sponsors: Stark

Adopted

- 7 [RES 11-465](#) Amending assessment to delete for graffiti removal on private property from August 2, 2010 to August 20, 2010 for property at 227 Snelling Avenue North (RE Project #J1103P, Assessment #118971).

Sponsors: Stark

Adopted

- 8 [RES 11-458](#) Approving assessment costs and setting date of City Council public hearing to ratify the assessment for improving public areaways within the Fourth Street right-of-way abutting 336 Robert Street North (the Pioneer Building) and 333 Sibley Street (the Sibley Square building) in conjunction with the Central Corridor Light Rail Transit Project.
- File No. 19091 Assessment No. 100788
- Sponsors:** Thune
- Adopted**
- 9 [RES 11-457](#) Approving the application with conditions, per the Deputy Legislative Hearing Officer, for an Auto Body Repair/Painting Shop, and Auto Repair Garage licenses (note: this is for a change in ownership of an existing location), for Balta'a Auto Towing Services LLC, doing business as same (ID #20100004801) at 102 Acker Street East.
- Sponsors:** Helgen
- Adopted**
- 10 [RES 11-517](#) Authorizing the City to retain Capitol Hill Associates as city lobbyists for 2011.
- Sponsors:** Lantry
- Adopted**

FOR DISCUSSION

Council Vice President Helgen moved to reconsider Item 11-456 and lay it over to April 6 for a public hearing. It had been placed on the March 9 Consent Agenda in error.

- [RES 11-456](#) Amending the financing and spending plans in the Police Department in the amount of \$537,934 for the African Immigrant Muslim Community Outreach Program (AIMCOP) grant. (Council File #09-1231)
- Sponsors:** Lantry
- Reconsidered and laid over to April 6 for public hearing**
- Yea:** 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark
- Nay:** 0
- Absent:** 2 - City Council President Lantry and Councilmember Thune

- 11 [RES 11-165](#) Approving the application with conditions, per the Deputy Legislative Hearing Officer, for a Gas Station, Malt Off Sale, Cigarette/Tobacco, Restaurant (1) - No Seats, and Retail Fd (C) Grocery 1001-3000 sq ft licenses (note: this is for a change in ownership of an existing location), for Northern Tier Retail LLC, d/b/a Superamerica #4421 (ID #20100004256) at 970 University Avenue West.

Sponsors: Carter III

Councilmember Carter said there were license conditions that hadn't been added yet; he moved to lay the matter over to April 6.

Laid over to April 6

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 12 [RES 11-202](#) Approving the application with conditions, per the Legislative Hearing Officer, for a Gas Station, Malt Off Sale, Cigarette/Tobacco, Restaurant (1) - No Seats, and Retail Fd (C) Grocery 1001-3000 sq ft licenses (note: this is for a change in ownership of an existing location), for Northern Tier Retail LLC, d/b/a Superamerica #4420 (ID #2010004254) at 1125 7th Street West. (Laid over from February 23)

Sponsors: Thune

Withdrawn

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

- 13 [Ord 11-21](#) Memorializing City Council action taken on December 15, 2010, approving a rezoning from B3 General Business to RM2 Medium-Density Multiple-Family Residential of 1870 Old Hudson Road; public hearing held December 15, 2010.

Sponsors: Lantry

Councilmember Bostrom moved approval on behalf of Council President Lantry.

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

Second Reading

- 14 [Ord 11-20](#) Amending Chapter 2.02 Of The Saint Paul Administrative Code to move collection of SAC charges from the Real Estate Section.

Sponsors: Lantry

Laid over to April 6 for third reading/public hearing

- 15 [Ord 11-23](#) Amending Legislative Code Chapter 74 by enacting a new section designating the Victoria Theater, 825 University Avenue West, as a Saint Paul Heritage Preservation Site.

Sponsors: Carter III

Laid over to April 6 for third reading/public hearing

First Reading

- 16 [Ord 11-24](#) Amending the Zoning Map of Saint Paul as recommended in the Highland Village Zoning Study.

Sponsors: Harris

Laid over to March 23 for second reading

- 17 [Ord 11-25](#) Amending Chapter 77 of the Saint Paul Legislative Code to clarify the service availability charge and move the collection duties to the Department of Safety and Inspections.

Sponsors: Lantry

Laid over to March 23 for second reading

- 18 [Ord 11-27](#) Amending Chapters 60, 62, 63, 64, 65, 66, 67, 69 of the Legislative Code and the Zoning Map as recommended in the Central Corridor and Traditional Neighborhood Zoning Study. (Public testimony will be heard only on the amendments introduced on April 13.)

Sponsors: Stark and Carter III

Laid over to March 23 for second reading

SUSPENSION ITEMS

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

Rules suspended

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

RES 11-552

Affirming and extending a local emergency related to the spring floods of 2011.

