



**SUMMARY MINUTES OF THE
SAINT PAUL CITY COUNCIL
Wednesday, June 16, 2010 - 3:30 p.m.**

PUBLIC HEARINGS - 5:30 P.M.

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

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

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

Present – 4 – Bostrom, Carter, Helgen, Lantry

Absent – 3 – Harris (arrived after the roll call), Stark (excused), Thune (excused)

COMMUNICATIONS AND ADMINISTRATIVE ORDERS

1. Letters from the Department of Safety and Inspections declaring 552 Kent Street, 692 Minnehaha Avenue West, 896 3rd Street East, and 270 Topping Street as nuisance properties, and setting date of Legislative Hearings for June 22, 2010 and City Council public hearings for July 21, 2010.
2. Administrative Order:
D002810 Amending the loan and grant budget for a Cycle 15 STAR project to reflect the correct dollar amount for a project.
On file with the City Clerk

CONSENT AGENDA (Items 3 – 9)

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

FOR ACTION

3. Resolution – 10-628 – Authorizing the Fire Department to donate one defibrillator to Hands Across America to help them provide emergency medical services.
Adopted Yeas – 5 Nays – 0

4. Resolution – 10-629 – Appointing the appointments of Metric Giles, Bernie Hesse, Becky Meyer, Helene Murray, Lynne Rossetto Kasper, Leonard Russo, and Hai Truong, by Mayor Coleman, to the Saint Paul-Ramsey County Food and Nutrition Commission.
Adopted Yeas – 5 Nays – 0
5. Resolution – 10-630 – Memorializing City Council action taken May 5, 2010 denying the appeal of Eric Berg, Capitol Guitars, LLC to a decision of the Heritage Preservation Commission denying a proposal to install two vinyl domed awnings on the Walsh Block at 191 East 7th Street, Walsh Block, Heritage Preservation Site. [File 10-015]
Adopted Yeas – 5 Nays – 0
6. Resolution – 10-631 – Approving the application with a condition, per the Deputy Legislative Hearing Officer, for Liquor Off Sale, Retail Food (A) – Grocery 1-100 sq. ft., and Cigarette/Tobacco licenses for Destiny Liquor, Inc., 137 Maryland Avenue West.
Adopted Yeas – 5 Nays – 0
7. Resolution – 10-632 – Approving adverse action against the Second Hand Dealer-Motor Vehicle and Auto Repair Garage licenses held by Heartland Auto Sales, 1236 Arcade Street.
Adopted Yeas – 5 Nays – 0
8. Resolution – 10-633 – Approving the May 4, 2010 decisions of the Legislative Hearing Officer for Appeals of Letters of Deficiency Lists at 842 Lafond Avenue, 1351 Hague Avenue, 651 Sherburne Avenue, and 292 Stinson Street.
Adopted Yeas – 5 Nays – 0
9. Resolution – 10-634 – Approving the June 1, 2010 decisions of the Legislative Hearing Officer for Appeals of Letters and Denial of Building Permits to Replace Egress Windows at 2172 Sixth Street East, 1926 Margaret Street, 1182 Selby Avenue, 1659-1661 Leone Avenue, 1663-1665 Leone Avenue, 1603 Rome Avenue, 2089 Randolph Avenue, 3336 Kenneth Street, 2052 Nebraska Avenue East, 1809 Ashland Avenue, 1854 Portland Avenue, 1351 Stillwater Avenue, 1823 Upper Afton Road, and 1905 Montana Avenue East.
Adopted Yeas – 5 Nays – 0

FOR DISCUSSION

10. Resolution – 10-528 – Ordering the owner to remove or repair the building(s) at 297 Ivy Avenue West within fifteen (15) days from adoption of resolution. [Laid over from May 19] (Legislative Hearing Officer recommends approval)

Vicki Sheffer, assistant to Legislative Hearing Officer Marcia Moermond, stated that the property owners had not met the conditions set and were not present. The Legislative Hearing Officer's recommendation was to approve the resolution.

Councilmember Helgen moved to order removal of the building within 15 days with no option for repair.

Adopted as amended (remove within 15 days with no option for repair)

Yeas – 5 Nays – 0

ORDINANCES

NOTE: AN ORDINANCE IS A CITY LAW ENACTED BY THE CITY COUNCIL. IT IS READ AT FOUR SEPARATE COUNCIL MEETINGS AND BECOMES EFFECTIVE AFTER PASSAGE BY THE COUNCIL AND 30 DAYS AFTER PUBLICATION IN THE SAINT PAUL LEGAL LEDGER. PUBLIC HEARINGS ON ORDINANCES ARE HELD AT THE THIRD READING.

11. Final Adoption – 10-403 – An ordinance amending various sections of the Saint Paul Zoning Code regarding off-street parking requirements and design standards zoning amendments. [Amended and laid over June 9]

Councilmember Bostrom moved approval of the resolution.

Adopted Yeas – 5 Nays – 0

Councilmember Harris stated that he was expecting staff to come back with a discussion of those areas that had been removed from the ordinance the previous week and were still being regulated by the original ordinance.

