



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

City Council Meeting Minutes - Final

*Council President Kathy Lantry
Councilmember Dan Bostrom
Councilmember Amy Brendmoen
Councilmember Nathaniel Khaliq
Councilmember Russ Stark
Councilmember Dave Thune
Councilmember Chris Tolbert*

Wednesday, October 16, 2013

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 Amy Brendmoen, Councilmember Nathaniel Khaliq, City Council President Kathy Lantry, Councilmember Russ Stark, Councilmember Dave Thune and Councilmember Chris Tolbert

CONSENT AGENDA

Note: Items listed under the Consent Agenda will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the Consent Agenda for separate consideration.

Approval of the Consent Agenda (Items 1 - 18)

Item 16 was withdrawn. Item 18 was removed from the Consent Agenda for separate consideration.

Councilmember Brendmoen moved approval of the Consent Agenda as amended.

Consent Agenda adopted as amended

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

Nay: 0

- 1 RES 13-1607** Approving the Mayor's reappointment of Remi Stone to serve on the Saint Paul Truth in Housing Board of Evaluators.

Adopted

- 2 **RES 13-1522** Preliminary Order setting the date of City Council Public Hearing for November 6, 2013 to approve construction of above-standard street lighting along the north side of University Avenue from Rice to Robert Streets, and approving the annual operation and maintenance costs to be assessed to benefitted properties via the Right-of-Way program. (File No. 19151, Assessment No. 135103)
Adopted
- 3 **RES 13-1161** Preliminary Order setting the date of City Council Public Hearing for November 6, 2013 to approve construction of above-standard street lighting along the east side of Robert Street from 12th Street to University Avenue, and approving the annual operation and maintenance costs to be assessed to benefitted properties via the Right-of-Way program. (File No. 19150, Assessment No. 135102)
Adopted
- 4 **RES 13-1162** Preliminary Order setting the date of City Council Public Hearing for November 6, 2013 to approve construction of above-standard street lighting in the Union Depot and Lowertown areas, and approving the annual operation and maintenance costs to be assessed to benefitted properties via the Right-of-Way program. (File No. 19148, Assessment No. 135101)
Adopted
- 5 **RES 13-1518** Preliminary Order setting the date of City Council Public Hearing for November 6, 2013 to approve construction of above-standard street lighting along the west side of Cedar Street between Fourth and Fifth Streets, and the east side of Cedar Street from the south property line of Fifth Street to 120 feet south; and approving the annual operation and maintenance costs to be assessed to benefitted properties via the Right-of-Way program. (File No. 19148, Assessment No. 135100)
Adopted
- 6 **RES 13-1558** Approving the City's cost of providing Collection of Certificate of Occupancy Fees billed July 4 to August 1, 2013, and setting date of Legislative Hearing for November 19, 2013 and City Council Public Hearing for January 15, 2014 to consider and levy the assessments against individual properties. (File No. CRT1403, Assessment No. 148202)
Adopted

- 7 **RES 13-1559** Approving the City's cost of providing Property Clean Up Services from August 30 to September 30, 2013, and setting date of Legislative Hearing for November 19, 2013 and City Council Public Hearing for January 15, 2014 to consider and levy the assessments against individual properties. (File No. J1403A, Assessment No. 148502)
Adopted
- 8 **RES 13-1560** Approving the City's cost of providing Trash Hauling Services during September 2013, and setting date of Legislative Hearing for November 19, 2013 and City Council Public Hearing for January 15, 2014 to consider and levy the assessments against individual properties. (File No. J1403G, Assessment No. 148702)
Adopted
- 9 **RES 13-1601** Authorizing the City of Saint Paul to accept a grant in the amount of \$47,488 from the Minnesota FastTRAC Adult Career Pathway Program for the Saint Paul EMS Academy.
Adopted
- 10 **RES 13-1546** Approving the Memorandum of Agreement (2013 - 2015) between the City of Saint Paul and Tri-Council: Laborers, Local 132; General Drivers, Local 120; and Operating Engineers, Local 49 for the purpose of creating an exception to the compensatory time earning limit for the classifications of Golf Worker and Assistant Golf Course Superintendent.
Adopted
- 11 **RES 13-1606** Approving the Memorandum of Agreement (2013 - 2015) between the City of Saint Paul and Manual and Maintenance Supervisors Association for the purpose of creating an exception to the compensatory time earning limit for the classification of Golf Course Superintendent.
Laid over to October 23 for adoption
- 12 **RES 13-1550** Authorizing the Parks and Recreation Department to enter into a grant agreement, including an indemnification clause, with the State of Minnesota to receive funds and implement youth employment programs.
Adopted
- 13 **RES 13-1584** Authorizing the Police Department to enter into a Joint Powers Agreement with the State of Minnesota, through its Commissioner of Public Safety, for bomb disposal services.
Adopted

