



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, November 17, 2010

3:30 PM

Council Chambers - 3rd Floor

ROLL CALL

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

Present 7 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

COMMUNICATIONS & RECEIVE/FILE

- 1 **AO 10-10** Authorizing proper City officials to execute the lease agreements with the City Academy at Wilder and the Minnesota Jewish Theatre.
Received and Filed
- 2 **AO 10-11** Administrative Order to create a new funding code for the Neighborhood Year-Round Program, perform accounting corrections and establish accounts for approved Neighborhood STAR Year-Round Program projects.
Received and Filed

CONSENT AGENDA

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.

Approval of the Consent Agenda

Councilmember Stark moved approval of the Consent Agenda

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

Nay: 0

- 3 **Min 10-19** Approval of the minutes of August 18 and 25, 2010.

Adopted

- 4 **RES 10-1106** Approving the attached resolution to authorize Andre Haustein's request to proceed in forma pauperis for his appeal of his dangerous dog determination to the Minnesota Court of Appeals.

Sponsors: Harris

Adopted

- 5 **RES 10-1169** Approving and ratifying the Memorandums of Agreement for the 2011 - 2012 Wage and Health Insurance contributions. (To be laid over one week for adoption)

Sponsors: Lantry

Adopted

- 6 **RES 10-1214** Authorizing the Department of Parks and Recreation to extend the term of the current lease agreement with Circus Juventas for an additional ten years ending October 31, 2021.

Sponsors: Harris

Adopted

- 7 **RES 10-1228** Memorializing City Council action taken on October 20, 2010 denying the appeal of John Bodger, on behalf of CBS Outdoor, Inc. to receive a variance in order to allow a billboard located at 260 Commercial Street to continue operating with a digital display.

Sponsors: Lantry

Adopted

Councilmember Harris asked that there be an agenda item for a progress report on the Ramsey County plan to end homelessness.

Council President Lantry welcomed visiting students from St. Agnes High School.

The meeting was recessed at 3:34 p.m. and reconvened for public hearings at 5:30 p.m.

PUBLIC HEARINGS

Present 7 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, City Council President Kathy Lantry, Councilmember Dave Thune and Councilmember Russ Stark

8 SR 10-98 Como Regional Park Transportation Implementation Plan

Sponsors: Stark

Parks and Recreation Director Michael Hahm and Como Park Zoo and Conservatory Manager Michelle Furrer gave a report on the conclusions of the Como Transportation Implementation Plan. Mr. Hahm clarified that this was an informational item only with no Council action or budget implications. He said the report had been scheduled at the time the permit parking plan was approved. He discussed the unique assets and challenges associated with Como Park. He said changes had been made to the plan in response to community input, including removal of a proposed parking structure at Hamline and Arlington, and final adjustments would be made with stakeholder input.

Ms. Furrer gave a Power Point presentation on the results of the transportation study. She spoke about parking demand and said a combination of solutions was needed. She outlined proposed short-term, mid-term and long-term improvements towards the goal of 18% of park visitors using walk/bike/transit. She thanked the neighbors and stakeholders for their participation in the process.

Councilmember Stark clarified that the permit parking plan effective date had been delayed to May 2011 in part so the study could be completed, and that the Council didn't have to take further action for the permit parking to go into effect.

Councilmember Helgen said he appreciated the work and level of neighborhood involvement. He said would like to see some of the options from the study fleshed out into specific goals, and demand management and budget considerations studied further. He suggested creation of an advisory structure.

Councilmember Harris thanked Mr. Hahm and his staff for putting together what he thought was a nice toolbox for addressing issues that had neighborhood and regional impact.

Councilmember Stark added his thanks to Mr. Hahm, Ms. Furrer, and to the District Councils for getting community members engaged. He agreed with Mr. Helgen that a structure was needed to deal with the issues on an ongoing basis. He said he felt the underground ramp idea was probably unrealistic and could end up being a distraction, and he would like to have a discussion about de-emphasizing it. He said Parks had said they would come back with a timetable of items that could be done in the next year or two years, and he thought that was important as well.

The following appeared to testify:

John McCormick (1431 Hamline Avenue) said the process activated neighborhood in support of green space and the park, and that he wanted to have a place at the table to continue to work on the issue. He submitted letters, drawings, and a petition.

Dennis O'Rourke (Midway Parkway) spoke in support of permit parking.