Council President Lantry asked for a progress report from staff in four weeks, and the establishment of a timeline in the meantime.

12. Final Adoption – 10-562 – An ordinance memorializing City Council action granting the application of Jim and Michael Johnsen to rezone portions of parcels at 260 Clarence Street and 1365 Burns Avenue from R4 One Family Residential to B2 Community Business [ZF 10-121-038].

Council President Lantry moved approval of the resolution.

Adopted Yeas – 5 Nays – 0

13. First Reading – 10-635 – An ordinance amending Charter Section § 8.02 regarding the petition for initiative, referendum and recall.

Laid over to June 23 for second reading

Councilmember Harris asked why the item had been brought forward. Council President Lantry referred to a memo attached to the item and explained the changes being proposed by the Charter Commission.

Councilmember Harris said he felt an error had been made in the notation of the changes to the ordinance. City Attorney Gerald Hendrickson said he would take a look but he believed the language was taken directly from the original ordinance.

14. First Reading – 10-636 – An ordinance memorializing City Council action granting the application of MCD Agency LLC to rezone property at 670 Juno Avenue from TN2 Traditional Neighborhood to B2 Community Business. [ZF 10-119-666] [Public hearing held May 19, 2010]
Laid over to June 23 for second reading

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

PUBLIC HEARINGS

Present – 4 – Carter, Harris, Helgen, Lantry

Absent – 3 – Bostrom (arrived after Item 16), Stark (excused), Thune (excused)

15. Third Reading – 10-579 – An ordinance approving rezonings in District del Sol.

Council President Lantry opened the public hearing. The public hearing remained open while staff met outside of chambers with a resident who said she had not received notice.

16. Resolution – 10-583 – Approving the application of Taste of Minnesota for a sound level variance in order to present amplified live music, with limitations, from 11:00 a.m. to 10:00 p.m. on July 2, 3, 4, and 5, 2010.
(Public hearing continued from June 2)
No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.
Adopted Yeas – 4 Nays – 0

Councilmember Bostrom joined the meeting.

17. Resolution – 10-637 – Approving the application of Lao Family Community of Minnesota, Inc, represented by Ka Houa Yang, for a sound level variance in order to utilize PA and speaker systems on July 3 and 4, 2010 from 8:00 a.m. to 8:00 p.m. at McMurray Fields, Lexington Parkway North and Jessamine Avenue West.

Bill Gunther, Department of Safety and Inspections (DSI), said the event had begun to generate a significant number of noise complaints the previous year, and DSI had recommended that Lao Family apply for a variance. He said they'd received five letters in opposition and one in support; he provided copies. He said DSI had tried to structure the variance differently from most noise variances, with a limit of 70 dB at the nearest residential property from 8:00 to 10:00 a.m. and 75 dB after 10:00 a.m. He noted that 65 dB was the level normally allowed.

Councilmember Helgen asked whether DSI would monitor the sound and whether the sound level restrictions applied to vendors. Mr. Gunther said they generally didn't monitor booths but would have two inspectors on site monitoring the event.

The following appeared in opposition:

John Marino (1409 Wynne Avenue) said he'd called the police two or three years before because the PA announcer for the soccer tournament had been shouting loudly enough that it was disruptive inside his house. He said he liked the festival and enjoyed greeting people as they walked by.

Niles Kittel (1118 Churchill) said the level of noise was "a joke," and complaints had been received from as far away as Dale Street. He said the noise started as early as 6:00 a.m. and he hadn't been able to get an answer from the City about what permits the organization had, what was going on in the park, or how many people were attending. He said the event was driving the neighborhood out over the July 4th weekend and made Como Park the garbage can of the city.

The following appeared in support:

Pat Owen (1240 Churchill) encouraged the Council to lean towards granting the variance. She said it was an honor that the Hmong were our neighbors in Minnesota, and we owed them a lot.

Councilmember Helgen moved to close the public hearing. Yeas – 5 Nays – 0

Councilmember Helgen stated that there had been issues with noise, but the variance would provide parameters and a basis for monitoring so the parameters could be adjusted in future years if needed. He said Lao Family had made changes including additional shuttle buses, and the police department had an aggressive traffic management plan. He moved approval.

Adopted Yeas – 5 Nays – 0

18. Resolution – 10-638 – Approving the application of Event Lab (Covenant Church) for a sound level variance in order to present amplified music, with limitations, at Raspberry Island on June 26, 2010 from 2:00 p.m. to 6:00 p.m.
No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.

Adopted Yeas – 5 Nays – 0

19. Resolution – 10-639 – Approving the application of Station 4 for a sound level variance in order to present amplified music, with limitations, at Sibley Street and 4th Street on July 31, 2010 from 12:00 Noon to 10:00 p.m.
No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.

Adopted Yeas – 5 Nays – 0

20. Resolution – 10-640 – Approving the Saint Paul Regional Water Services (SPRWS) request to amend its 2010 budget to reflect increasing the amount to be borrowed from MN Public Facility Authority drinking water revolving fund loans from \$20,000,000 to \$30,000,000. [Companion to Item 21]
No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.