- 14 **RES 13-1604** Authorizing the appropriate personnel to enter into Mn/DOT Agreement No. 04656 for the I-94/St. Anthony Avenue Noise-Wall Community Roadside Partnership.
Adopted
- 15 **RES 13-1585** Waiving the 45-day notice requirement to upgrade the existing Wine On Sale and Malt On Sale (Strong) licenses to a Liquor On Sale-100 Seats or less and a Liquor On Sale - Sunday license, and to add an Entertainment A license, for Coaster Dreams, LLC, d/b/a Ngon Vietnamese Bistro (License ID # 20070000508) at 799 University Avenue West.
Adopted
- 16 **RES 13-1556** Approving adverse action against the Auto Repair Garage license application submitted by Pronto Auto Repair, Inc., 1054 Payne Avenue.
Withdrawn
- 17 **RES 13-1616** Modifying the Fire Certificate of Occupancy billing structure for Sibley Manor Apartments.
Adopted
- 18 **RES 13-1613** Declaring October 19, 2013 Minnesota RollerGirls Day in honor of the start of their 10th season in Saint Paul.
Adopted
Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Khaliq, City Council President Lantry, Councilmember Stark, Councilmember Thune and Councilmember Tolbert
Nay: 0

FOR DISCUSSION

- 19 **RLH RR 13-40** Ordering the rehabilitation or razing and removal of the structures at 676 WELLS STREET within fifteen (15) days after the September 18, 2013, City Council Public Hearing. (Public Hearing held September 18 and October 2; laid over from October 2)

Legislative Hearing Officer Marcia Moermond asked for a layover to November 20. She said the co-owner of the property had been pre-approved for a loan and grant combination from the Dayton's Bluff Neighborhood Housing Services, and they were putting out bids and developing a scope of work.

Councilmember Bostrom moved to lay the matter over to November 20.
Laid over to November 20

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

Nay: 0

ORDINANCES

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

Second Reading

- 20 Ord 13-51** Amending Chapters 61, 65, and 66 of the Saint Paul Legislative Code pertaining to agricultural and farmers market uses.

Laid over to November 6 for third reading/public hearing

The Council members shared information about upcoming events in their wards.

The Council recessed at 3:37 p.m.

PUBLIC HEARINGS

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

Present 7 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Nathaniel Khaliq, City Council President Kathy Lantry, Councilmember Russ Stark, Councilmember Dave Thune and Councilmember Chris Tolbert

- 21 RES PH 13-263** Approving the application of Team Ortho Foundation for a sound level variance in order to allow the use of an amplified sound system for announcements and music for the Monster Dash 2013 Race Village Pre-Race Gathering and Race Start on October 26, 2013 from 7:30 a.m. to 9:00 a.m. from Summit Park along Summit Avenue to the start line, 400 feet east of Summit Avenue and Nina Street.

No one appeared in opposition; Councilmember Thune moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Thune said concerns had been expressed about the number of variance requests in certain areas, and a policy session was being planned. He moved an amendment to allow amplified music after 8:00 a.m. rather than 7:30 a.m.

Council President Lantry said the public hearing would have to be re-opened so the amended resolution could be considered. Councilmember Thune moved to re-open the public hearing. Yeas - 7 Nays - 0

Council President Lantry asked whether race organizers had been notified of the amendment. Councilmember Thune said they had not, but the amendment was the

same as one made a few weeks before for an earlier Team Ortho event.

Council President Lantry called for a vote on the amendment to change the starting time from 7:30 a.m. to 8:00 a.m. Councilmember Thune clarified that the change was for the start of amplified music.

Councilmember Brendmoen said she would like to know what activities were planned at 7:30. She said in her experience, pre-race amplified noise was just calling racers to the starting line. Councilmember Thune reiterated that his concern was amplified music.

Jackie Johnson (2906 N. 2nd St., Minneapolis) race director for the Monster Dash, Said the race would start at 8:30 and most of the early amplified sound would be for crowd-gathering. She said there would be a little music in the Village area closer to John Ireland and Kellogg. She said a 7:45 start would work well.

Councilmember Thune said he would go with 7:45, but asked Ms. Johnson to keep in mind that if there were complaints he would not relax the standards again.

Vote on amendment. Yeas - 7 Nays - 0

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

Adopted as amended (variance from 7:45 a.m. to 9:00 a.m.)

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

Nay: 0

- 22 RES PH 13-264** Approving the application of Team Ortho Foundation for a sound level variance to allow the use of amplified sound systems for announcements and music at the Monster Dash 2013 Finish Line and Post-Race Party on October 26, 2013 from 9:00 a.m. to 3:00 p.m. at Upper Landing Park, 220 Shepard Road.

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

Adopted

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

Nay: 0

- 23 RES PH 13-245** Approving adverse action against the Malt Off Sale and Cigarette/Tobacco license applications submitted by Piassa, LLC, d/b/a Piassa Market at 512 North Snelling Avenue.

Geoff Karls, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the adverse action against an application to sell malt liquor and tobacco products. He said the applicant and others were convicted in January of attempting to receive stolen property at a similarly-named business at the same location as Piassa Market, and in a more recent inspection it was discovered that Piassa Market was attempting to sell malt alcohol and tobacco

products while the license application was pending. He said given the applicant's apparent disregard for State and City laws, DSI was recommending that the application be denied.

Councilmember Stark asked whether there were any other repercussions based on the prior activity at that location. Mr. Karls said there wasn't anything else the Council could do at this point.

In opposition:

Mikael Merissa (80 S. 8th St.), attorney for Piassa Market, acknowledged that Mr. Mekonnen had plead guilty to the charges the previous January, but did not currently own Piassa Market. He said the license was applied for in anticipation of a sale, and completion of the sale to Mr. Mekonnen was contingent upon the license being granted. Mr. Merissa said the action might be appropriate against Mr. Mekonnen, but not against the market.

