



City of Saint Paul

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

Minutes - Final

City Council

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

Wednesday, October 22, 2014

3:30 PM

Council Chambers - 3rd Floor

ROLL CALL

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

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

COMMUNICATIONS & RECEIVE/FILE

- 1 **AO 14-57** Moving Neighborhood STAR Year-Round Program funds and combining two Neighborhood STAR Program awards.
Received and Filed
- 2 **AO 14-58** Amending the 2014 budget of the CDBG Federal Grants Fund.
Received and Filed
- 3 **AO 14-61** Moving 2014 debt service payments into correct cost centers to reflect sale results and refundings.
Received and Filed

CONSENT AGENDA

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

Approval of the Consent Agenda (Items 4 - 27)

*Item 13 was removed from the Consent Agenda for separate consideration.
Councilmember Thune moved approval of the Consent Agenda as amended.*

Consent Agenda adopted as amended

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

Nay: 0

- | | | |
|----|--------------------|---|
| 4 | RES 14-1803 | Approving the settlement agreement and release between the City of Saint Paul and Rafael Angel Diaz and his attorney Chris Ritts.
Adopted |
| 5 | RES 14-1844 | Authorizing the Mayor's Environmental Policy Director to apply for a Minnesota Pollution Control Agency (MPCA) Environmental Assistance Grant Focus Area F, Communities Adapting to Climate Change and Extreme Weather.
Adopted |
| 6 | RES 14-1836 | Declaring Thursday, October 23, 2014, as "Lights On Afterschool Day" in the City of Saint Paul.
Adopted |
| 7 | RES 14-1815 | Approving the use of grant funds through the Neighborhood STAR Year-Round Program for renovations to 953, 955, and 957 West 7th Street.
Adopted |
| 8 | RES 14-1847 | Requesting a Planning Commission study of zoning changes to create an historic use variance that would allow the original historic use of a structure in any zoning district.
Adopted |
| 9 | RES 14-1846 | Urging the Minnesota Vikings and Minnesota Sports Facility Authority to design a bird-safe stadium.
Adopted |
| 10 | RES 14-1848 | Co-naming portions of Franklin Avenue as "Dave Ray Avenue."
Adopted |

- 11 **RES 14-1798** Approving a request by 443 Lafayette Park Owner LLC to release easements over a portion of the property at 443 Lafayette Road.
Adopted
- 12 **RES 14-1799** Approving a request by 75 Plato LLC to release a sewer easement over/under a portion of the property at 75 Plato Boulevard West.
Adopted
- 14 **RES 14-1738** Approving the City's cost of providing Towing of Abandoned Vehicles services billed December 2013 to May 2014, and setting date of Legislative Hearing for November 18, 2014 and City Council Public Hearing for January 21, 2015 to consider and levy the assessments against individual properties. (File No. J1501V, Assessment No. 158000)
Adopted
- 15 **RES 14-1845** Approving a policy providing paid parental leave to eligible employees.
Adopted
- 16 **RES 14-1793** Authorizing the Department of Parks and Recreation to accept a donation of plant material valued at \$1,200 from HandsOn Twin Cities, to plant at Como Regional Park.
Adopted
- 17 **RES 14-1724** Authorizing the Department of Planning and Economic Development to submit applications to the Department of Employment and Economic Development for Contamination Cleanup and Investigation Grants, and to the Metropolitan Council for Tax Base Revitalization Account Cleanup and Site Investigation Grants, for the Higher Grounds St. Paul, Schmidt Keg House, Sibley Square, West 7th Street Mixed-Use, and Willow Reserve Sites.
Adopted
- 18 **RES 14-1726** Identifying the need for Livable Communities Transit Oriented Development Funding and authorizing applications for grant funds for the University and Vandalia Mixed Income Housing, River Balcony, and Railroad Island Ecovillage-Bush/Payne Site Projects.
Adopted
- 19 **RES 14-1800** Correcting reimbursement eligibility dates for 2014 Cultural STAR Grant awards to the Saint Paul Public Library and Public Art Saint Paul.
Adopted