Adopted Yeas – 5 Nays – 0

21. Resolution – 10-641 – Accepting the offer of the Minnesota Public Facilities Authority to purchase water revenue notes in two or more series in an aggregate principal amount not to exceed \$30,000,000, providing for the issuance of the Series 2010 Notes, and authorizing execution of Project Loan Agreements with the Minnesota Public Facilities Authority. [Companion to Item 20; this item does not require a public hearing]
Councilmember Harris moved approval of the resolution.

Adopted Yeas – 5 Nays – 0

Councilmember Harris thanked the members of the St. Paul Board of Water Commissioners, St. Paul Regional Water Services General Manager Steve Schneider, and Todd Hurley from the Office of Financial Services for their innovative, money-saving work.

22. Resolution – 10-642 – Granting Municipal Consent of the Minnesota Department of Transportation final layout for the Lafayette (T.H. 52) Bridge Replacement project (S.P. 6244-30).

John Maczko, Public Works, gave a brief Power Point presentation on the design, and the process and design considerations leading to the final layout.

Councilmember Harris asked for clarification of the exits from the Lafayette Bridge to east and west bound I-94 and to northbound I-35E. He said the intersection of Kittson and West Seventh would be busier with the new design; he asked whether business owners had had input into the design. Mr. Maczko said they had and would continue to.

The following appeared in opposition:

Rich Hanson (1418 Lafond) acknowledged the need to repair an unsafe bridge but expressed concerns about continued investment in truck transport and highways. He asked the Council to ask MnDOT to raise taxes on trucks and to support an increase in the gas tax to support clean-up in the Gulf.

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

Council President Lantry referred to a letter submitted by the Lower Phalen Creek Project and said both she and Councilmember Thune were displeased about the alignment with Seventh Street mentioned by Councilmember Harris. She said getting to East or West Seventh Street would be complicated, and it was important that the area be well-landscaped, well-lit and have effective signage. She said the Lower Phalen Creek Project's letter expressed the concerns well, and vigilance would be needed ensure MnDOT constructed a bridge that was an asset and gateway to Wards 2 and 7.

Councilmember Helgen echoed the concerns about the design.

Council President Lantry said the bridge was very utilitarian and everything the Council had suggested to make the design a little unique had been a struggle.

Adopted Yeas – 5 Nays – 0

Item 15 was considered at this time.

15. Third Reading – 10-579 – An ordinance approving rezonings in District del Sol.

Lucy Thompson, Planning and Economic Development, gave a staff report. She said PED had worked collaboratively with three neighborhood organizations on reconciling zoning with neighborhood plans and the Comprehensive Plan. She stated that most of the zoning changes were from B2 and B3 to TN2, and no new nonconforming uses were being created. She said the purpose of TN2 was to allow for more flexible land uses at a level that was more pedestrian-friendly and transit-supportive, and that this was just the kind commercial district that TN2 was written for. She referred to the notification concerns and said the people present to testify lived just outside the proposed area and had concerns about what would be happening adjacent to their property.

The following appeared in opposition:

Benjamin Mike (125 E. George Street) appeared. He said he was appearing representing his mother and neighbors, and asked what kind of housing was allowed in TN2. Ms. Thompson said TN2 allowed single family, duplex and multi-family dwellings. Mr. Mike said their concern was that the area was already overcrowded with too much housing, and they would like to see more

business promoted. He asked for clarification of the notice requirements and said some in his neighborhood had received notice and some hadn't. Council President Lantry explained the requirements and said she would have someone check the list.

The following appeared in support:

Chris Romano, Director of the Riverview Economic Development Association (REDA) (176 Cesar Chavez Street), said the organization was in support of the recommendations coming from the Planning Commission. He said it had been a long and thoughtful process involving input from affected residents and businesses.

In response to Mr. Mike's concerns, Ms. Thompson stated that 15 parcels currently zoned RM 1 or RM2 were being rezoned to TN2, so they were actually moving away from higher density housing. She said she would look into the notification issue.

Councilmember Harris moved to close the public hearing. Yeas – 5 Nays – 0
Laid over to June 23 for final adoption

23. Public hearing to consider the appeal of the District 13 Planning Council to a decision of the Board of Zoning Appeals granting a variance to allow a 60 foot high business sign at 1460 University Avenue West (northwest corner of Pascal and St. Anthony Streets). [ZF 10-412-888]

John Hardwick, Department of Safety and Inspections (DSI), gave a staff report. He said the owners of the Midway Shopping Center and the parcel adjacent to the shopping center had applied for a variance for a 60-foot sign to be placed on that parcel. He said the parcel was currently vacant but the owners were negotiating with a major retailer to develop on the sight. He said the zoning code allowed a sign height of 37.5 feet, and the request for the 60 foot sign was driven primarily by the fact that the freeway at that intersection was 25 feet lower than the parcel and visibility of the sign was a concern. He said the Board of Zoning Appeals held a public hearing on the matter on May 3, staff presented a report with a recommendation for approval, District 13 recommended denial, and a petition and letter were received in opposition to the proposed variance. The Board moved to approve the variance on a 4 to 3 vote, and the District 13 Community Council was appealing that decision.