Councilmember Khaliq asked for clarification of who owned and operated the market. Mr. Merissa said Mr. Esayas Sahle was proposing to purchase the property, and was applying for the license in anticipation of ownership. Councilmember Khaliq noted earlier situations in which a problem business would lose its license and then re-open with just a different name on the application. He asked whether a copy of the lease was available.

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

In response to a question from Councilmember Khaliq, Mr. Karls clarified that Esayas Sahle was the applicant, and the application was for Piassa Market, and so it was appropriate to consider the actions of the applicant in determining whether to grant the license.

Councilmember Stark moved to approve the recommendation of DSI (appeal denied).

Adopted (Appeal denied)

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

Nay: 0

24 RES PH 13-272

Approving adverse action against the Taxicab Driver (Renewal) license application submitted by Abdi Wali Ahmed.

Geoff Karls, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the adverse action against the taxi cab license renewal. He said the applicant had been convicted of careless driving in February 2013 in Hennepin County, which was a disqualifying event under the newly amended ordinance. He said DSI was recommending that the Council deny the application request.

In opposition:

Applicant Abdi Wali Ahmed said he paid a \$200 fine in Hennepin County, and when he tried to renew his license in St. Paul it was denied and he was given the option of appearing before the City Council.

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

Councilmember Thune said there was a difference between careless and reckless driving, and if there were no other traffic offenses within the past year he would like to grant the renewal.

In response to a question from Councilmember Khaliq, Mr. Karls said Mr. Ahmed had held a taxi cab license at least since the fall of 2012 and there were no other disqualifying traffic violations noted in the record before the Council.

Councilmember Bostrom said without knowing what the original charge was he was not willing to back away from the penalty. He said the Council's primary responsibility was the protection of the passengers.

Councilmember Stark asked Mr. Karl whether he knew anything about the original offense. Mr. Karl said the only information provided was the conviction and date.

Councilmember Thune asked whether more information could be obtained if the Council laid the matter over. He said protecting passengers was important, but it was also important to consider the livelihood of the driver.

Deputy City Attorney Jerry Hendrickson said the Council could access any information that was public.

Councilmember Tolbert said the issue was addressed in the ordinance, and if the Council wanted to revisit careless driving as part of the ordinance, that was another conversation. He said the licensee agreed to the license conditions when he originally obtained it.

Councilmember Thune said allowances were made regularly for liquor licenses, and he would like a one-week layover.

Councilmember Bostrom said he would only be comfortable if the Council could see the original police report.

Council President Lantry suggested laying the matter over for a week to obtain the original police report and find out what the offense was, and then have the follow-up conversation as suggested by Councilmember Tolbert.

Councilmember Thune moved a one-week layover.

Public hearing held and closed; laid over to October 23 at 3:30

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

Nay: 0

25 ABZA 13-8

Public hearing to consider the appeal of Shaan Hamilton, on behalf of Saint Paul College, to a decision of the Board of Zoning Appeals (BZA) denying a variance request to allow a full color sign with the message changing every thirty seconds.

Yaya Diatta, Department of Safety and Inspections (DSI), gave a staff report on the variance requests and appeal. He displayed a schematic showing the locations of the proposed signs, and said the Board of Zoning Appeals (BZA) had approved everything requested except the dynamic display and full color on the electronic message sign at Kellogg and John Ireland. He said because the College was located in a residential district, the sign message could not change more frequently than

every 20 minutes and could not be full color. He said the district council had submitted a letter in support of the decisions of the BZA, except for the one related to full color on the dynamic sign, which they recommended approving.

In response to questions from Council President Lantry and Councilmember Stark, Mr. Diatta said the proposed sign was 13 feet 8 inches tall and was two-sided.

Appellant:

Shaan Hamilton, Vice President of Finance and Operations at St. Paul College, reviewed the history, mission, and positive impact of the college, and said they had been working for the past year on increasing the visibility on the north side of the campus. He displayed a schematic, and said they felt the sign was critical for communicating with students, and could also be used as a bulletin board for community safety. He said he had spoken with Assistant Police Chief Axtell, who supported the community safety use of the bulletin board. Mr. Hamilton said the code didn't completely apply and a full color sign with a two-minute message duration was justifiable given that the unique location and placement at the intersection of Kellogg and Concordia was not in a traditional residential area. He said the color signs would allow the College to communicate with the students, send positive messages to the community, and contribute to public safety. She said the College planned to use the sign to celebrate holidays, and to promote public programs, and a monochromatic sign would not serve those purposes as well. He noted that an American flag could not be displayed on a monochromatic sign. He said the original request had been for a 30-second interval, but they were now requesting a two-minute interval and were open to other interval recommendations from the Council. He said it was not the College's intention to use the sign for advertisements or product endorsements, and the sign would be illuminated between 7:00 a.m. and 10:00 p.m. per existing code and would be automatically dimmed during evening hours. He asked for the Council's support of the variances as well as additional time to address community concerns.

In response to a question from Councilmember Khaliq, Mr. Hamilton said they would like three additional weeks.