Chris Martineau (1510 Almond Avenue) appeared on behalf of District 10. He acknowledged those present who had voted in favor of the District 10 action item and asked that District 10 be included in future decision-making. He spoke in support of preservation of green space, thanked Mr. Hahm and Ms. Furrer for including stakeholders, and identified possible stakeholders outside of the neighborhood.

Chet Mirocha (1361 Midway Parkway) spoke on his own behalf and on behalf Val Cunningham, "The Bird Lady of Como Park." He said they wanted to see people use the park but with a minimum number of vehicles. He said there were two Como Parks, one including the Zoo and Conservatory and other public spaces, and the other including green spaces with birds and trees. He said they liked green space and did not like encroachment, and asked that this second Como Park be kept in mind.

Leslie Everett (1988 Brewster Street, #109) spoke in opposition to 3-acre parking lots, and asked that the Council consider alternatives and more long term solutions.

John Schomaker (1477 Sheldon) asked that the Council keep in mind the positive value of green space and the quality-of-life value of the park.

Kerry Antrim, District 6 Planning Council (171 Front) acknowledged all the hard work done but said they had a few reservations about the plan. She referred Council members to a letter sent. She said concerns included a permanent home for and adequate PR about the shuttle, location of surface parking and its impact on the neighborhood and available green space, and further study of traffic accessing the park and within the park. She said District 6 would remain silent about permit parking, had never supported the proposed parking structure at Arlington, and did support all preservation of green space. She said they wanted signage to be not detrimental to the park, and were in favor of formation of an advisory committee as soon as possible and including all stakeholders.

Michelle Dibblee, Transit for Livable Communities (626 Selby Avenue), expressed support for District 10 and others asking for a longer process including input from stakeholders.

Kathryn Holum (803 Osceola Avenue), owner of Comotown, said they had made a significant investment five years ago in good faith, and were concerned about the impact of permit parking on the business. She urged the Council to consider the thousands of Como Park visitors who would be surprised and inconvenienced by the institution of permit parking without alternatives, and asked that additional parking be made available before permit parking was instituted.

Councilmember Stark moved to close the public hearing.

Yeas – 7 Nays – 0

Received and Filed

9 RES 10-1193 Approving the City of Saint Paul Housing Action Plan 2010-2013.

Sponsors: Lantry

Councilmember Helgen moved to close the public hearing.

Yeas – 7 Nays – 0

Councilmember Helgen thanked staff who worked to bring the plan together in a way that balanced preservation of existing housing stock and creation of new affordable housing. He moved approval.

Councilmember Harris moved a one week layover to spend a little more time on the section of the plan addressing homelessness and supportive housing.

Laid over to November 24

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

Nay: 0

10 Ord 10-54

An Ordinance amending Chapter 106 of the Saint Paul Legislative Code to clarify requirements for sidewalk cafés and sidewalk sales displays.

Sponsors: Thune

Paul St. Martin, Public Works, reviewed the development of federal ADA guidelines with respect to public-right-of-ways and said the federal government planned to start the rule making process in 2011. He said the Public Works - ADA transition plan was begun in March 2010 towards the goal of implementing PROWAG (Public Right of Way Accessibility Guidelines) as best management practices. He said the current Chapter 106 called for a minimum of a 36-inch clear pedestrian path, and the PROWAG guidelines required a 48-inch minimum. He said they had worked with DSI, the Mayor's Advisory Committee on Disabilities, the Business Review Council, and Councilmember Thune's office on the proposed ordinance and the main change was the increase from the 36 to 48-inch minimum width.

Councilmember Thune reviewed information that had been sent to all beverage license holders in the city. He said the federal regulations about to take effect had already been adopted by state agencies because it was the right thing to do on public right of ways. He said the proposed ordinance required any establishment with a sidewalk café to obtain a license from DSI and a right-of-way permit from Public Works, although they were working towards making it a single permit. He reviewed the requirements and said the 48-inch minimum width requirement was exclusive of the curb. He said there would be further clarification of the language related to standard operating hours. He reiterated that the reason for the proposed ordinance was that it was the right thing to do and everyone had the right to use the public right of way. He said it was his intention to hold the public hearing to get input, and then continue the public hearing for four weeks to incorporate the suggestions.

The following appeared in opposition:

Dan O'Gara, owner of O'Gara's Bar and Grill (164 Snelling Avenue), said his specific concern had been about the 10:00 p.m. closing time and he would like that language stricken. He said it was his understanding that Public Works would work with business owners that had tree planters in the right-of-way.