Council President Lantry referred to a diagram of the proposed sign and asked for clarification of what information would be on the sign. Mr. Hardwick said the sign would advertise only the business on the parcel and not any other businesses in the shopping center. He said the applicants were present and could clarify.

Council President Lantry asked whether a 37-foot sign would be visible from the freeway. Mr. Hardwick said portions of the sign would be visible. He said he felt both sides had an argument and he hoped a compromise could be reached.

Councilmember Helgen asked whether there were other non-conforming signs on that corridor. Mr. Hardwick said Target and Hardees had nonconforming signs, and there were some nonconforming billboards. Council President Lantry asked whether the Target sign had been grandfathered. Mr. Hardwick said he wasn't sure; he said he believed they had applied for and been granted a variance for their 59-foot sign.

Councilmember Harris said he would like to have that information on the Target sign. He echoed Council President Lantry's questions about sightlines and visibility, and said it appeared from the diagram on page 12 of the report that there was a swath where there could be some sort of a compromise and within which the sign could fall.

The following appeared in support of the appellant:

Glen McCluskey (2016 Marshall Avenue), Chair of the District 13 Planning Council (Union Park District Council) appeared representing the appellant. He displayed a photograph from the applicant's document depicting visibility of a 60-foot sign from the freeway, and noted that the lower portions of the sign were also visible from both directions. He said a lower sign could be made larger to increase visibility. He said the circumstances were not unique to the property, and other businesses with the same circumstances did not have the higher signs. He stated that the sign was objectionable to property owners, and the nearest neighbor was 450 feet away. He said they felt the variance had been granted specifically to accommodate the unnamed tenant, who would then have an unfair advantage over other businesses. He said the 60-foot sign would be an eyesore, objectionable, and unnecessary, and asked that the Council vote down the variance.

Jeff Zitler (1422 Ashland Avenue) expressed concerns about the impact of the sign on a neighborhood that was already experiencing blight. He noted that removal of a 55-foot sign on West Seventh had recently been ordered because the property had been vacant for over a year, and said this variance had been granted for a business that was not on the site yet.

Jeanne Weigum (1647 Laurel) showed photographs of neighborhood gardens she maintained and asked for the Council's help in beautifying the neighborhood.

Ossian Or (1600 Portland Avenue) stated that the neighborhood was solidly against the variance, and the area was already blighted and given over to commercial interests. He said Cub Foods had a conforming sign, and a variance should not have been granted for a site without a business. He said it seemed that the variance was being used as a carrot to entice a business, and since the nature of the business had not been divulged, the neighborhood was being left out of the process.

He encouraged the Midway Shopping Center and Met Council to do landscaping or at least clean up debris.

The following appeared in support of the applicant:

Paula Maccabee (1961 Selby Ave) appeared representing the applicant. She said she lived in District 13 and agreed that the site was blighted. She said the owners had tried unsuccessfully for 15 years to work with the bus depot to sell or trade the property or work collaboratively on redevelopment. She said the project being considered was the same as had been part of a site plan approved in June of 2007, and the plan expired on June 29, 2010. She said a 65 to 70-foot sign was part of the original site plan and had been a condition of the tenant, and a 60-foot sign had been requested as a compromise to stay within in the range of Target's 59-foot sign. She said the sign would not be built without a retail tenant on the site, and the City Attorney had been clear that the sign could not advertise anything not on the parcel. She said a tenant on the parcel would mean hundreds of jobs and hundreds of thousands of dollars in sales tax, and the presence of another home improvement store would provide better product selection and prices for consumers. She said the owners had offered to talk to the neighbors about the design of the sign, but were not willing to be flexible on whether there would be a sign. She said the deadline was coming up, and she asked for a decision or short layover during which the owners would make themselves available for discussions with neighbors. She reiterated that the sign would not be built unless there was a tenant. She said she could not reveal who the potential tenant was because her client had not told her.

Council President Lantry asked whether a 60-foot sign was a condition for the tenant. Ms. Maccabee said the condition was that the sign be visible from the freeway, and lack of visibility from Snelling and University and the drop in grade of the freeway made a sign of that height necessary.

Councilmember Helgen asked what the variance allowed in terms of flexibility in working with neighbors. Ms. Maccabee said the tenant was concerned only with the height and visibility of the sign.

Councilmember Helgen asked whether the sign would be illuminated 24 hours a day. Ms. Maccabee said she didn't know. She referred the question to architect Jim Cox, who had submitted the application.

Jim Cox, Afton Architects (12441 22nd Street S., Afton, MN), said he understood, sympathized and empathized with the neighbors' concerns. He said the picture of the sign without the building did not show the scale and did not seem to fit. He said the 60-foot height was a general recommendation developed from drive-bys with 3D computer systems, and the size might change according to the size and style of the building. He noted that buildings along the Light Rail Corridor were now required to be at least two stories high. He said they would be

landscaping Midway Shopping Center, and had been working for five years on the project and were ready to break ground. He asked for the Council's support.