Councilmember Stark asked why this was a crucial means of communication at this time; he noted that the college was already highly rated. Mr. Hamilton said they had never had a presence on that side of the campus and the sign would achieve that. He gave examples of the types of events and programs that could be promoted.

Councilmember Bostrom said the changes in the College's focus away from strictly a technical college represented a great opportunity for the city and especially the neighborhood, and the sign could be a great thing. He noted the night classes offered, and said thousands of people who drove by were probably not aware of the continuing education opportunities there.

Council President Lantry suggested finishing the public hearing, and stressed that the Council's job was to determine whether the BZA had erred in making their determination. She noted that a monochromatic sign would be allowed, and she asked why they were requesting color.

Councilmember Brendmoen said a sign of the type proposed was not necessary for communicating with students, and it was clear the sign was going to be used as a marketing tool.

In response to Council President Lantry's question, Richard Lane, from Visual Communications, displayed images showing the difference between monochromatic and color signs. He said the type of image reflected on the college and its ability to present itself as current and high tech, and color was very readable and current.

In response to Councilmember Brendmoen's comment, Mr. Hamilton said the sign could be both for current and potential students, and those two purposes were not in conflict with one another.

Councilmember Khaliq asked whether it would also be used for public announcements. Mr. Hamilton said it would.

In opposition:

Paul Mandell (8320 Cleadis Ave., Inver Grove Heights), principal planner and zoning administrator for the Capitol Area Architecture and Planning Board, said the original plan had placed the sign within their boundaries, but had been moved after the BZA was informed. He said state statute required the City and the Capitol Area Planning Board to work cooperatively to ensure that plans on land immediately adjacent to the Capitol Area were compatible with the Capitol Area Comprehensive Plan. He said they had no objection to the size or color, but were concerned about the dynamic component of the proposed sign and safety at what was a large and complicated intersection.

Katie Engman (2395 University Avenue), representing the Ramsey Tobacco Coalition, spoke about recent changes to the sign ordinance related to dynamic display signs, and listed the organizations that supported the changes. She said the issue of driver distraction was very important in driving the changes, and she asked council to uphold existing sign code.

Jeanne Weigum (1647 Laurel Avenue), representing Scenic St. Paul, read a letter (already in file) opposing the appeal, and said the Council should follow the ordinance as it was passed after a great deal of discussion. She said the arguments made by St. Paul College were all content-oriented and could not be considered in the Council's determination.

John Manillo (1335 Beechwood Place) spoke about effects of the Xcel Energy Center signs as far away as the apartments at the top of Kellogg, and expressed concerns about how the sign might be used if St. Paul College moved elsewhere.

Maya Clark (1772 Minnehaha Avenue), student at Cretin Derham Hall, said she had been involved in promoting the changes made to the sign ordinance 2012, which improved the safety and appearance of the City. She said making an exception for St. Paul College would cause distractions to drivers, make the roads less safe, and contribute to sign clutter.

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

Councilmember Khaliq moved to lay the matter over for three weeks.

In response to a question from Council President Lantry, Mr. Diatta said the 60 day rule had been extended to December 3.

Councilmember Bostrom spoke against requiring a high tech, cutting edge college to use black and white. He said the Council had some flexibility.

Councilmember Stark said the new signage along John Ireland had improved the image of the campus without being digital. He questioned whether the College would even do monochromatic if full color wasn't an option.

Public hearing held and closed; laid over to November 6 at 3:30

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

Nay: 0

26 ABZA 13-6

Public hearing to consider the appeal of Brian Alton, on behalf of the property owner David King, to a decision of the Board of Zoning Appeals (BZA) denying a request to delete a condition of approval of a variance granted for the construction of an attached garage in 2011.

Yaya Diatta, Department of Safety and Inspections (DSI) gave a staff report on the original variance request and the appeal. He said the property owner had asked to keep the driveway at the time of the original variance request in 2011, and the BZA had denied the request and made removal of the driveway and curb-cut a condition of the setback variance for the garage. He said the property owner removed the driveway and regraded the yard, and put in a new parking pad. He said the BZA reviewed the condition at the request of staff, and their decision to deny the request was being appealed by the property owner. In response to a question from Council President Lantry, he said the curb cut and sidewalk had not been changed.

Councilmember Thune asked whether other properties in the neighborhood had parking pads in front. Mr. Diatta said there were some driveways in the neighborhood but most lead to a garage in back and there weren't other properties with a similar design.

Appellant:

Brian Alton (951 Grand Avenue) appeared representing the property owner, and said they were asking that the condition be modified on the grounds that it was unnecessary, unreasonable, or impossible to comply with. He said the driveway was a legal non-conforming use under the ordinance and had been in existence for over 90 years, and its removal would worsen already limited street parking. He said removal of the driveway had been a condition of the variance for the garage, and the BZA had not given a reason for the condition. He said the house and tuck-under garage were featured in a book as an historically significant example of the incorporation the automobile into the colonial revival design, and the new parking pad was designed to honor the appearance of tuck-under garage and maintain the historic character of the house. He said 34 of the 58 houses on the two-block stretch of Lombard Street had front yard street access.

Council President Lantry asked how many were just a parking pad and didn't lead to garages. Mr. Alton said he didn't know. Mr. Alton said they'd submitted six letters in support and would appreciate the Council's consideration.

Councilmember Tolbert asked whether the condition was appealed in 2011 when the new garage was approved. Mr. Alton said it was not.