Sponsors: Helgen

Councilmember Bostrom asked for a brief staff report.

Rick Larkin, Emergency Management Director, said the declaration of emergency allowed the City to continue to operate under the Emergency Operations Plan, engage in emergency contracting and obtain supplies on an emergency basis, and seek reimbursement for costs from the state and federal governments.

Councilmember Bostrom moved approval.

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

The Council recessed and reconvened as the Library Board at 3:39 p.m. (See Library Board meeting minutes)

PUBLIC HEARINGS

Council Vice President Helgen reconvened the Council for public hearings at 5:31 p.m.

Present 4 - Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen and Councilmember Russ Stark

Absent 3 - Councilmember Dan Bostrom, City Council President Kathy Lantry and Councilmember Dave Thune

Councilmember Carter moved to recall Res 11-165 from the 3:30 portion of the meeting.

RES 11-165

Approving the application with conditions, per the Deputy Legislative Hearing Officer, for a Gas Station, Malt Off Sale, Cigarette/Tobacco, Restaurant (1) - No Seats, and Retail Fd (C) Grocery 1001-3000 sq ft licenses (note: this is for a change in ownership of an existing location), for Northern Tier Retail LLC, d/b/a Superamerica #4421 (ID #20100004256) at 970 University Avenue West.

Sponsors: Carter III

Councilmember Carter reviewed the license conditions and moved approval.

Recalled; adopted as amended

Yea: 4 - Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 3 - Councilmember Bostrom, City Council President Lantry and Councilmember Thune

- 19 [RES 11-296](#) Authorizing the amendment to the Eureka Recycling contract to cover additional labor costs. (This item is a companion to Res 11-298 and does not require a public hearing.)

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 20 [RES 11-298](#) Approving changes to the 2011 budget for additional Eureka Recycling labor costs.

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 21 [Ord 11-26](#) Amending the Legislative Code, Chapter 65, land use definitions and development standards, and Chapter 66, zoning district uses, pertaining to tobacco shops.

Sponsors: Stark

Councilmember Stark moved an amended version with minor word changes to provide consistency with state law.

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

Amended and laid over to March 23 for final adoption

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 22 [RES 11-499](#) Granting approval to submit grants for Statewide Clean Water, Land and Legacy Amendment Park funds administered by the Minnesota Department of Natural Resources.
- Sponsors:** Lantry
- No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark
- Nay:** 0
- Absent:** 2 - City Council President Lantry and Councilmember Thune
- 23 [RES 11-350](#) Final Order approving the construction improvement of Fairview Avenue from St. Clair Avenue to Summit Avenue.
- Sponsors:** Harris
- No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark
- Nay:** 0
- Absent:** 2 - City Council President Lantry and Councilmember Thune
- 24 [ABZA 11-1](#) Public hearing to consider the appeal of MJ Properties of a decision by the Board of Zoning Appeals which upheld the Zoning Administrator's decision requiring the removal of all temporary real estate rental signs exceeding that allowed by code (which is one real estate sign not exceeding six square feet in size) at 1440 Randolph Ave.
- Sponsors:** Harris
- John Trojack (1549 Livingston Avenue, #101), attorney for appellant MJ Properties appeared. He said MJ Properties had appealed the decision based on three principles, one of which was that the definition of real estate sign was ambiguous. Zoning staff had since pointed out a clearer definition found earlier in the ordinance. He said the second reason they appealed was the discriminatory nature of the enforcement of the ordinance; he distributed photographs of other businesses with real estate signs in violation of the code. He said they believed there was a single complainant in the matter and there was an economic reason for the complaint. He reiterated that they felt they were being singled out for enforcement, and said enforcement was not simply waiting for a complaint. He said the third basis for the appeal was that there were constitutional issues, in that the ordinance did not benefit public health, safety, morals or general welfare.*
- Margaret Johnson (1440 Randolph Avenue, #300), MJ Properties Principal, commented on the current business and economic environment, said the banners were important to the business, asked for the Council's support, and testified to*

taking the photographs provided by Mr. Trojack.

Councilmember Harris said it was an unfortunate situation in that the appellant had a great property and business with no complaints, but the sign code was clear and the signs were are inarguably over the limit. He said granting this type of exception around town would have ramifications, and he encouraged the appellant to consider the variance process. He moved to deny the appeal.