Councilmember Helgen asked whether the plan was for a two-level building with parking above. Ms. Maccabee said that was correct; she described the design approved in the site plan. She said it had been a long, difficult process, and not moving forward at this time would be a big loss. She referred to the letter from the Chamber of Commerce and said supporting development at the beginning of the Light Rail project signaled revitalization.

Council President Lantry asked whether the 60 foot height was negotiable. She asked what the owners were willing to offer the neighbors to encourage negotiations. Ms. Maccabee said the potential tenant had been willing to limit the height of their sign to the height of the Target sign, and might be willing to negotiate on whether there were one or two tags below the main sign as well as on other aspects of design. She said the neighbors had thus far not been willing to compromise on the basis of the business, jobs and taxes the new tenant would bring, and she wasn't confident the neighbors could be made happy.

Council President Lantry expressed concern about continuing the precedent set by the Target sign. Ms. Maccabee said Target was mentioned to show that there was a need for retail to have visibility and as a ceiling. She said the precedent being continued was that of encouraging new business and jobs in the Midway, and sticking with the site plan approved in June 2007.

Council President Lantry said job creation and new business development were always positive but were not criteria to be considered in granting a variance. Ms. Maccabee said the depth of the site, declination of the freeway, and angle of the Snelling bridge made that sign height necessary. Mr. Cox added that the sign would be compatible with the mass and materials of the building.

Councilmember Bostrom asked the approximate value of the construction. Ms. Maccabee said she didn't know. Mr. Cox said the combination of Walgreens and Big Top was \$5 million and on a smaller site. Councilmember Bostrom noted that the Target project had created a lot of construction and permanent jobs.

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

Councilmember Harris said he understood Council President Lantry's concerns and shared Councilmember Bostrom's. He said his concern was that the applicant was a non-ownership entity; he asked what would happen if the variance were approved and the development didn't exist. Mr. Hardwick said the applicant was the architect representing the property owner, and the variance belonged to the property and not the applicant. He said the sign would have to pertain to a business located at the site.

Councilmember Harris said discussions about the site had been ongoing throughout his time on the Council, and he was surprised there had not been an HRA conversation.

Councilmember Carter said the site represented an important development opportunity and would be difficult to develop without signage visible from the freeway. He said his intention had been to suggest continued conversations between the appellant and applicant but he now didn't believe compromise was possible. He said the remaining question was whether a 37.5-foot sign was visible from the freeway and he thought the answer was yes. He said the question was less a variance question than a zoning question, and he felt the Board of Zoning Appeals had erred in finding that the site could not be used without the variance. He moved to grant the appeal.

Councilmember Helgen said it made sense to look at the context when considering a variance request, and a major parcel with a major redevelopment bringing a large number of jobs should have appropriate signage to match the scale of the building. He said he wanted to get rid of the billboards, but a business sign was different. He said St. Paul had lost more jobs than Minneapolis, the seven county metro area, and the state and was at a real deficit. He said very few sites in the city would allow for development on a large scale, and he was opposed to the motion.

Councilmember Carter agreed that signage to fit the scale of a business was needed, but said he didn't agree that the Council was the body to make the determination as to what was reasonable. He reiterated that the question was whether a 37.5 foot sign could be seen from the freeway, and the pictures the Council had seen indicated that it could be.

Councilmember Bostrom said he agreed with Councilmember Helgen, and that it was really a jobs issue. He said the sign would not fit in other neighborhoods, but along I-94 and along any freeway, it was normal to see that type of sign. He said it was a significant potential development and he hoped the variance could be structured so that it applied specifically to this business at this location. He said the entry-level jobs the project would provide were especially needed.

Councilmember Carter said the conversation was about more than one sign at one location, and was about whether Summit-University and Union Park were areas where a stretch of 60-foot signs was wanted. He reiterated Councilmember Harris's concerns about the unknowns associated with the type of business and said the argument about the sign matching the building rang empty when the Council was not being told the scale of the development.

Councilmember Helgen said he felt the Council had a good sense of the size of the development. He noted that the developer had not approached the City with requests for financial assistance or incentives, and said providing the variance might be a worthwhile trade-off.

Council President Lantry said this wasn't about whether the Council wanted to create jobs. She said the freeway and land hadn't changed in thirty years, there nothing was unique to the property, and the property could be used without a variance. She said in order to be consistent, the Council had to consider what the code said in relation to the cases presented by the appellant and applicant, and she felt the appellant had made a good argument that there were errors in the way it was presented to the Board of Zoning Appeals. She said the code did not include potential economic impact as a criterion to be considered in granting a variance, and if the Council wanted to use it as a criterion it should be added to the code.

Councilmember Helgen said the use being contemplated was unique and did require that level of signage.

Councilmember Harris agreed with Councilmember Helgen that the Council should be able to make some considerations. He said he would be comfortable with Councilmember Helgen's argument about the size and scale of the sign related to the development, and would take Councilmember Helgen's and Bostrom's position if he knew the size of the development. He said he would oppose Councilmember Carter's motion, but understood the inherent risk, and would prefer a conversation between the parties and more information about the development.

