



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Council Chambers - 3rd
Floor
651-266-8560

Minutes - Final

City Council

Council President Amy Brendmoen
Councilmember Dan Bostrom
Councilmember Mitra Jalali Nelson
Councilmember Rebecca Noecker
Councilmember Jane L. Prince
Councilmember Dai Thao
Councilmember Chris Tolbert

Wednesday, December 19, 2018

3:30 PM

Council Chambers - 3rd Floor

Budget Amendment Public Hearings and Legislative Hearing Items at 3:30 p.m.

Public Hearings at 5:30 p.m.

There will be no meeting on Wednesday, December 26.

ROLL CALL

The meeting was called to order by Council President Brendmoen at 3:32 p.m.

Present 6 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, Councilmember Rebecca Noecker and Councilmember Mitra Jalali

Absent 1 - Councilmember Jane L. Prince

Councilmember Prince arrived after roll call.

Present 7 - Councilmember Dan Bostrom, Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, Councilmember Rebecca Noecker, Councilmember Jane L. Prince and Councilmember Mitra Jalali

COMMUNICATIONS & RECEIVE/FILE

- 1 [CO 18-67](#) Letters from the Department of Safety and Inspections declaring 412 Holly Avenue and 1143 Woodbridge Street as nuisance properties. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)
Received and filed
- 2 [AO 18-66](#) Amending CDBG activities budgets.
Received and filed

CONSENT AGENDA

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 3 - 13)

Councilmember Noecker moved approval of the Consent Agenda.

Consent Agenda adopted as amended

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

- 3 [RES 18-2104](#) Authorizing an amendment to the Agreement between Saint Paul Haulers LLC and the City.

Adopted

- 4 [Min 18-39](#) Approving the minutes of the November 7, 14, and 28, 2018 City Council meetings.

Adopted

- 5 [RES 18-2011](#) Approving the City's cost of providing Replacement of Lead Water Service Line on Private Property during July to September 2018, and setting date of City Council public hearing for February 6, 2019 to consider and levy the assessments against individual properties. (File No. 1901LDSRP, Assessment No. 194000)

Adopted

- 6 [RES 18-2012](#) Approving the City's cost of providing Replacement of Sanitary Sewer Line on Private Property during July to September 2018, and setting date of City Council public hearing for February 6, 2019 to consider and levy the assessments against individual properties. (File No. SWRP1901, Assessment No. 194000)

Adopted

- 7 [RES 18-2015](#) Approving the City's cost of providing Property Clean Up services during October 1 to 12, 2018, and setting date of Legislative Hearing for January 22, 2019 and City Council public hearing for March 6, 2019 to consider and levy the assessments against individual properties. (File No. J1909A, Assessment No. 198508)

Adopted

- 8 [RES 18-2016](#) Approving the City's cost of providing Property Clean Up services during October 12 to 29, 2018, and setting date of Legislative Hearing for January 22, 2019 and City Council public hearing for March 6, 2019 to consider and levy the assessments against individual properties. (File No. J1910A, Assessment No. 198509)
Adopted
- 9 [RES 18-2052](#) Authorizing the issuance and direct placement of a Revenue Note (Trash Cart Project), Series 2018, to finance the acquisition of trash carts for use in the solid waste and recycling program of the City.
Adopted
- 10 [RES 18-2118](#) Authorizing a Professional Services Contract with Ward Einess Strategies, LLC.
Adopted
- 11 [RES 18-2119](#) Authorizing appropriate City officials to enter into a Professional Services Agreement with Lockridge Grindal Nauen, PLLP.
Adopted
- 12 [RES 18-2096](#) Authorizing the City to enter into a two-year lease agreement with the Minnesota State Agricultural Society for the Saint Paul Police Department's use of interior office and exterior vacant land for its overflow impound lot during the winter months.
Adopted
- 13 [RES 18-2071](#) Approving the Safe Routes to School (SRTS) Infrastructure Program application for Washington Tech SRTS improvements.
Adopted

FOR DISCUSSION

- 14 [SR 18-189](#) Presentation by Metropolitan Council Member Jon Commers.