Motion of intent - Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

LEGISLATIVE PUBLIC HEARINGS

- 25 [RES 11-418](#) Ratifying Collection of Vacant Building Services from the month of May, 2010 at 1028 Loeb St. (File No. VB1005A, Asmt No. 108976)
- Sponsors: Helgen
- No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 4 - Councilmember Bostrom, Councilmember Carter III, Councilmember Helgen and Councilmember Stark
- Nay:** 0
- Absent:** 3 - Councilmember Harris, City Council President Lantry and Councilmember Thune
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- 26 [RES 11-136](#) Ratifying Emergency Sewer Repair assessments for work done at 1314 Rice Street in November 2010. (File No. SWRP1104)
- Sponsors: Lantry
- No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 4 - Councilmember Bostrom, Councilmember Carter III, Councilmember Helgen and Councilmember Stark
- Nay:** 0
- Absent:** 3 - Councilmember Harris, City Council President Lantry and Councilmember Thune
-
- 27 [RES 11-137](#) Ratifying Excessive Consumption of Inspection Services assessments billed from September 17, 2010 to November 5, 2010 [RE Project #J1104E, Assessment #118020].
- Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

28 [RES 11-138](#)

Ratifying Vacant Building Demolition assessments for work done on private properties in December 2010. [RE Project #J1106C, Assessment #118021].

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

29 [RES 11-139](#)

Ratifying Property Clean-up assessments for work done on private property from December 2, 2010 to December 31, 2010 [RE Project #J1109A, Assessment #118023].

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

30 [RES 11-140](#)

Ratifying Trash Hauling assessments for work done on private property in December 2010 [RE Project #J1106G, Assessment #118024].

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond asked that the resolution be amended to delete the assessment for 874 Edmund.

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

Adopted as amended

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 31 [RES 11-141](#) Ratifying Diseased and/or Dangerous Tree Removal assessments for work done on private properties in December 2010. [RE Project #1105T and Assessment #119092].

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 32 [RES 11-142](#) Ratifying Diseased and/or Dangerous Tree Removal assessments for work done on private property in October 2010. [RE Project # 1103T1, Assessment #119093].

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 33 [RES 11-145](#) Ratifying Sanitary Sewer Services against individual properties. (File No. SWRP1102)

Sponsors: Lantry

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 34 [RES 11-232](#) Ordering the razing and removal of the structures at 772 DESOTO ST within fifteen (15) days after the March 16, 2011 City Council Public Hearing.

Sponsors: Thune

Legislative Hearing Officer Marcia Moermond said the appellant had not appeared for the Legislative Hearing. She recommended ordering the building removed within 15 days with no option for rehabilitation.

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

35 [RES 11-233](#)

Ordering the razing and removal of the structures at 101 - 103 WINNIPEG AVE within fifteen (15) days after the March 16, 2011 City Council Public Hearing.

Sponsors: Helgen

Legislative Hearing Officer Marcia Moermond said the appellant had not appeared for the Legislative Hearing. She recommended ordering the building removed within 15 days with no option for rehabilitation.

Sam Stiele (2375 Bridle Creek Circle, Chanhassen) appeared in opposition to the recommendation.

Ms. Moermond read from the Department of Safety and Inspections' property history report and displayed photographs. She said the property was currently in nuisance condition and a Code Compliance inspection had been completed in December 2010. She said the \$5000 performance bond had not been posted, the vacant building fee had gone to assessment and the real estate taxes were current. Heritage Preservation staff had looked at the property and concluded there would be no adverse effect on the neighborhood if the building were demolished.

Mr. Stiele said he'd entered into a purchase agreement with Wells Fargo the previous week with a closing date the following week. He said he could post bond and provide proof of funds, and estimated the rehab cost to be \$32,500. He said he understood the ramifications of purchasing Category 2 and Category 3 buildings, and could start work April 1 and finish in 5 months.

Councilmember Helgen said the building was a Category 3 vacant building and couldn't be sold until it was brought up to code. Mr. Steele said banks didn't pay attention to that rule and the selling bank had told him the code compliance was his responsibility. He said he was looking for a brief extension to get the property back to Category 2, and he questioned whether he should back out of the deal.

Councilmember Carter moved to close the public hearing.

Councilmember Helgen said was clear the property had been a problem in the neighborhood. He said the City had met all notification requirements and no one had shown interest. He moved to adopt the recommendation of the Legislative Hearing Officer (remove the building within 15 days with no option for repair).

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 36 [RES 11-234](#) Ordering the razing and removal of the structures at 1037 JESSIE ST within fifteen (15) days after the March 16, 2011 City Council Public Hearing.

Sponsors: Helgen

Legislative Hearing Officer Marcial Moermond said no one had appeared for the Legislative Hearing but she had since received a note from JP Morgan Chase Bank stating that they no longer had an interest in the property.

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 37 [RES 11-231](#) Ordering the razing and removal of the structures at 803 - 805 YORK AVE within fifteen (15) days after the March 16, 2011 City Council Public Hearing.