Councilmember Thune said tree grates were a problem and his intention was to propose that Public Works replace grates with ADA compliant ones.

Stephanie Shimp (2220 Oliver Avenue S., Minneapolis), Blue Plate Restaurant Company, echoed Mr. O'Gara's comments and thanked Councilmember Thune for addressing the language about hours of operation. She asked that the City work with them about tree grates and planters, and asked that adequate time be allowed for compliance. She said obtaining the license from just one City entity would be ideal.

Mike Samuelson, resident of Newell Park neighborhood of St. Paul, submitted a letter for Council members to review. He said he didn't think the proposed ordinance went far enough, and he expressed concerns about St. Paul's slow compliance with

federal ADA requirements. He said the issues should be addressed immediately, the City should be proactive rather than reactive, a plan should be developed keeping in mind the spirit and intent of the ADA, the disability community should be involved in the process, and funds should be dedicated to addressing ADA non-compliance issues. He thanked staff for their work.

Russell Klein (522 Saratoga Street), chef and proprietor of Meritage restaurant, expressed pride in being part of the downtown community, and said they had a great relationship with DSI and Public Works and had worked with them on the issue for three years. He agreed that 36 inches was not adequate and said he would be in full support of an ordinance that replaced 36 inches with 48 inches throughout. He said the six inches of curved curb space was the issue, and if the requirement was to be 54 inches, it should explicitly say 54 inches. He said the patio was vital to their success, and meeting a 54 inch requirement would require taking out a row of tables.

Bill Collins (350 St. Peter Street), owner of Camp Bar, said he appreciated streamlining of the application process and was not a fan of having things posted in the window. He said he had spent money on custom-built patio fixtures. He asked whether there was any flexibility in the setback of parking meters and garbage cans to allow for more clear space for the patio. He said it was difficult making a business work, and having to start over again with the patio "took the wind out of the sails." He questioned whether the city deserved the commerce his business brought, and said that ADA was still the law and was still 36 inches.

Michael Runyon (2003 Bordner Place), owner of Shamrocks, suggested that the new licensing could take place at the renewal date. Councilmember Thune said that was being considered.

The following appeared in support:

Mark Hughes said he supported the ordinance because it was important for St. Paul, and was important to follow Minneapolis' lead for the sake of tourism and consistency.

Andrew Schlack (350 St. Peter St, Suite 1011), chair of CapitolRiver Council District 17 said the District 17 Board had passed a resolution in support of the spirit of the ordinance, recognizing that adjustments were still being made. He said the four values supported by District 17 were requiring the maintenance of at least a 48-inch right-of way, allowing temporary sidewalk café permits, interpreting the compact and contiguous liquor service to allow liquor service to occur on temporary sidewalks, and outlining an efficient administrative process for permitting.

Councilmember Thune moved to continue the public hearing to December 15. He said staff and interested parties would continue to work out the details.

Yeas – 7 Nays – 0

Public hearing continued to December 15

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

Nay: 0

11 RES 10-1122

Amending the budget in the Fire Department by establishing a Financing and Spending Plan for the Minneapolis/Saint Paul Metropolitan Medical Response System (MMRS) grant program in the amount of \$5,110.59.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 12 RES 10-1215** Amend the Spending and Financing Plan for the Payne Avenue - Whittall to Cook Project for 2010

Sponsors: Bostrom

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 13 RES 10-1216** Approving the 2010 Public Works capital project closeout.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 14 RES 10-1217** Amending the financing and spending plan for the 2010 Residential Street Vitality Program.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 15 RES 10-1135** Amending the 2010 Capital Improvement Budget in the Department of Parks and Recreation by adding \$100,000.00 to the financing and spending plans from a STAR Grant received for the Phalen Security Camera project.

Sponsors: Bostrom

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 16 RES 10-1167** Amending the 2010 Capital Improvement Budget reflecting the issuance of the General Obligation Tax-Exempt CIB Bonds Series 2010E, Taxable CIB Bonds BABs Series 2010F, Taxable CIB Bonds RZED Series 2010G, and Taxable Library Bonds RZED Series 2010H

Sponsors: Harris

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 17 RES 10-1177** Accepting the 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) and amending the 2010 current financing and spending in the Police Department in the amount of \$30,000.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 18 RES 10-1179** Accepting a \$3,000 grant from the Minnesota Department of Public Safety (MN DPS), authorizing the Police Department to enter into an agreement with the MN DPS to provide training in the Standardized Field Sobriety Testing (SFST) and approve changes to the 2010 budget establishing financing and spending plan.