- 20 **RES 14-1601** Authorizing the Police Department to enter into a sublease agreement with the Neighborhood House for space in the Paul and Sheila Wellstone Center.
Adopted
- 21 **RES 14-1819** Authorizing the Police Department to accept a donation from A & M Business Interiors for furnishing meeting rooms in the district offices.
Adopted
- 22 **RES 14-1823** Authorizing the Police Department to enter into a Joint Powers Agreement, which includes an indemnification clause, with the State of Minnesota through its Commissioner of the Office of MN.IT Services.
Adopted
- 23 **RES 14-1828** Authorizing the Police Department to enter into an access agreement with Jupiter Entertainment in the filming of a production which would recognize the department's efforts, dedication, and service.
Adopted
- 24 **RES 14-1829** Authorizing the Police Department to enter into a Mutual Aid Agreement with the City of Oakdale.
Adopted
- 25 **RES 14-1852** Authorizing the Director of the Department of Public Works to apply for a Minnesota Pollution Control Agency (MPCA) Environmental Assistance Grant for Focus Area E, Environmental Solid Waste Management Practices.
Adopted
- 26 **RES 14-1811** Approving adverse action against all licenses held by Minnesota Saloon, Inc., d/b/a Minnesota Saloon at 395 Robert Street North.
Adopted
- 27 **RES 14-1843** Accepting of the gift of travel expenses and meal reimbursement from Augustana College for Saint Paul Department of Safety and Inspections employee Wes Saunders-Pearce to attend the CityLab conference on October 23-24, 2014.
Adopted

FOR DISCUSSION

- 13 **RES 14-1854** Authorizing the issuance and negotiated sale of Sales Tax Revenue Bonds, Taxable Series 2014F, and Sales Tax Revenue Bonds, Series 2014G, the proceeds of which are to be expended for capital projects to further residential, cultural, commercial, and economic development in both downtown Saint Paul and Saint Paul neighborhoods; delegating to a Pricing Committee the authority to set the terms thereof within parameters set forth in this Resolution; fixing the form and specifications of the Taxable Series 2014F Bonds and the Series 2014G Bonds; approving a Second Supplemental Indenture of Trust and related documents; and directing the execution and delivery of the Series 2014F Bonds and the Series 2014G Bonds, the Second Supplemental Indenture of Trust, and related documents.

Todd Hurley, Office of Financial Services Director, gave a staff report.

Councilmember Thune asked whether the specific projects would come back before the Council for approval. Mr. Hurley said the projects would be approved at the time the bond sale was approved, but any changes would come before the Council. Councilmember Thune asked whether the resolution could be amended. Mr. Hurley said the language was drawn up by bond counsel and was required for the sale.

In response to a question from Councilmember Brendmoen, Mr. Hurley spoke about the interest rate.

Councilmember Bostrom expressed concern about being bound to support specific projects, and said he would not be supporting the resolution.

Councilmember Tolbert asked Mr. Hurley whether the details of the Palace Theater agreement would come back before the Council for approval. Planning and Economic Development Director Jonathan Sage-Martinson confirmed that the resolution before the Council would allow construction to begin, and the operating agreement would come back before the Council. He estimated that would happen in the second quarter of 2015.

Councilmember Thao asked how this point had been reached and how often this type of opportunity came up. Mr. Hurley said the bonding was about five years in the making; he described the revenue sources.

Councilmember Bostrom said the Mayor was proposing a tax increase, and this wasn't free money. He said the Council had an opportunity here to pay debt service and reduce taxes.

Council President Lantry said the Palace Theater was a good project but not something the City should invest in, and not something she would have supported on its own. She said she appreciated the Mayor bringing forward a package of projects that included roads as requested by the Council, as well as other projects she supported. She said she would not support any additional funds for the Palace Theater.