Sponsors: Bostrom

Legislative Hearing Officer Marcial Moermond said the appellant had not appeared for the Legislative Hearing. She recommended ordering the building removed within 15 days with no option for rehabilitation.

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

Adopted

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

- 38 [ALH 10-412](#) Appeal of Philip Black and Dan Boler to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 256 MARSHALL AVENUE.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said she'd asked that the matter be laid over a number of times to allow repairs to be completed at the property. She said the owner was allowing the property to be foreclosed and Southern Minnesota Regional Legal Services (SMRLS) had been working with the tenants to effect repairs in the interim. She noted that there was a Tenant Remedies Action in the district court system and said her recommendation was to order the repairs completed or the building vacated by April 29.

Tovah Flygare, SMRLS (55 E. 5th Street, St. Paul, MN 55101), said life safety issues had been remedied, but the exterior items and other repairs were moving at a slow pace. She asked that the Council consider the remaining tenants and allow adequate time for repairs or vacation.

Councilmember Bostrom asked who would be responsible for the repairs until a new owner took possession. Ms. Flygare said the current owner and manager had not walked away from the property, and had been in communication about repairs as recently as that day. She said a new owner could also appoint a receiver to manage the property during the redemption period.

Councilmember Bostrom asked for clarification of who would pay for repairs when there was a void in ownership. Ms. Flygare said a court-appointed receiver would be able to collect rent and be responsible for maintenance. She said the details of a receivership would vary by court order.

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

Councilmember Carter asked for confirmation that safety issues had been addressed. Ms. Moermond said there was no written verification from DSI, and no reissuance of orders at the previous day's Legislative Hearing. She said she'd spoken to DSI staff that day and learned that SMRLS had asked for tenant remedy funds. She said she felt there needed to be a cut-off point for vacation or code compliance.

Councilmember Carter expressed appreciation for SMRLS' involvement and good work in the community. He moved to adopt the recommendation of the Legislative Hearing Officer (order the repairs completed or the building vacated by April 29).

Appeal denied; extension granted to April 29 to complete the repairs or vacate the property

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

39 [ALH 11-168](#) Appeal of David S. Hartman to a Fire Inspection Correction Notice at 878 CLARK STREET.

Sponsors: Helgen

No one appeared in opposition; Councilmember Helgen moved to adopt the recommendation of the Legislative Hearing Officer (deny the appeal).

Appeal denied

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

40 [ALH 11-297](#) Appeal of Robert Schilling to a Summary Abatement Order at 864 MARION STREET.

Sponsors: Helgen

Legislative Hearing Officer Marcia Moermond said what was before the Council was a summary abatement order for boarding of the structure. She said it was a registered vacant building that the Department of Safety and Inspections (DSI) had found to be occupied, and the procedure in that case was to order boarding to prevent illegal occupation. Ms. Moermond said appeals of the registered vacant building notification and tax assessment had also been before the Council. She said in hearing the appellant had indicated he moved in after the Certificate of Occupancy was revoked and the tenants vacated. She said the building would remain a registered vacant building until repairs were completed and she recommended that the Council deny the appeal and order boarding no later than March 21.

Robert Schilling, 864 Marion, said he had disputed the vacant building status from the start. He said an attorney had advised him that a Certificate of Occupancy was not necessary if the tenants were out, and the house was owner-occupied if he moved in. He said he had brought a neighbor who would testify he was living there. He said boarding would damage the building and neighborhood, and he had another residence he could move into if he couldn't occupy Marion. He asked that the Council not order the boarding, and said he was just trying to survive. He distributed and read a letter reviewing the events and communication with DSI staff, and expressing his opposition.

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

Councilmember Helgen reviewed the situation: He said because the building had been a rental property with a revoked Certificate of Occupancy, it became a vacant building and could not be occupied until repairs were completed. He said the appellant had been in illegal occupation of the building and been given ample opportunity to make the repairs but had not pulled permits or shown any other evidence of progress. Ms. Moermond said that was correct.

Councilmember Harris asked whether it was known that the repairs had not been done.

Ms. Moermond said the Certificate of Occupancy report showed issues with exterior, and included notes about providing access to the interior.

Councilmember Helgen said Mr. Schilling hadn't allowed inspectors into the property. He moved to adopt the recommendation of the Legislative Hearing Officer (order the building boarded by March 21).

Appeal denied (property to be boarded by March 21, 2011)

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

ADJOURNMENT

Councilmember Bostrom moved adjournment at 6:33 p.m.

Councilmember Harris wished everyone a happy St. Patrick's Day.

Meeting adjourned

Yea: 5 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen and Councilmember Stark

Nay: 0

Absent: 2 - City Council President Lantry and Councilmember Thune

Council Meeting Information**Web**

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Cable

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