Jon Commers gave a presentation on the accomplishments of the Met Council and City during his tenure.

Council members expressed their appreciation for Mr. Commers' work.
Received and filed

15 [RES 18-2100](#) Outlining the City's 2019 Legislative Agenda.

ThaoMee Xiong, Director of Intergovernmental Affairs, gave a report on the City's 2019 Legislative Agenda.

Council members expressed their support.

Councilmember Thao moved approval of the resolution.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

16 [RES 18-2135](#) Authorizing the commissioning of new murals for the Saint Paul City Hall - Ramsey County Courthouse Chambers that reflect the diversity and richness of Saint Paul's history.

Councilmember Noecker moved an amendment to make the language consistent with the County's resolution. Yeas - 7 Nays - 0

Following discussion among the Council members, Councilmember Jalali Nelson moved to adopt the resolution as amended.

Adopted as amended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 1 - Councilmember Bostrom

17 [SR 18-192](#) Honoring Councilmember Dan Bostrom for his years of service.

Received and filed

SUSPENSION ITEM

Councilmember Tolbert moved suspension of the rules.

Rules suspended

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

[RES 18-2162](#)

Declaring December 19, 2018 Dan Bostrom Day in the City of Saint Paul.

Council members Tolbert and Bostrom came to the podium. Councilmember Tolbert read the resolution.

Councilmember Bostrom made brief comments.

Chuck Repke, District 2, presented Councilmember Bostrom with the Phalen Corridor book in recognition of his work on the corridor.

Council members acknowledged Mr. Bostrom and his work for the City.

Former Council member Jay Benanov made brief congratulatory comments.

Councilmember Prince moved approval of the resolution.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

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

- 18 [Ord 18-67](#) Amending Chapter 409.25 of the Legislative Code pertaining to temporary wine licenses.

Laid over to January 2, 2019 for third reading/public hearing

- 19 [Ord 18-68](#) Amending Chapter 310 of the Legislative Code pertaining to wine licenses for festivals.

Laid over to January 2, 2019 for third reading/public hearing

BUDGET AMENDMENT PUBLIC HEARINGS (3:30 p.m.)

- 20 [RES PH 18-373](#) Amending the financing and spending plan in the Department of Parks and Recreation in the amount of \$511,226.51 to reflect funds received from Ramsey County for construction of the Robert Pira Regional Trail project.

No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

- 21 [RES PH 18-337](#) Amending the financing and spending plan in the Department of Parks and Recreation's CIB Capital Maintenance budget by transferring a total of \$28,000 from 2016 and 2017 CIB Contingency funds into the Merriam Park Recreation Center new roof project.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 7 - Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

PUBLIC HEARING

- 22 [RES PH 18-385](#) Authorizing the City of Saint Paul's sponsorship of a Minnesota Investment Fund application by Minnetronix Medical, Inc.

Rick Howden, Planning and Economic Development, gave a brief report.

Steve Strong, part of the management team of Minnetronix Medical, gave a brief report on the company and project.

Council members Jalali Nelson, Tolbert, and Thao spoke in support of the company and project.

No one spoke in opposition. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

23 [RES 18-2111](#)

Supporting a Job Creation Fund application in connection with Minnetronix Medical, Inc.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

24 [RES 18-2112](#)

Authorizing the City of Saint Paul's sponsorship of a Minnesota Innovative Business Development Infrastructure application by Minnetronix Medical, Inc.

No one was present to testify. Councilmember Jalali Nelson moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

SUSPENSION ITEMS

Councilmember Thao moved suspension of the rules.

Rules suspended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

[RES 18-2134](#)

Approving the use of grant funds through the Neighborhood STAR Year-Round Program for the Taste of Rondo project.

Councilmember Thao moved approval of the resolution.

Adopted

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

Reconsideration

Councilmember Thao moved suspension of the rules for a reconsideration.

Rules suspended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

[RES 18-2095](#)

Supporting legalization and decriminalization of recreational cannabis in Minnesota and expungement of Minnesotan records of convicted cannabis crimes.