Councilmember Brendmoen thanked Council President Lantry and Mayor Coleman for all of their work. She noted her experience in Copenhagen at the 8-80 conference in demonstrating the importance of livability, and said this was a package of projects that would contribute to livability for a lot of groups.

Councilmember Bostrom said he was also concerned about how this would push back the RSVP schedule.

Councilmember Stark said he was going to support the package and felt it was a good package and a rare opportunity to invest in a series of projects. In response to Councilmember Bostrom's point he said the City could stand pat and just keep the lights on, but doing more than just keeping the lights on will show that the Council cared about and was investing in the city. He said the Council members, including Councilmember Bostrom, did ask for an investment in roads, which most of this package was going into. He said he was particularly excited about the way funding would be used to make roads more usable, livable, and pedestrian-friendly. He said there had been a lot of good discussion about the right way to bring the Palace Theater project forward and not everyone agreed, but it was a good project that would bring more people downtown and add to the momentum and vitality of downtown.

Councilmember Thao said he was in support. In response to Mr. Bostrom's point he said it was honorable to relieve the tax burden, but this package would improve the City and improve the tax base in the long run. He said he was still unsure as far as the Palace Theater, and it would be important that the operating agreement be very detailed.

Councilmember Thune moved approval. He thanked Council President Lantry for working on a compromise. He said he felt the resolution was a good investment and good compromise.

Adopted

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

Nay: 1 - Councilmember Bostrom

ORDINANCES

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

Final Adoption

- 28 Ord 14-41** Creating Chapter 200A of the St. Paul Legislative Code to require that private or public groups organized to care for stray, homeless, relinquished, or abandoned dogs and cats reduce unnecessary euthanasia.

Council President Lantry moved an amendment changing the 24-hour maximum for posting photographs, to a "within a reasonable time."

Amended and laid over to November 5 for final adoption

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

Nay: 0

Third Reading, No Public Hearing

- 29 **Ord 14-42** Memorializing City Council action granting the application of TCB Properties LLC to rezone property at 1599 - 1605 Rice Street from B3 General Business to T2 Traditional Neighborhood, and amending Chapter 60 of the Saint Paul Legislative Code pertaining to the Saint Paul zoning map. (Public hearing was held on September 17, 2014.)
Laid over to November 5 for final adoption
- 30 **Ord 14-43** Memorializing City Council action granting the application of Gregory and Michelle Sutton and James Morelli to rezone property at 637 Bedford Street and 535 Tedesco Street from RT1 Residential and B3 General Business to T2 Traditional Neighborhood, and amending Chapter 60 of the Saint Paul Legislative Code pertaining to the Saint Paul zoning map. (Public hearing held September 17, 2014)
Laid over to November 5 for final adoption

SUSPENSION ITEMS

Councilmember Thune moved suspension of the rules.

Rules suspended

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

Nay: 0

RES 14-1885

Authorizing the Department of Parks and Recreation to enter into a contract with, and provide indemnification for, Portable Barge for up to \$60,000 of FEMA flood reimbursable funds to provide dredging activities at the Public Dock.

Councilmember Thune said the item was time sensitive and involved using FEMA flood reimbursable funds for dredging of the Mississippi River. He moved approval.

Adopted

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

Nay: 0

Councilmember Thao moved suspension of the rules.

Rules suspended

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

Nay: 0

RES 14-1878

Approving and authorizing the subordination of the City's SteppingStone Theatre STAR loan in the original amount of \$150,000 to a Minnesota Bank & Trust loan in an amount not to exceed \$400,000 (Ward 1, District 8).

Councilmember Thao acknowledged the difficult economic times, but said he didn't feel he could grant Steppingstone's request to convert their loan to a grant. Dan Bayers, Planning and Economic Development, clarified that the resolution was a subordination of the existing \$150,000 STAR loan to a new \$400,000 bank loan.