Sponsors: Lantry

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Harris

- 19 RES 10-1208** Accepting the National Association of Police Athletic/Activities Leagues, Inc. (National PAL) grant and amending the finance and spending plans in the Police Department in the amount of \$24,670.

Sponsors: Lantry

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

Adopted

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

Nay: 0

- 20 RES 10-1195** Approving adverse action against all licenses held by La Fonda, LLC d/b/a La Fonda Mexican Eats located at 433 Robert Street South in Saint Paul.

Sponsors: Thune

Rachel Tierney, Assistant City Attorney representing the Department of Safety and Inspections, gave a staff report. She said the adverse action was for a lapse in liquor liability coverage from September 2009 to August 2010, and the matrix penalty and staff recommendation was a ten day license suspension. She said the licensee had requested a public hearing.

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

Adopted

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

Nay: 0

21 AHPC 10-3

Public hearing to consider the appeal of Dick Huss to a decision of Heritage Preservation Commission denying the replacement of three casement windows on the north and south elevations at 300 Maple Street (745-747 Third Street East) in the Dayton's Bluff Historic district.

Sponsors: Lantry

Christine Boulware, Heritage Preservation Commission (HPC), gave a staff report. She reviewed the background and history of the situation and said the HPC had approved a portion of the proposal in October. She said the property owner wanted to replace casement windows with casement windows, but casements did not comply with historic district guidelines. She said all of the double-hung windows had been replaced with casement windows in 1990, prior to the designation of the Dayton's Bluff Historic District. She said the property owner was only replacing three windows that had failed and wanted to maintain a consistent look, but the HPC's requirements were the same whether a homeowner was replacing all windows or just a few.

Property owner Dick Huss said he was putting the finishing touches on a long rehab. He said the windows had failed and needed to be replaced, and he wanted to maintain a consistent look. He said he had complied with about 80% of HPC recommendations with regards to the parapet wall, adding \$2000 \$3000 to the cost of the rehab. He provided photographs.

Council President Lantry moved to close the public hearing.

Yeas – 7 Nays – 0

Council President Lantry moved to grant the appeal based on commissioner comments in the minutes of the HPC meeting and on HPC guidelines. She said the casement window replacement would not involve removal or alteration of distinctive architectural features, would retain the existing window opening, would maintain vertical orientation of original windows, and would be compatible with nearby buildings in proportion, size and rhythm.

Motion of intent - Appeal granted

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

Nay: 0

Absent: 1 - Councilmember Carter III

22 APC 10-5

Appeal of 2446 University Avenue LLC to a decision of the Planning Commission upholding the Zoning Administrator's determination at 2446 University Avenue West.

Sponsors: Stark

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

Yeas – 6 Nays – 0 (Carter not present for vote)

Councilmember Stark said the situation involved access to parking, and a site plan that had apparently been approved with bad information. He said the Planning Commission's decision was clear and unanimous, and he didn't see any basis to reverse it. He moved to deny the appeal.

Motion of intent - Appeal denied

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

Nay: 0

Absent: 1 - Councilmember Thune

LEGISLATIVE PUBLIC HEARINGS

23 RES 10-945 AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 300 EDMUND AVE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said the property owner had been a no-show for the Legislative Hearing; she recommended ordering removal of the building within 15 days with no option for rehabilitation.

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

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

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

Nay: 0

Absent: 1 - Councilmember Thune

24 RES 10-946 AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 2060 SHERWOOD AVE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Bostrom

Legislative Hearing Officer Marcia Moermond said all of the conditions had been met; she recommended allowing 120 days for the rehabilitation of the structure.

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

Adopted as amended (remove or repair within 120 days)

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

Nay: 0

Absent: 1 - Councilmember Thune

25 RES 10-947 AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 967 MARGARET ST within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond recommended ordering removal of the structure within 15 days with no option for rehabilitation.

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

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

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

Nay: 0

Absent: 1 - Councilmember Thune

26 RES 10-948 AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 922 THOMAS AVENUE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond recommended that the Council grant 90 days for the Certificate of Occupancy to be reinstated.

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

Adopted as amended (remove or repair within 90 days)

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

Nay: 0

Absent: 1 - Councilmember Thune

27 RES 10-958 AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 1107 ROSS AVENUE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Bostrom

Legislative Hearing Officer Marcia Moermond recommended ordering removal of the structure within 15 days with no option for rehabilitation.