Councilmember Thao said this was for clarity to make sure the Council moved the correct version, Version 2.

Reconsidered; adopted as amended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

LEGISLATIVE HEARING CONSENT AGENDA (3:30 p.m.)

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 (Items 25 - 29)

No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the Legislative Hearing Consent Agenda as amended.

Legislative Hearing Consent Agenda adopted as amended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

25 [RLH FCO](#) [18-115](#)

Appeal of Barbara Ransom, Ree Parkside LLC, to a Fire Certificate of Occupancy Correction Notice-Complaint Inspection at 250 FIFTH STREET EAST.

Adopted

- 26 [RLH VO 18-62](#) Amending Council File RLH VO 18-49, adopted October 10, 2018, to grant Lynn Fagerness an additional extension to vacate the property at 1127 RAYMOND AVENUE.
Adopted
- 27 [RLH FCO 18-194](#) Appeal of David Kvasnik, on behalf of DPH Properties II, LLC, to a Correction Notice - Complaint Inspection at 2165 SELBY AVENUE.
Adopted
- 28 [RLH FCO 18-198](#) Appeal of McKenna Dubois to a Correction Notice - Complaint Inspection, including Revocation at 2165 SELBY AVENUE.
Adopted
- 29 [RLH RR 18-35](#) Making finding on the appealed nuisance abatement ordered for 694 SNELLING AVENUE NORTH in Council File RLH RR 18-27.
Referred to Legislative Hearings on December 27

The Council recessed at 4:41 p.m.

PUBLIC HEARINGS (5:30 p.m.)

The Council reconvened for Public Hearings at 5:32 p.m.

Councilmember Bostrom excused

Present 6 - Councilmember Amy Brendmoen, Councilmember Dai Thao, Councilmember Chris Tolbert, Councilmember Rebecca Noecker, Councilmember Jane L. Prince and Councilmember Mitra Jalali

Absent 1 - Councilmember Dan Bostrom

- 30 [Ord 18-64](#) Amending Chapter 33 of the Legislative Code pertaining to Establishment of Permit Fees, Certificate of Compliance, and Fences - Requirements.

No one was present to testify. Council President Brendmoen moved to close the public hearing.

Public hearing held and closed; laid over to January 2, 2019 for final adoption

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

31 [Ord 18-66](#)

Amending Chapter 77 pertaining to the Metropolitan Council Environment Services (MCES) Service Availability Charge (SAC) fee increases.

Travis Bistodeau, Department of Safety and Inspections (DSI), gave a brief staff report on the proposed amendment, and answered Council members' questions.

No one was present to testify. Councilmember Noecker moved to close the public hearing.

Public hearing held and closed; laid over to January 2, 2019 for final adoption

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

- 32 [RES PH 18-367](#) Approving the petition of the Housing and Redevelopment Authority and Michael Buelow to vacate a portion of the alley in Block 3, Lyton's Addition.

Bruce Engelbrekt, Office of Financial Services - Real Estate, gave a staff report on the vacation request and answered Council members' questions.

Applicant:

Michael Buelow gave a brief report on the development plan, a 41-unit family apartment building, affordable. Over 50% would be three-bedroom units, so it was a large building for 41 units, and they were anticipating a fair amount of kids. They had made a lot of efforts to identify play areas and green space, and to keep traffic and pedestrians separate from one another, including eliminating a through-way parking area. Vacating the alley was necessary for the scale of the building to the parking. They received support from this neighbor (indicated on aerial photo image of proposed building) and from Planning and Economic Development (PED) but was not able to get confirmation from this neighbor (indicated). A PED staff member brought up the concern about the clause stating that they wanted to avoid dead-ending alleys. Mr. Buelow didn't think they were objecting, but acknowledging there was a clause to avoid vacating alleys when possible. Vacating the alley was very necessary for the project; not vacating would mean narrowing the building by 4-6 feet, which was not a good idea, and possibly a challenge to the code in terms of setback. Mr. Buelow pointed out the adjacent neighbor with an 18-foot lot who was happy to be getting 10 feet. He pointed out the two alley access points, and said Public Works expressed concern about dead ending the alley. They (developer) had put in a substantially sized hammer head to allow for turnaround for emergency vehicles and utility trucks.