Councilmember Thune asked what was being appealed at this time since the deadline to appeal the condition had passed. Mr. Alton said there was a request to modify the condition in July 2013 and the BZA voted to deny that request.

In response to a question from Council President Lantry, Mr. Alton said an enforcement letter from DSI prompted the request to modify the condition at this time. Council President Lantry said it was clear the property owner hadn't intended to comply otherwise.

Councilmember Thune asked whether the BZA had given a reason for the condition. Mr. Alton said no reason was given. Council President Lantry said the code did not allow a front yard driveway without a garage. Councilmember Thune noted that it looked similar to other houses in the neighborhood with a driveway in front. Council President Lantry said the difference was that this parking pad didn't lead anywhere.

Councilmember Brendmoen said it looked great, and she asked whether a compromise would be to take out the curb and add terracing to salvage the work that was done. Council President Lantry said nothing would prohibit using the pad as a patio if the curb cut were taken out.

Councilmember Khaliq asked whether a property owner would be required to remove the driveway if they removed their garage. Deputy City Attorney Jerry Hendrickson said in this circumstance removing the pad was a condition of the variance to add a new garage, at least in part because the code doesn't allow a driveway leading to anything but a garage.

Mr. Alton gave examples of streets where front yard parking is common, and reiterated that the parking was a legal nonconforming use. Council President Lantry said it was no longer a legal nonconforming use because the removal of the garage was a change. She stressed that the removal of the driveway was also a condition of the garage variance.

Deputy City Attorney Jerry Hendrickson said he disagreed that it was a legal nonconforming use, as the current circumstances hadn't arisen from a change in the law. Mr. Alton said the change was the BZA condition.

Property owner David King said he had owned the house for ten years. He said Lombard was a narrow two-block street with parking on one side, and he described the unique topography of his backyard which led to the need for a variance. He said there had been delays, and the project had just been completed in June. He noted property's inclusion in St. Paul Architecture and the architectural significance of the tuck under garage, and said the new windows installed maintained the look of a garage. He said the real reason for his request was related to parking and convenience, and he asked that the condition be deleted.

Jay Kelly (1083 Lombard Avenue), neighbor, provided a history of the properties, and said he felt the BZA determination was made without any perspective. He said Mr. King had created a beautiful piece of architecture with the changes made, and he noted the white stone driveway and the landscaping. He said the parking pad eased parking demand on the street.

Mr. King added that properties on the south side of the street had no alley access, and the house across the street from his had a parking pad in front with no garage.

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

Councilmember Thune said he was generally not in favor of front yard parking, but seeing other properties in the neighborhood with front yard parking made him change his mind. He also noted the property's inclusion in the Historic St. Paul book as an example of the classic housing style that brought cars into the front of the building. He said the changes made by Mr. King were sympathetic to that style, and the house looked like others in the neighborhood. He reiterated that the BZA hadn't give a reason for condition, and said that led him to forgive Mr. King's decision to ignore it. He said the lack of a garage was not functionally what the ordinance was there to prohibit. He moved to uphold the appeal, but suggested that the appellant reimburse the City for administrative costs related to this appeal because it should have been addressed at the time of the variance.

Councilmember Tolbert asked Mr. Hendrickson if what the proper procedure would have been for removing the condition. Mr. Hendrickson said the was a process that could have been initiated at any time; he noted that the property owner objected to the condition at the time the variance was granted but it was still imposed.

Councilmember Stark asked for further clarification of the process and time period, and he expressed concern that this was an open invitation to ignore conditions imposed by the BZA on variances.

Councilmember Brendmoen said she agreed with Councilmember Thune, and that the administrative reimbursement could be considered a fine or penalty. Council President Lantry asked how it would be collected, in this situation and in the future.

Councilmember Thune moved to grant the appeal and ask the appellant to voluntarily pay \$1000.

Council President Lantry said she would not support the motion. She said the correction order had resulted from a complaint from someone, the BZA placed the condition, and it should have been appealed 2011. She said the BZA had not erred, and the potential for bad precedent was incredible.

Councilmember Thune said this wasn't about punishing the property owner for not complying with the condition in 2011. He said if the lawn had been put in in 2011 as per the condition, and the property owner had come back for site plan approval to put in a parking pad, it might have been approved. He said the driveway looked good and was not out of character for the neighborhood.

Councilmember Khaliq noted a situation that had come before the Council recently in which a contractor had installed an illegal driveway for a newly immigrated property owner who didn't understand the rules, and the Council had ordered it removed. He said the Council should be consistent.

The vote was taken on Councilmember Thune's motion to grant the appeal. The motion failed.

Councilmember Thune said the property owner could tear out the parking pad, plant sod, and come back before the Council with a site plan change. Councilmember Brendmoen said he could do that without tearing out what he had installed. Council President Lantry expressed her displeasure over someone trying to game the system. Councilmember Thune reiterated that punishing the property owner wasn't the issue.