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

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

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

Nay: 0

Absent: 1 - Councilmember Thune

28 RES 10-959

Ordering the rehabilitation or razing and removal of the structures at 869 SELBY AVENUE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said a Legislative Hearing was conducted and her recommendation had been for the Council to order removal of the building within 15 days. She said she had heard from the St. Paul Urban League in response to the letter from her office stating that it was a no-show hearing, and she believed someone was present from the Urban League to testify. She said she would withhold her recommendation and allow Mr. Selmer to be heard.

Scott Selmer, St. Paul Urban League President, expressed concern about the lack of notice or due process. He said the St. Paul Urban League was facing challenges, and mail was picked up from a post office box by volunteers on an irregular basis. He said the Urban League had plans for the property, had engaged a realtor, and was asking for more time to look at alternatives other than demolition. He referred to photographs he had been made aware of, and said the property had been boarded because teenagers had been staying there. He said that during the previous six months they had changed the locks and had attended to the property as well as possible given the challenges they were facing. He said they had a service that mowed the lawn and cleared the snow.

Councilmember Carter moved to close the public hearing.

Yeas – 6 Nays – 0 (Bostrom not present for vote)

Council President Lantry asked what category vacant building the property was. Ms. Moermond stated that it was a Category 3 registered vacant building. She said an inspection was conducted on July 27 and the building was determined to be nuisance structure. Council President Lantry noted that the property couldn't be transacted.

Ms. Moermond said the Order to Abate a Nuisance Building was sent to the same post office box as the letter sent from her office regarding the public hearing. She

said her recommendation was to refer the matter back into Legislative Hearing with the conditions that the property be maintained, a Code Compliance inspection be ordered within a week, and property taxes paid within two weeks. She said if those conditions were met she would recommend granting time.

Councilmember Carter said he appreciated Mr. Selmer being at the hearing, but the City had had to maintain the property, there were unpaid taxes, and the property was obviously in terrible shape. He said he was surprised to see a situation like this one involving the Urban League. He said he disagreed that due process was not done, but supported property owners who wanted to save their property. He moved to adopt the recommendation of the Legislative Hearing Officer and refer the matter back for a Legislative Hearing if the conditions were met.

Laid over to December 1 City Council meeting for status report on conditions.

Public hearing held and closed. Laid over to December 1.

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

Nay: 0

29 RES 10-960

AMENDED 11/17/10

Ordering the rehabilitation or wrecking and removal of the structures at 1644 REANEY AVENUE within fifteen (15) days after the November 17, 2010, City Council Public Hearing.

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond recommended ordering removal of the structure within 15 days with no option for rehabilitation.

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

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

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

Nay: 0

30 RES 10-961

Final version adopted 12/1/2010

Ordering the rehabilitation or wrecking and removal of the structures at 590 GORMAN AVENUE within one hundred twenty (120) days after the December 1, 2010, City Council Public Hearing.

Sponsors: Thune

Legislative Hearing Officer Marcia Moermond asked that the Council lay the matter over to December 1, at which point she expected to be able to recommend granting 180 days for rehabilitation.

No one appeared in opposition; Councilmember Thune moved to continue the public hearing to December 1.

Public hearing continued to December 1

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

Nay: 0

- 31 ALH 10-177** Appeal of Terri and Dan Brennan to a Fire Certificate of Occupancy Revocation and Order to Vacate at 1787 ORANGE AVENUE EAST.

Sponsors: Bostrom

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

Appeal denied

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

Nay: 0

- 32 ALH 10-247** Appeal of Jean O'Brien to an Order to Vacate and Condemnation for Unsafe Conditions at 842 RICE SREET.

Sponsors: Helgen

Legislative Hearing Officer Marcia Moermond said the question was whether the property should be condemned, vacated and put into the registered vacant building program. She said during an October 8 inspection, the inspector had noted a leaking roof, holes in the floors, no water service, and falling plaster on the upper floors. During the Legislative Hearing the property owner had testified that there had been an operating business at the property for four years. Ms. Moermond said the property met at least three, if not four, of the criteria for a Category 2 registered vacant building.

The following appeared in opposition:

Property owner Jean O'Brien (816 W. Arlington, St. Paul, 55117) asked for clarification of Ms. Moermond's recommendation and of the definition of a Category 2 vacant building. Council President Lantry clarified.