Councilmember Carter said he would withdraw his motion and lay the matter over for one week. He invited the other Council members to spend time with him over the coming week to work on a solution.

Councilmember Bostrom recalled a similar situation at Grand and Victoria that came down to the neighborhood and developer getting together. He said there was a real incentive for the parties to reach a middle ground in this case because something was going to happen either way. Councilmember Carter agreed and said property values along the Corridor were increasing and it was an area where residents did not just have to take whatever was offered.

Councilmember Harris said he hoped the motion would include a request that the parties get together.

Councilmember Helgen noted that he and Council President Lantry would be gone the following week; he asked what the real time frame was. Ms. Maccabee said there was a very specific time frame and very specific project. She said the project was a 100,000 ft² home improvement store with parking on the roof. She said the parcel was not zoned for a smaller business. She reiterated that the project had an approved site plan and the deadline was June 29, 2010 for a commitment by the tenant and for obtaining of an initial building permit. She said an opportunity of this kind wouldn't come again soon.

City Attorney Gerald Hendrickson clarified that the City's deadline for the site plan and building permit was July 27.

Council President Lantry reiterated Councilmember Bostrom's point that it was in both parties' best interest to try to meet in the middle.

Councilmember Carter moved a one-week layover.

Councilmember Bostrom noted that the site plan was a private contractual agreement unrelated to the matter at hand.

Laid over to June 23 Yeas – 5 Nays – 0

24. Resolution Ratifying Assessment – 10-643 – In the matter of the assessment of benefits, cost, and expenses for replacement of Lead Water service lines, as requested by the property owners, from January to March 2010 [1002LDSRP].
No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.
Adopted Yeas – 5 Nays – 0

25. Resolution Ratifying Assessment – 10-644 – In the matter of the assessment of benefits, cost, and expenses for repair of sanitary sewer connections, as requested by the property owners, from December 2009 to March 2010 [SWRP1006].
No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and approve the resolution.
Adopted Yeas – 5 Nays – 0

26. Resolution – 10-645 – Ordering the owner to remove or repair the building(s) at 1648 Bush Avenue within ninety (90) days from adoption of resolution. (Legislative Hearing Officer recommends approval)
No one appeared in opposition; Council President Lantry moved to close the public hearing and approve the resolution.
Adopted Yeas – 5 Nays – 0

27. Resolution Ratifying Assessment – 10-646 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent vacant building fees (re-invoiced) in January 2010 at 1023 Jessie Street [VB1001A]. [Public hearing continued from May 19] (Legislative Hearing Officer recommends approving the assessment and spreading the payments over four [4] years)
No one appeared in opposition; Councilmember Helgen moved to close the public hearing and accept the recommendation of the Legislative Hearing Officer.
Adopted as amended Yeas – 5 Nays – 0

28. Resolution Ratifying Assessment – 10-647 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent vacant building fees (re-invoiced) in January 2010 at 1406 White Bear Avenue North [VB1001B]. [Public hearing continued from May 19] (GS 3112416-Ward 6) (Legislative Hearing Officer recommends approving the assessment)

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and delete the assessment. He said the property was a coffee shop that a group of chaplains had been working on for a long time.

Council President Lantry asked when it would be occupied. Councilmember Bostrom said it would be occupied in August.

Adopted as amended (delete the assessment) Yeas – 5 Nays – 0

29. Resolution Ratifying Assessment – 10-648 – In the matter of the assessment of benefits, cost, and expenses for towing abandoned vehicles from private property in November 2009 at 298 Jenks Avenue [J1002V1]. [Public hearing continued from May 19] (Legislative Hearing Officer’s recommendation is forthcoming) delete the assessment
No one appeared in opposition; Councilmember Helgen moved to close the public hearing and accept the recommendation of the Legislative Hearing Officer.
Adopted as amended Yeas – 5 Nays – 0

30. Resolution Ratifying Assessment – 10-649 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 1278 Edgerton Street on February 17, 2010 [J1004A2]. [Public hearing continued from June 2] (GS 3114276-Ward 6) (Legislative Hearing Officer’s recommendation is forthcoming) approve the assessment
No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and accept the recommendation of the Legislative Hearing Officer.
Adopted Yeas – 5 Nays – 0

31. Resolution Ratifying Assessment – 10-650 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent certificate of occupancy fees (re-invoiced) at 1740 James Avenue in January 2010 [CRT1001A]. [Public hearing continued from June 2] (GS 3114236-Ward 3) (Legislative Hearing Officer’s recommendation is forthcoming) approve the assessment
No one appeared in opposition; Councilmember Harris moved to close the public hearing and accept the recommendation of the Legislative Hearing Officer.
Adopted Yeas – 5 Nays – 0

32. Resolution Ratifying Assessment – 10-651 – In the matter of the assessment of benefits, cost, and expenses for property cleanup on private property at 96 Manitoba Avenue on February 12, 2010 [J1004A1]. [Public hearing continued from June 2] (GS 3114256-Ward 5) (Legislative Hearing Officer’s recommendation is forthcoming) approve the assessment