Motion of Intent - Appeal granted (motion fails)

Yea: 2 - Councilmember Bostrom and Councilmember Thune

Nay: 5 - Councilmember Brendmoen, Councilmember Khaliq, City Council President Lantry, Councilmember Stark and Councilmember Tolbert

27 PH 13-15

Public hearing to consider the application of Associated Bank et al to rezone property at 176 North Snelling Avenue et al, area bounded by Marshall, Snelling, Selby, and Saratoga, from B2 Community Business, B3 General Business, RM2 Medium-Density Multiple-Family Residential, VP Vehicular Parking, and I1 Light Industrial, to T2 Traditional Neighborhood and T3 Traditional Neighborhood.

Josh Williams, Planning and Economic Development (PED), gave a staff report on the rezoning request. He said the change would preserve the mixed use character but allow a little more flexibility, and the Planning Commission recommended approval.

In opposition:

Dave Monson (1527 Selby Avenue) said he lived next to the proposed development, and strongly recommended leaving the residential permit parking in place. He said he also hoped something would be done with Ayd Mill Road, and he suggested a traffic light at Selby and Saratoga. He said he was in favor of the project, but had concerns about traffic.

Councilmember Khaliq said many of the concerns would be addressed at a later hearing.

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

Motion of Intent - Application granted

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

Nay: 0

- 28 RES PH 13-273** Approving the vacation of Rose Avenue and Alley, and the dedication of the easement for Right of Way purposes.

In support:

Roger Allmendinger (1109 Lawson Avenue E.) pastor of Arlington Hills Lutheran Church thanked City staff for their time and support, and said he looked forward to further cooperation and collaboration.

Roxanne Larsen (2521 Sumac Ridge, White Bear Lake), congregational president at Arlington Hills Lutheran Church, thanked the Council for the opportunity to speak, and stressed the importance of an ongoing partnership.

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

Councilmember Bostrom thanked the representatives from Arlington Hills and said they had been great partners.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Brendmoen

- 29 RES PH 13-226** Ratifying the assessment for alley improvements in the alley bounded by Goodrich, Lincoln, Dunlap, and the Railroad Tracks. (File No. 19144, Assessment No. 135001)

In opposition:

Matt Doughty (1161 Goodrich Avenue) said his property adjoined but did not use or benefit from alley, and he asked to be excluded from the assessment.

*Councilmember Thune moved to close the public hearing. Yeas - 6 Nays - 0
(Brendmoen not present for vote)*

Councilmember Thune asked staff for an explanation on alley assessments.

Lynn Moser, Real Estate, said there was a petition process for the alley and enough residents had signed for project to go through. She said choosing not to use the alley didn't exempt a property owner from having to pay the assessment.

Councilmember Thune moved approval.

Adopted

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

Nay: 0

30 RES PH 13-223

Ratifying the assessment for installation of a fire protection system, as requested by Joseph Commers, for 2505 University Avenue West.
(File No. FP2013-01, Assessment No. 137100)

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

Adopted

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

Nay: 0

31 RES PH 13-234

Ratifying the assessments for Repair of Sanitary Sewer Line on private property from June to August 2013. (File No. SWRP1304, Assessment No. 133003)

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

Adopted

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

Nay: 0

32 RES PH 13-236

Ratifying the assessments for construction of a sanitary sewer connection as requested by the property owner at 1616 Point Douglas Road South in connection with the construction of a sanitary sewer service along Point Douglas Road South from Carver Avenue to the south city limits. (File No. 18923C, Assessment No. 136000)

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

Adopted

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

Nay: 0

33 RES PH 13-237

Ratifying the assessments for construction of a water main connection as requested by the property owner at 1616 Point Douglas Road South in connection with the construction of a water main along Point Douglas Road South from Carver Avenue to the south city limits. (File No. 18982C, Assessment No. 136100)

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

Adopted

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

Nay: 0

34 RES PH 13-252

Amending the financing and spending plans in the Planning and Economic Development department in the amount of \$1,100,000 to revise the 2013 Community Development Block Grant (CDBG) budget.

Council President Lantry asked for clarification of the figures in Attachment A.

Bob Hammer, Planning and Economic Development, clarified. Councilmember Stark said there was a misprint on the bottom line.

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

Adopted

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

Nay: 0

35 RES PH 13-233

Amending the Police Department 2013 budget in the amount of \$206,806.99 to use unclaimed monies for the purchase of a condensed mobile shelving unit in the property room.

Councilmember Tolbert asked for a staff report on the source of the funds, what else they could have been used for, and why they were being used for this item.

Assistant Police Chief Kathleen Wuorinen said the money was coming from the unclaimed properties fund. She said the use of the fund was regulated by ordinance, and the purchase would fill a critical need and be consistent with the intent of the ordinance.

Councilmember Tolbert said the money could have been used for staffing or for the crime lab, and he noted that the Council had recently approved another amendment for additional money for the police department. Council President Lantry said there was an adjustment at the end of 2012 for crime lab expenses.

Councilmember Stark asked for clarification of the critical need and how the determination had been made. Assistant Chief Wuorinen said the building came into use in 2003 and was filled to capacity at that time. She said evidence retention policies and rules had changed since then, and the shelving system would allow a doubling of capacity.

Councilmember Khaliq suggested that such funds could be used for settlement costs in police brutality cases in the future.