Ms. O'Brien stated that the vacant building definition applied but she didn't believe the building was unsafe. She said she had fixed the fire escape and addressed the leaks; she disputed that there was falling plaster. She said she didn't intend to correct everything because once the building was sold the buyers would have their own plans. She said she didn't plan to open the building again, but had had a Certificate of Occupancy when the building was opened in the summer. She acknowledged there were code issues to be addressed when the property sold, but said she didn't want a condemnation on the building because it would make it that much harder to sell. She said she had shut off the gas and water because it cost a lot to keep them on.

Councilmember Helgen moved to close the public hearing.

Yeas – 6 Nays – 0 (Harris not present for vote)

Councilmember Helgen expressed sympathy with the property owner and situation. He said it was an important historic building, and he believed PED, the building owner and the community needed to work together to figure out a way to get it sold and

rehabilitated. He moved to accept Ms. Moermond's recommendation to deny the appeal, and said he was willing to work with the property owner on a strategy.

Appeal denied

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

Nay: 0

Absent: 1 - Councilmember Harris

33 ALH 10-270 Appeal of Sandra Fearson to a Vehicle Abatement Order at 782 FULLER AVENUE.

Sponsors: Carter III

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

Appeal denied

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

Nay: 0

Absent: 1 - Councilmember Harris

34 ALH 10-319 Appeal of Thomas Rogee to a Summary Abatement Order at 842 CLEAR AVENUE.

Sponsors: Bostrom

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

Appeal denied

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

Nay: 0

Absent: 1 - Councilmember Harris

35 ALH 10-322 Appeal of Bryan Horton, Renewal by Andersen, on behalf of Roy & Stephanie Kay to an Egress Window Non-Compliance Determination at 1865 PORTLAND AVENUE.

Sponsors: Harris

Legislative Hearing Officer Marcia Moermond said a building permit had been applied for and denied for installation of replacement windows with openable dimensions of 17 inches high by 20 inches wide. She said her recommendation was to deny the appeal because there was no compensating width for the height shortfall.

The following appeared in opposition:

Bryan Horton, Renewal by Anderson (1920 W. County Road C, Roseville, MN

55113), said he had originally appealed a permit denial for double-hung windows with measurements of 17 inches high by 20 inches wide, but was now proposing casement windows measuring 36 5/8 by 15 5/8. He said the Council had granted an appeal two weeks before involving windows with identical dimensions.

Councilmember Stark moved to close the public hearing.

Yeas – 6 Nays – 0 (Harris not present for vote)

Councilmember Stark said given the extra height and the width shortfall of only 3/8 inch below what Ms. Moermond routinely granted, he would move to grant the appeal.

Appeal granted

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

Nay: 0

Absent: 1 - Councilmember Harris

36 **ALH 10-140** Appeal of Justin Bowser to a Fire Inspection Order at 312 BURGESS STREET.

Sponsors: Helgen

Councilmember Helgen confirmed with Legislative Hearing Officer Marcia Moermond that her recommendation included removal of the illegal triplex.

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

Appeal denied

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

Nay: 0

Absent: 1 - Councilmember Harris

37 **ALH 10-277** Appeal of Jeffrey DeLisle to a Notice of Condemnation Unfit for Human Habitation and Order to Vacate at 520 Rice Street.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond gave a staff report. She said orders were issued on October 22 based on a complaint inspection. At that time the inspector noted several types of items including structural and building issues, electrical and sanitation issues, and extermination issues. An appeal was filed on October 26 describing a dispute between the property owner and first floor tenant over responsibility for the deficiencies, questioning whether the items merited condemnation, and requesting a 110 day extension if the items were found to merit condemnation. Ms. Moermond said her direction at the appeal was that a full Certificate of Occupancy (C of O) inspection be conducted and a structural engineer hired to develop a plan for the temporary shoring of the structure. A C of O inspection was conducted the day following the appeal hearing, and a multitude of violations identified, including structural, electrical and many having to do with fire

exits. At the November 2 Legislative Hearing Ms. Moermond asked that the C of O deficiencies be corrected within two weeks. She said good work was done during the two weeks but more problems were discovered. She said she was not confident that the project could be done in a timely enough fashion given the significant remaining problems related water leakage, the electrical system, and egress. She said that in the previous day's Legislative Hearing the owner testified that about half of the hundred-and-some items had been completed. No permits had been finalled except one for the temporary shoring of the first floor. Ms. Moermond said three weeks had passed since the first orders were written and serious life safety issues remained. She said what had "sealed the deal" for her was testimony in the previous day's Legislative Hearing that the Senior Building Inspector had been shocked by a bare wire that had fallen from above the ceiling when he was examining the source of water leakage. She said the Director of the Department of Safety and Inspections (DSI) and Senior Building Inspector were present to answer questions.