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

Adopted Yeas – 5 Nays – 0

33. Resolution Ratifying Assessment – 10-652 – In the matter of the assessment of benefits, cost, and expenses for collection of delinquent vacant building fees re-invoiced [VB1002]. (GS 3104236) (Legislative Hearing Officer recommends the following:

301 Charles Avenue – delete the assessment;

925 Cook Avenue East – continue to July 21 public hearing;

1185 Dayton Avenue – delete the assessment;

1075 Fourth Street East – delete the assessment;

164 Geranium Avenue West – recommendation is forthcoming; approve the assessment;

655 Gotzian Street – delete the assessment;

536 Iowa Avenue East – delete the assessment;

795 Lawson Avenue East – delete the assessment;

749 Maryland Avenue East – recommendation is forthcoming; approve the assessment;

803 Maryland Avenue East – continue to July 21 public hearing;

1259 Matilda Street – delete the assessment;

759 Minnehaha Avenue East – recommendation is forthcoming; delete the assessment;

226 Morton Street East – delete the assessment;

1194 Pacific Street – delete the assessment;

207 Page Street East – delete the assessment;

595 Park Street – delete the assessment;

760 Riverview Avenue – approve the assessment;

676 Rivoli Street – approve the assessment;

223 Robie Street East – ~~approve the assessment~~ referred back to the July 6 Legislative Hearing and July 21 City Council public hearing;

646 Sherburne Avenue – delete the assessment;

657 Sherburne Avenue – delete the assessment;

898 Tuscarora Avenue – continue to August 4 City Council public hearing;

571 Van Buren Avenue – approve the assessment;

647 Van Buren Avenue – continued to July 21 City Council public hearing;

1209 Woodbridge Street – approve the assessment;

647 York Avenue – recommendation is forthcoming; approve the assessment.)

Additional address:

116 Hatch Avenue – delete the assessment

Legislative Hearing Officer Marcia Moermond read the changes and additions to her recommendations, and gave a staff report on 571 Van Buren. She said she had originally seen the file in January on an appeal of the vacant building status. She said it was put into the Vacant Building Program as a Category 2 property, and was changed to a Category 1 with one month granted for the Certificate of Occupancy to be reinstated. She said the corrections were not done in that time period and the property reverted to Category 2 with all of the accompanying requirements including a Code Compliance inspection. She said the vacant building tax assessment for the year ending December 2010 was before the Council. She said she sometimes recommended that a fee be prorated but she didn't know what the prospects were for completing the rehab in 2010. She said her recommendation was to approve the assessment.

The following appeared in opposition:

Property owner Ron Peltier (571 Van Buren, St. Paul 55103) stated that he had complied with numerous codes and had had inspections, but nothing was checked off and new items were added with each inspection. He said the renter wanted to move back in and he wanted to get back off of the Category 2 list but couldn't get permits. He said conditions at the property had improved greatly and he wanted to get it done.

Council President Lantry said the required corrections had not been made and the building had reverted to Category 2, which kicked in other compliance things including the Code Compliance inspection. She asked Mr. Peltier whether that had been done. Mr. Peltier said it hadn't.

Council President Lantry said the only thing before the Council was whether the building was vacant and how long it would stay vacant. Mr. Peltier said the building was vacant; he asked for an extension or a reduction. Council President Lantry noted that Mr. Peltier had already been given 30 days, and according to the minutes of the Legislative Hearing he had not been able to complete the work. Mr. Peltier said the property was a duplex and single-family home and he'd been working on painting them and cleaning them up, but the minutes had indicated that he'd been working on three properties other than the one being appealed.

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

Councilmember Carter said the minutes did read as though Mr. Peltier had three other properties, but that didn't really change the material facts of the case. He moved approval, with a reminder that if the property were reoccupied before the end of the year there would be a proration of the fee.

Adopted as amended Yeas – 5 Nays – 0

34. Resolution Ratifying Assessment – 10-653 – In the matter of the assessment of benefits, cost, and expenses for demolition of vacant buildings in February 2010 [J1003C]; summary abatement (property cleanup) on private properties from February 26 to March 12, 2010 [J105A]; weekly garbage hauling services from March 3 to 10, 2010 [J1005G]; and removing diseased/dangerous elm trees from private properties in January 2010 [1001T]. (GS 3104076) (Legislative Hearing Officer recommends the following: 596 Case Avenue (J1005A) – recommendation is forthcoming; delete the assessment; 474 Charles Avenue (J1005A) – approve the assessment; 568 Charles Avenue (J1005A) – delete the assessment; 1088 Fourth Street East (J1005A) – delete the assessment; 1030 Fremont Avenue (J1005A) – reduce the assessment from a total of \$180 to a total of \$90; 301 Fuller Avenue (J1005A) – delete the assessment; 615 Lawson Avenue East (J1005A) – approve the assessment; 670 Lawson Avenue East (J1005A) – approve the assessment; 1178 Matilda Street (J1005A) – ~~approve the assessment~~ referred back to the July 6 Legislative Hearing and July 21 City Council public hearing; 72 Rose Avenue West (J1005A) – approve the assessment; 872 Rose Avenue East (J1005A) – approve the assessment; 1194 Sixth Street East (J1005A) – recommendation is forthcoming; approve the assessment; 846 Smith Avenue South (J1005A) – approve the assessment; and 634 Van Buren Avenue (J1005A) – approve the assessment.)