Councilmember Tolbert asked whether this was an annual fund. Assistant Chief Wuorinen said it was not an annual fund. She said the department sold property and the resulting funds had not been used. Councilmember Tolbert expressed concerns about the continuing expansion of the police budget, and specifically about this amount of money being used for this project when other departments didn't have the resources they needed. He moved to lay the matter over to allow time for the department to consider reallocating the funds to another use. Assistant Chief Wuorinen said they wouldn't have alternate funding for this project or another use for the funds within a week. She said they had done everything possible to streamline the properties system and the limitations were affecting their ability to collect evidence from crime scenes. She stressed that it was an exceptionally critical need.

Councilmember Brendmoen confirmed with Assistant Chief Wuorinen that the shelving would result in a doubling of the available space.

Council President Lantry said she didn't recall the police ever coming before the Council out of budget cycle to ask for something critical, and she didn't feel they would be before the Council at this time if there were other options. She said she supported the resolution.

Councilmember Khaliq asked why it wasn't brought forward as a priority at budget hearings. Assistant Chief Wuorinen said they didn't have a cost estimate or bids yet. Councilmember Khaliq said it wasn't on the list of priorities submitted by the Chief.

Councilmember Thune said he would support the item because property storage was important, but asked that the fund be explained to the Council during the budget process in the future.

Council President Lantry said police budgets were regulated more than in other departments and had lots of specific funds.

Councilmember Bostrom asked whether this could be done as part of the 2014 budget. Council President Lantry said that would delay it until January. Councilmember Bostrom said he didn't think the Council would object if this was part of the police general fund budget and the police wanted to use it for this purpose. Council President Lantry asked whether the purchase could wait until January. Assistant Chief Wuorinen said that would slow down barcoding and preparations for an internal audit.

Council President Lantry said it could be a technical amendment put in at the end of November. She said the item would be on the Dollar List, and would already have a financing source. Assistant Chief Wuorinen said costs increased with every delay. Council Budget Analyst Alexandra Iverson clarified requirements for year-end technical amendments. Council President Lantry said the item could be laid over for

a week to allow time for Assistant Chief Wuorinen to speak with Council members about their concerns. She said the item could also be discussed further at the following week's budget hearing.

Councilmember Tolbert said he felt this was a budget supplement that could be put towards anything in the department and should free up an equal amount in the City's general fund.

Councilmember Stark said he would support a layover, but the larger point was that a critical departmental priority shouldn't come as a surprise to the Council. Assistant Chief Wuorinen said that was partially due to the fact that there was a large range in possible costs initially, and the actual cost had only recently been determined.

Councilmember Khaliq said he didn't feel anyone was opposed to addressing the needs of the police department, but the process needed to be revisited.

Assistant Chief Wuorinen said she could meet with and report to Council members, and she said tours of the property room would also be helpful.

Councilmember Tolbert moved to close the public hearing and lay the matter over for one week.

Laid over to October 23

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

Nay: 0

36 RES PH 13-255

Authorizing the Police Department to enter into the Annual Plan Agreement with the State of Minnesota, State Patrol; and amending the 2013 Police Special Funds budget for this agreement.

Council President Lantry said she assumed there were the same concerns as with the previous item. Assistant Police Chief Kathleen Wuorinen said the partnership probably dealt with DUI sweeps.

No one appeared in opposition; Councilmember Tolbert moved to close the public hearing and lay the matter over to October 23.

Laid over to October 23

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

Nay: 0

37 RES PH 13-253

Amending the financing and spending plans in the Department of Public Works in the amount of \$61,000 for the second half of the University (CCLRT) above-standard lighting maintenance district and expansions of various other districts.

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

Adopted

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

Nay: 0

LEGISLATIVE HEARING ITEMS REQUIRING DISCUSSION

- 43 RLH SAO 13-40** Appeal of Richard Varberg to a Summary Abatement Order at 1466 COMO AVENUE.

Legislative Hearing Officer Marcia Moermond gave a staff report on the complaint about exterior storage of lawn mowers. She said the property owner repaired lawn mowers and snow blowers to be sold or donated, and there were quite a few lawn mowers and snow blowers at the site. She showed displayed photographs showing a well-kept property and neat, partially covered exterior storage. She said the two issues were exterior storage and conducting a business on the property. She said a community need was being met but this wasn't necessarily the appropriate location, and she recommended granting until November 5 to remove the items.

In opposition:

Appellant Richard Varberg spoke about his service work, and asked the Council to think of the needs that wouldn't be met if he was shut down.

Councilmember Khaliq thanked Mr. Varberg for his work, regardless of the outcome of the hearing.

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

Councilmember Stark thanked Mr. Varberg for the work he was doing for the community. He said the issue arose from a complaint about the outdoor storage which code clearly prohibited. He said the activity was allowed. Ms. Moermond said the resolution dealt only with the exterior storage.

Mr. Varberg said his next door neighbor was building a garage and there was a space beside it that could be fenced and used for storage. Councilmember Stark said that solution might require site plan approval, but there were other options, and he would like to allow more time for a solution to be found. He moved to grant an extension to May 31, 2014 for compliance, and stressed the importance of obtaining site plan approval from the City.

Adopted as amended (extension granted to May 31, 2014)

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

Nay: 0

- 57 RLH SAO 13-42** Appeal of Charles W. Belcher to a Summary Abatement Order and Vehicle Abatement Order at 863 ROSE AVENUE EAST.