Ms. Moermond said her recommendation was that the Certificate of Occupancy be reinstated by the close of business on Friday, November 19 and all permits finalled except for the permanent restructuring of the first floor, or an Order to Vacate would be issued for 8:00 a.m. on Monday November 22.

The following appeared in opposition:

Robert Foster, attorney for the first floor tenant, said his client was requesting that a partial partial C of O be issued to allow the business to continue; he distributed a memorandum to Council members. He said the structural problems on the first floor had been addressed temporarily and the retail fixtures were being relocated to another part of the building to expedite the permanent repairs; he referred to an engineer's report attached to the memorandum. He said electrical work was being done under permit that day and the electrician was trying to schedule the final inspection for the next day. He stated that that addressed the two life safety issues identified on the first floor.

Chad Lemmons (7300 Hudson Boulevard, Oakdale, MN 55128) appeared on behalf of property owner Jeffrey DeLisle. He said the windows, doors, and smoke detectors had been completed, and the fire alarm system tested and certified. He said everything from the October 29 letter except the paving and rear deck would be completed by that Friday, and inspections could be ordered from that time. He said completing the deck required submission of a plan and was a three-week process, but there would always be two means of egress available while the deck was being worked on. He said Mr. DeLisle was asking for an extension to spring for the paving and exterior painting. He said the building provided twelve units of affordable housing.

Dennis Kroll, Kroll and Associates Architects (1313 5th Street S.E., Minneapolis, MN 55414), said it was a good solid building but had some problems. He said he would be ready to submit final details for a building permit the next day, and the issue with water could also be addressed as soon as the next day. He said he felt the egress stairs in the back were not perfect but were adequate.

Ron Michaelson, Southern Minnesota Regional Legal Services (SMRLS), said the residents present had stayed for the public hearing because they cared, and as legal aides SMRLS also cared about the tenants, about the safety of their clients, and about the City of St. Paul. He commended Ms. Moermond and City staff for alerting those involved with the building to the problems. He stated that the tenants were happy that someone was taking care of the building but didn't want to move.

Jeff Sullivan (374 185th Street, Osceola, WI), contractor for Mr. DeLisle, reiterated

Mr. Lemmons' comments about the work being done by Friday except the three items mentioned.

Tenant Ricardo Halmberg said he had two kids, there were four other families with children in the building, and none of them wanted to be homeless. He said the contractors were working hard.

Tenant Richard said he had grandchildren who lived with him. He said the contractors had been working hard to fix the problems and he would like to stay there.

Tenant Wanetta Blair said she'd lived there for five years, and good work had been done on the building since the previous Monday. She didn't think it was fair that they should be put out before Thanksgiving with no where else to go.

Councilmember Carter asked Ms. Blair to confirm the length of time she'd been a tenant and how long the current conditions had existed. Ms. Blair said it hadn't been in the same condition for the five years.

Tenant Tanya Powers (with Sean Powers) said they had two children, and had moved in recently and hadn't had any problems. She said lots of work had been done over the last three weeks. She said they had been homeless for two years and didn't think it was right that they should be put out on the street with their children.

Tenant and caretaker Ralph Tohm said they had been doing everything they could, day and night, to make sure the repairs were done in a timely manner. He said he'd lived there on and off for seven years and didn't want to lose it. Mr. Tohm's fiancée, Heather Goers, said the older of her two children was 19 years old and disabled, and would be on his own if the family lost their home and needed assistance.

Tenant Doctor Stevens said he'd been homeless for two of the last three years. He said the building was not that bad and he'd stayed with people who lived in worse places. He encouraged Council members to see the building.

Tenant Ron Mercil, speaking for himself and roommate Randy Beumus, said he'd lived there for four years and the landlord fixed things when asked. He said he'd thought they had until December 31 to make the corrections; he asked for more time. He said he and his roommate were disabled and would need more than a few days notice to pack. He said problems were to be expected in an old building and more time should be allowed to correct them.