Councilmember Thao why pass though parking and a variance not work. Mr. Buelow said they would lose five or six spaces if they allowed pass-through but would also add uncontrolled traffic through the property, and he was trying to discourage that for and keep it as pedestrian-friendly as possible. Pursuing a variance for five or six fewer parking spaces would make it a less good project.

Councilmember Jalali Nelson asked for clarification of the bordering streets and the location of the alley. Mr. Buelow reviewed the aerial map. He reiterated that it was an unimproved alley.

Council President Brendmoen noted that this was an HRA property for 15 years, and the project matched the priorities for the HRA.

Councilmember Prince asked whether PED had other ideas as to how this could be addressed. Bill Dermody, PED, said the two main alternatives were to redesign the site, which Mr. Buelow didn't want to do, or allow the vacation with the condition of an easement through the parking lot.

In opposition:

Scott Van Wert (1985 Marshall Avenue and property owner of 123 W. Sycamore) encouraged finding was to have better dialogue beforehand, rather than coming to meeting like this where it felt a little more adversarial. He displayed the mailing received, and noted the residents used the alley whether it was gravel or not. He pointed out several garages, and said everybody had refuse and recycling to be picked up, and he wondered whether the trucks would be backing up. He said families and children lived along the alley, and safety there was also a concern. The segment to the

south was a no-brainer for the public good to add it to the project. His first thought was would a variance be a more sensible approach, with the City's focus on maximizing housing and density, and not necessarily maximizing on-site parking. There was already parking; a couple of buildings were taken down to create parking, and now they were talking about a public right-of-way needing to be given up to make parking.

Council President Brendmoen clarified that it wasn't removing the alley, but removing the access and having the T at the end. She asked if the inconvenience of having to enter at one side rather than the other was the problem. Mr. Van Wert said yes, for the folks who were there it was convenience and there was a natural flow there, and it was a little bit of a safety issue. He said he wasn't present pounding the podium, and had he understood more about the project and known a little more in advance, he could see supporting it. Council President Brendmoen said this project had been underway for a year, and they'd come before the district council several times. She asked Mr. Van Wert if he had any suggestions on how to engage people. She said notices went out, there were articles in the paper. There are opportunities to engage earlier, but the City had trouble getting people to engage. Mr. Van Wert suggested sending out mailings earlier in the process within a certain radius. Council President Brendmoen said she thought that happened, but they would look into that. She said what she took out of this was that they were vacating the alley to allow space for more housing and not to allow for more parking spaces. Mr. Van Wert said a variance could cure that. He added that alleys were intended to flow, and that was probably why dead-end alleys were discouraged.

Councilmember Thao moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Thao said he would like to hear from his colleagues first.

Councilmember Jalali Nelson asked to hear the reason again for the vacation request. Council President Brendmoen said it allowed for more room, expanded the building, and allowed parking to be pushed back into the alley space.

Councilmember Prince said she was uncomfortable with the fact that right-of-way vacations were obvious and uncontroversial. She said she appreciated what Mr. Buelow was trying to do but anywhere you have kids and you're increasing backing up movement, it was going to be more dangerous. She said she didn't feel other options had been explored and didn't feel there was a clear staff recommendation. She was not inclined to support it at this time.

Council President Brendmoen asked Councilmember Prince if she'd like to request a layover. Councilmember Prince said not necessarily; she thought it would be appropriate to look at other options, but if she had to vote tonight, she would vote against it.

Council President Brendmoen said she supported the project but didn't feel they got a very good staff report, and she would be supportive of a layover but would defer to Councilmember Thao.