Councilmember Thao moved approval.

Adopted

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

Nay: 0

Councilmember Stark moved suspension of the rules.

Rules suspended

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

Nay: 0

RES 14-1869

Memorializing City Council action taken October 15, 2014 approving the Preliminary and Final Plat for Luther Seminary Addition. (Public Hearing held Oct. 15, 2015.)

Councilmember Stark moved approval.

Adopted

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

Nay: 0

PUBLIC HEARING**31 RES 14-1729**

Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Liquor On Sale - 101-180 Seats and Liquor On Sale - Sunday licenses for The Eagle Street Grille LLC (I.D. #20140001613), d/b/a The Salt Cellar at 173 Western Avenue North. (Public hearing held October 22; laid over from November 5)

Council President Lantry said the public hearing was being held at the request of Councilmember Thao to allow for more community input. She asked Assistant City Attorney Rachel Tierney to clarify the process and what was being considered.

Ms. Tierney clarified that the issue before the Council was a liquor license issue and not a zoning determination. At Councilmember Thune's request she reviewed some of the relevant requirements. She said if the Council chose to deny the license, the application would go back to the Department of Safety and Inspections (DSI) and go through the adverse action process.

Councilmember Thao asked for a staff report.

Dan Niziolek, DSI, noted that zoning requirements were considered in the issuance of a liquor license. He said the questions raised focused on the parking provided and the parking required. He said there was no approved site plan addressing parking for the previous use, although there was a letter from the college indicating there were 21 parking spaces. He said the site had not changed, but staff had found only 13 spaces were possible on the site. He said they did discover that an error had been made in calculating the parking requirement for staff for the prior use, resulting in one additional parking space being required for the proposed use. He asked that the Council lay the matter over in order to confirm the information and inform all appropriate parties of the determination.

Councilmember Thao asked whether the Council could vote on the liquor license and deal with the parking issue later. Mr. Niziolek said they wouldn't want to issue the license unless zoning requirements were met.

In opposition:

Peter Carlsen (482 Dayton Avenue), business owner at 524 Selby, asked how 1000 additional people a day could not require additional parking, or a 180-seat restaurant could need only 13 spaces. He said he found three errors in the zoning administrator's determinations, any one of which would result in there being fewer parking places present than required for the proposed use. He referred to a statement in a conditional use permit filed by the College of Visual Arts specifying the number of parking spaces at each of their buildings and said it was ignored by staff. He said he knew as an architect that it wasn't possible to get more than 11 spaces on the site.

Vince Courtney (1398 Eleanor), attorney representing Moscow on the Hill, confirmed that the Council had received the letter and attachments he'd sent the previous day. He said they didn't object to someone having a restaurant at that corner, but there was already a problem with parking in that area. He said parking for the college was during the day, but parking for a new restaurant would be at night and would cause problems and ruin the businesses that were there. He reviewed the three main arguments from his letter, related to code the code requirements for parking. He said they would like this to be laid over and brought before an Administrative Law Judge for review.

John Rupp (366 Summit Avenue) owner of WA Frost, said his business increased as

new restaurants came in, but he was concerned about the general commercial health and parking demands of the whole district, and he encouraged a layover.

Kevin O'Brien (385 Laurel Avenue) said there was no more available parking space at that intersection, and the residents were the ones who would really suffer.

Mary Morris (475 Laurel Avenue) said the Curling Club also contributed to the parking demand in winter, and parking overflowed into the residential areas. She said she this was a completely different use in an existing structure and should be treated more as new construction. She said she agreed with points made earlier and would welcome a new business, but restaurant-goers coming into the residential area

affected quality of life and safety. She asked that the Council consider the parking needs of the area.

Councilmember Thao asked for anyone else present and in opposition to stand.