Legislative Hearing Officer Marcia Moermond gave a staff report on the summary abatement order for exterior storage of vehicles, dog houses, and tarps, and for an illegal parking surface. She displayed photographs of a commercial van parked in a residential area and a car without current tabs, and of the parking surface and items stored elsewhere in the yard. She recommended denying the appeal with a compliance deadline of October 18 for the cars and other clean-up, and June 1 for

the parking surface. She said it was her understanding that the alley was asphalt, so asphalt would be required for the abutting parking surface even though it had been Class 5 in the past. She noted the long history of vehicle problems at the property.

In opposition:

Appellant Charles Belcher said the Class 5 parking surface had been put in 7 or 8 years before, and the alley was oiled but had never been paved. He said the car and truck were both gone, and he planned to get rid of the big truck. He displayed a photograph of his fence and said nobody saw the driveway. He said he would put in Class 5 but could not afford asphalt.

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

Councilmember Bostrom moved to adopt Ms. Moermond's recommendation, but said Class 5 was acceptable for the driveway.

Adopted (appeal denied and extension granted to October 18 for clean-up and June 1, 2014 for parking surface)

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

Nay: 0

LEGISLATIVE HEARING CONSENT AGENDA

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

Approval of the Consent Agenda

A motion was made by Councilmember Brendmoen to Approve the Consent Agenda The motion carried by the following vote:

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

Nay: 0

- 38 RLH VBR 13-51** Appeal of Rhonda Paoli to a Vacant Building Registration Fee at 113 ANNAPOLIS STREET EAST.

Adopted

- 39 RLH RR 13-44** Ordering the razing and removal of the structures at 157 ATWATER STREET within fifteen (15) days after the October 16, 2013, City Council Public Hearing. (Public hearing continued from October 16)

Public hearing continued to November 6

- 40 RLH RR 13-45** Ordering the razing and removal of the structures at 461 BEAUMONT STREET within fifteen (15) days after the October 16, 2013, City Council Public Hearing. (Public hearing continued from October 16)

Public hearing continued to November 6

- 41 **RLH RR 13-38** Ordering the rehabilitation or razing and removal of the structures at 989 BURR STREET within fifteen (15) days after the August 21, 2013, City Council Public Hearing. (Public hearing continued from August 21, September 18, and October 16) (To be laid over to the January 2, 2014 Public Hearing)
Public hearing continued to January 2, 2014
- 42 **RLH VO 13-47** Appeal of Philip OBrien to a Revocation of Fire Certificate and Order to Vacate at 669 CASE AVENUE.
Adopted
- 44 **RLH FCO
13-216** Appeal of Dave Roeser to a Fire Inspection Correction Notice at 1505 COMO AVENUE.
Adopted
- 45 **RLH CO 13-33** Appeal of James & Holly Wardlaw to a Correction Notice at 699 FOURTH STREET EAST.
Adopted
- 46 **RLH FOW
13-13** Appeal of Gary Binns to a Correction Notice - Foster Care Inspection at 703 FULLER AVENUE.
Adopted
- 47 **RLH VO 13-46** Appeal of Rasheeda Lilley to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 586 HAZEL STREET NORTH.
Adopted
- 48 **RLH VBR 13-56** Appeal of Dan Wagers to a Vacant Building Registration Notice at 412 HOLLY AVENUE.
Adopted
- 49 **RLH TA 13-602** Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1312B1, Assessment No. 138116 at 800 IOWA AVENUE WEST.
Adopted
- 50 **RLH FCO
13-222** Appeal of James Pestorious to a Fire Inspection Correction Notice at 359 LAWSON AVENUE EAST.
Adopted
- 51 **RLH VO 13-44** Appeal of Ogheueovoh Gbejeowoh to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 1148 MAGNOLIA AVENUE EAST.
Adopted

- 52 **RLH RR 13-46** Ordering the razing and removal of the structures at 979 MARYLAND AVENUE EAST within fifteen (15) days after the October 16, 2013 City Council Public Hearing.
Adopted
- 53 **RLH TA 13-595** Amending File No. RLH AR 13-73 Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1311A, Assessment No. 138530 at 51 MCKNIGHT ROAD NORTH.
Adopted
- 54 **RLH FCO
13-198** Appeal of Kathryn Ramirez to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 351 RAMSEY STREET.
Adopted
- 55 **RLH TA 13-607** Amending File Nos. RLH AR 13-52 and RLH TA 13-325, adopted by Council to Ratify the Appealed Special Tax Assessment for Real Estate Project No. J1309A, Assessment No. 138521 at 726 RANDOLPH AVENUE.
Adopted
- 56 **RLH FCO
13-206** Appeal of Brett King to a Correction Notice - Complaint Inspection at 586 REANEY AVENUE.
Adopted
- 58 **RLH FCO
13-208** Appeal of Marcia Lowry to a Fire Inspection Correction Notice at 1859 SAINT CLAIR AVENUE.
Adopted
- 59 **RLH FCO
13-221** Appeal of Art Harder to a Fire Inspection Correction Notice at 284 SHERBURNE AVENUE.
Adopted
- 60 **RLH FCO
13-214** Appeal of R David Reynolds to a Fire Inspection Correction Notice at 1246 UNIVERSITY AVENUE WEST.
Adopted

ADJOURNMENT

Councilmember Brendmoen moved adjournment.

Meeting adjourned at 8:33 p.m.

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

Nay: 0

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