Tenant Calvin Newell said it was getting cold outside and the holidays were coming. He said he'd lived there with his girlfriend for three years, and someone had always attended to anything they'd needed. He said he'd noticed the caretakers had been doing a great job since the Fire inspection. He asked that they be given the time necessary to complete the repairs. He said the building provided affordable housing for good people.

Randy Reduns said he worked with the DeLisle Company. He said he had accompanied the Fire inspectors when they had done the 103 item list. He said there were major items but many on the list were minor. He said he and the contractor had walked through the building prior to the public hearing, and he had worked with a crew to clean basement. He said he believed momentum would carry through to get the remaining work done. He said displacing the twelve families would be a serious issue, and he had confidence in the DeLisles and the people working with them.

Councilmember Carter moved to close the public hearing.

Yeas – 6 Nays – 0 (Bostrom not present for vote)

Councilmember Carter expressed appreciation for the willingness to extend the public hearing and for the tenants' testimony. He said he did not look favorably on the argument that the landlord was providing a building that was better than being homeless. He said he empathized with the tenants' frustration and agreed they had been wronged, but it was not the City who had wronged them.

Councilmember Carter said he believed that whenever there was a property owner willing to step up we like this, the opportunity should be given. He asked Ms. Moermond what was really possible.

Ms. Moermond said she had spoken with DSI Director Ricardo Cervantes and Senior Building Inspector Steve Ubl, and there continued to be concerns. She said she was glad to hear that most items were done and she hoped the C of O re-inspection could be scheduled. She recommended granting an extension to May 31, 2011 for exterior painting and for patching if the patching was weather-sensitive. She recommended that the Council order a thorough inspection by a senior electrical inspector. She said she needed more information on the second exit before making a recommendation about whether the building could continue to be occupied while measures were taken to make it safer.

Council President Lantry said there didn't seem to be an issue since the property owner's representatives had testified that everything would be done by that Friday, as Ms. Moermond had ordered. She said the situation was terrible, the property owner should be ashamed, and she was not willing to take on responsibility for putting twelve families out during the holidays. She stressed that the property owner was responsible for allowing the conditions to exist.

Councilmember Harris agreed. He said it was embarrassing and troubling to hear the tenants defending a situation created by an individual who obviously didn't care about the tenants' living conditions.

Councilmember Bostrom said the situation was outrageous. He recalled a recent fire in Minneapolis and said the conditions endangered not only the residents but firefighters as well.

Councilmember Carter noted that the Council was not responsible for the conditions but would be responsible if they failed to act and something happened.

Council President Lantry asked for direction from Senior Building Inspector Steve Ubl.

Mr. Ubl said most of the items on the C of O list were life safety, and the two critical items were the exiting issue and electrical issues. He said the electrical work currently being done assumed dry interior use, and he doubted the leaking could be addressed within a couple of days because of the condition of the roofs. He said the exit from the two decks to the public right-of-way was across those roofs, and he was concerned about safety. He said the second exit for the second level was made up of two decks, and neither one was safe. He said he'd spoken with the contractor and architect about strategies for replacing the decks, and the problem was maintaining the required number of exits while the work was being done.

Councilmember Carter proposed that the C of O deficiencies must be addressed by that Friday, an extension be granted to spring for the exterior items, and the matter be laid over for one week to follow-up on plans for the longer term items.

Ms. Moermond reviewed. She said the deadline for the C of O requirements would be the close of business on Friday, November 19, and for submitting plans for the structural and egress issues would be Wednesday, November 24 at 3:00 p.m. She asked that a thorough electrical inspection be a condition of continued occupancy.

Council President Lantry asked what the Council's options would be the following week if there were continued problems, and whether evicting the tenants on Thanksgiving was a possible outcome. Councilmember Carter said he wanted to take advantage of the property owner's current motivation to keep work on the building moving forward.

Councilmember Helgen noted a recent building collapse on Front Avenue, and said the Council should tread carefully and hold Mr. DeLisle accountable.

Councilmember Bostrom said it was a tragedy that it took a situation like this to finally motivate the landlord to act. He said he was afraid the landlord was "playing" the Council, knowing they would not order the building vacated before Thanksgiving. He reiterated that it was essential that exits be clear and safe.

Councilmember Carter reviewed the conditions and deadlines and moved a one-week layover.

Public hearing held and closed. Laid over to November 24.

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

Nay: 0

Councilmember Harris acknowledged visiting students from St. Agnes High School.

ADJOURNMENT

Adjourned

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

Nay: 0

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