In support:

Applicant Joe Kasel (1274 Goodrich Avenue), said he and his business partner owned Eagle Street Grill across from the Xcel, and were applying for a liquor license for the Salt Cellar at Selby and Western. He said the new business would add jobs and be another amenity in a great neighborhood. He said they had exceeded the notification requirements and had held an open house at which neighbors shared concerns. He said they had immediately responded to concerns about exterior aesthetics, and had found a partner that would allow them to provide valet service to address the parking concerns. He said they had made the decision to open only for dinner service at least to start with, and would make their parking lot available during the day. He said they were committed to being respectful of the charm and history of the neighborhood.

Chuck Repke (154 W. Winifred), representing property owners Selby Dayton, LLC, said the property owner depended on the grandfathering provision in 63.204 of the code when he purchased the property. He said the property did due diligence before acquiring the property, and depended on the word of the City that the property could be used in the manner allowed by the code. He said the proposal met all of the requirements of the zoning code, and there were no parking issues before the Council. He said the allowed use stayed with the building, regardless of the number of parking spaces. He said it was preposterous for the neighborhood businesses to suggest that a parking determination made over 20 years ago be recalculated, and the opportunity to appeal that determination had long passed. He distributed a copy of an affidavit from the property owner relating to conversations with area restaurateurs, and noted that neighboring business owners were not concerned about parking when the potential existed for them to be operating the new business.

Dan Scott (155 Exeter Place), attorney for the licensee, said there had been a lot of due process, and this was the third public hearing. He reviewed efforts to work with neighbors and City staff. He said there is no exception needed, and the applicant met the code requirements. He said he believed the license could be approved that day as suggested by Councilmember Thao. He said there was a legal process for addressing zoning concerns, and he felt they been thoroughly addressed. He echoed Mr. Repke's point that the statute of limitations for addressing the error in the parking determination was long passed. He said the applicant had done everything they'd been asked to do, and the applicant and property owner had invested millions of dollars in the project. He said the rules couldn't be recalculated at this point, and further delay would jeopardize the business proposal. He said he didn't believe parking was relevant to the liquor license, however the addition of valet parking by the applicant would improve to the parking situation in the neighborhood.

Councilmember Thao asked others in support to stand.

Councilmember Thao said he would continue the public hearing since the Council couldn't vote on the matter. He said he was concerned about the existing businesses, but he was also in support of new businesses and jobs, and felt he wanted to allow the community a chance to be heard. He said he had sent out about 500 letters to constituents, and his intent was not to delay the license but to get adequate information to make a sound decision. He asked Ms. Tierney to confirm that the Council could not vote on the matter because the zoning was not resolved. Ms. Tierney said the matter was before the Council, and a vote could be taken, but the recommendation of DSI was to lay it over.

Councilmember Stark said he wasn't sure there would be new testimony, and he recommended closing the public hearing, letting the necessary staff work happen, and voting at the next possible time.

Councilmember Thao moved to close the public hearing and lay the matter over to November 5.

Councilmember Brendmoen acknowledged the problems than the delay was causing for the business owners.

Public hearing held and closed; laid over to November 5

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

Nay: 0

ADJOURNMENT

Councilmember Bostrom moved adjournment.

Meeting adjourned at 4:45 p.m.

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

Nay: 0

Council Meeting Information

The City Council is paperless which saves the environment and reduces expenses.

The agendas and Council files are all available on the Web (see below).

Councilmembers use iPads to review the files during the meeting. Using the iPad greatly reduces costs since most agendas, including the documents attached to files, are over 1000 pages when printed.

Web

Meetings are available on the Council's website. Email notification and web feeds (RSS) of newly released Minutes, Agendas and Meetings are available by subscription. Please visit www.stpaul.gov/council for meeting videos and updated copies of the Agendas, Minutes and supporting documents.

Cable

Meetings are live on St Paul Channel 18 and replayed on: Thursdays at 5:30 p.m., Saturdays at 12:30 p.m., and Sundays at 1:00 p.m. (Subject to change)