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

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

Adopted as amended Yeas – 5 Nays – 0

35. Appeal of John Norris to a Notice of Condemnation and Order to Vacate for property at 315 Larch Street. (Ward 5) (Legislative Hearing Officer recommends denying the appeal)

Legislative Hearing Officer Marcia Moermond gave a staff report. She said the inspector had testified that there were a number of significant code violations which lead to the condemnation and order to vacate. The violations included unapproved roofing and storage structures; improper storage, handling and use of hazardous materials; excessive accumulation of materials; disorderly storage of materials; lacking necessary egress; and overall structurally unsafe and

posing a fire danger. She said the Fire Supervisor had described the structure as three independent buildings joined by a roof and some “haphazard” walls. Ms. Moermond said some steps were being taken to address the situation, but the decision was made that an engineer review was needed as apart of larger plan. She showed photographs, and said it was an electrical surplus business dealing in salvaged parts.

Councilmember Harris asked about the rules for storage of combustible materials and other hazardous chemicals, and whether inspectors checked to see whether containers were full or empty. Ms. Moermond said that would be a usual part of a hazardous materials portion of a building inspection.

Councilmember Harris asked whether the tanks pictured had propane in them. Ms. Moermond said she didn't know, but that the volume and placement of the tanks constituted improper storage. She said her recommendation was to deny the appeal which meant that the building should be in the registered vacant building program and not used for business purposes other than cleaning and addressing code compliance issues. She said customers could not be within the building or within 3 yards of the building, and she had asked the appellants to follow up with licensing about conducting business outside. She recommended that the building not be re-occupied until there was an engineer's report and the storage and other code violations had been addressed.

The following appeared in opposition:

John Norris, Jr. (9709 Heath Avenue S.) and John Norris, Sr. (2208 Doswell) appeared and provided photographs. Council President Lantry clarified Ms. Moermond's recommendation and asked Mr. Norris why they disagreed with the recommendation. Mr. Norris, Sr. said he did not disagree but didn't know what to fix. Mr. Norris, Jr. said they'd gotten mixed messages about the requirements for propane storage but had begun to address it. He stated that they'd been there for 25 years and the storage had not been an issue. He admitted that the some areas needed to be cleaned but said the inspector's photographs showed a negative slant. He said they had always taken care of problems when asked and had never been issued a condemnation. He said they had sold half of their property and moved everything from that portion to the remaining portion, and were making lots of headway in processing and selling the materials. Mr. Norris, Sr. listed the amount of materials they'd removed from the site, and said they were serious about getting rid of their mess. Mr. Norris, Jr. said they'd been working on it before the inspection. Mr. Norris, Sr. said they had very little hazardous material on site, and an EPA inspector had inspected and signed off on the property the previous week. Mr. Norris, Jr. said they were willing to address the problems, but needed more guidance from the inspector.

Council President Lantry asked when the original orders were issued. Mr. Norris, Jr. said the original inspection had been on April 27 and there had been 10 items. He said there were 30 items on the list developed at the reinspection, and items that had been addressed were still on the list.

Council President Lantry said it was her sense that the inspector was providing manageable bites. She said the recommendation was that a structural engineer come in and take a look at the building, and it did not appear that the appellants objected to that.

Mr. Norris, Sr. said the building was covered by an old gas station canopy that had been installed at their site under permit by a friend, and had been inspected many times. He said they were not a big conglomerate and had limited flexibility and might need more time to address everything. Mr. Norris, Jr. listed the items that had been addressed. Mr. Norris, Sr. said he'd had a structural engineer look at the deficiency list and the engineer had said the list didn't make clear what he should look for.

Councilmember Helgen moved to close the public hearing. Yeas – 5 Nays – 0

Councilmember Helgen said the structural evaluation recommended by the Legislative Hearing Officer would be useful, and a team inspection could be also arranged to provide guidance if needed. He moved to accept the Legislative Hearing Officer's recommendation to deny the appeal. He asked whether there was a timeline for compliance. Mr. Norris, Jr. said he'd requested 60 days. Ms. Moermond said the building could be occupied when the corrections were made so the timeline was really up to the appellants. Councilmember Helgen asked to receive more information on whether the business was properly licensed and zoned, and what permits were pulled during the clean-up process.

Councilmember Bostrom noted that the public hearing was closed. He said he would hate to see emergency personnel have to be in the building in its current condition. He said if the building's needs were evident and the appellants shouldn't need any more guidance to get started. He said he supported Councilmember Helgen's motion.

Appeal denied Yeas – 5 Nays – 0

Councilmember Carter moved to adjourn the meeting. Yeas – 5 Nays – 0

ADJOURNED at 8:30 P.M.

ATTEST:

Mary Erickson
Assistant Council Secretary

Kathy Lantry, Council President

Submitted by:
Katie Burger

August 25, 2010
Minutes approved by Council