Councilmember Thao said Mr. Buelow had been a tremendous landlord and he commend Mr. Buelow on his effort to develop the site. He said he supported the affordable housing, and supported the vacation of the south part, but was conflicted about giving up a piece of land that was usable. He said he was thinking about future alley plowing. He said he had been looking for ways for a long time to clean this area up and make it safer, and wasn't sure a dead-end alley created that, and felt there were

other tools they could use. He said he resonated with Mr. Van Wert's comments too. At the same time, he thought the project was long overdue, they needed affordable housing, it was on the bus line and near light rail. He said he thought Mr. Buelow be responsible and put in adequate lighting at the T and surveillance cameras, that was the type of person he was. Councilmember Thao said he felt this was something he was ready to approve.

Councilmember Tolbert said he supported the motion.

Council President Brendmoen said she would support the motion. There was work to do, but they could still do it.

Councilmember Jalali Nelson said she would have appreciated a clearer staff report. She said she supported affordable housing, especially multi-family housing. She said she heard the points made about communication and dialogue. She said she was ready to support it today but hoped in future situations they could keep improving communication.

Councilmember Prince said of course she supported the housing but felt this was not a good solution and she would vote against it. She said she felt there was another way to go about this that would be safe for the whole community.

Adopted

Yea: 5 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker and Councilmember Jalali

Nay: 1 - Councilmember Prince

Absent: 1 - Councilmember Bostrom

33 [RES PH 18-380](#)

Approving adverse action against the Auto Repair Garage and Second-Hand Dealer-Motor Vehicle licenses held by A & M Auto Sales, Inc., d/b/a A & M Auto Sales located at 845 Robert Street South.

Therese Skarda, Assistant City Attorney representing the Department of Safety and Inspections (DSI), said the department was recommending a \$500 penalty for a first time violation of license conditions. She reviewed the violations, and said the descriptions were in the packet before the Council. She said the licensee received notice and admitted o the facts, requested the hearing to discuss the penalty.

Licensee Alex Rivero said the car lot was on the border of West St. Paul. He had been there ten years and never had any issues. The penalties were there, and he could come up with a lot of reasons why. He was out of work for eight months due to medical issues, and family helped but didn't run it the way he did. He went to the City and let them know he was trying to get a new site plan done, and the company he used went out of business, and the new company wanted \$1500 to \$2000 to do a new site plan. He tried to create it ff the old plan, and when he went down to the City twice, it didn't fit their requirements. The day he had the site plan people come out, for which he paid \$1000, he had reset the cars the way he wanted the new site plan to be. He called DSI and let them know he had people coming and they were doing a new site plan. The cars weren't put back the same day, and the inspector came during the night and took pictures of cars out of place. Mr. Rivero said the striping was on him; he went ahead of the site plan and drew the lines the way he wanted them to be. He noted that the site plan on record from before he had the business was hand-drawn by the old owner. His proposed plan was a difference of just four cars. He had been parking them in the same way, without getting the site plan changed, for four or five years and never been cited. It blew his mind that the same day he let DSI know he was going to be changing the site plan, coincidentally they came out at night and photographed the cars out of order. He said he's allowed to have inventory of 14 spaces and he didn't use that many. There was vandalism when he parked cars behind the building, and he tried to park in front where there were cameras and it was well-lit.

Councilmember Noecker moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Noecker said looking at he pictures, she was struck by the fact that this didn't look like disorderly parking. She said given that the facts were not contested, she was going to impose the penalty but stay for six months pending no same or similar violations.

Mr. Rivero said he was still looking for help with the new site plan.

Council President Brendmoen said the public hearing was closed, but Councilmember Noecker would help with the site plan issues.

Council President Brendmoen said she supported Councilmember Noecker's solution to this. She said the Council had had quite a few situations where we have auto repair garages have trouble conforming to the rules due to the unpredictable nature of the level of business, and it would be nice to get DSI looking at how it could be more business-friendly.

Adopted as amended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

- 34 [RES PH 18-329](#) Approving adverse action against the Auto Repair Garage and Motor Vehicle Salvage Dealer licenses held by Corp Auto, Inc. at 1221 Pierce Butler Route. (Public hearing held December 19, 2018)

Therese Skarda, Assistant City Attorney representing the Department of Safety and Inspections (DSI) gave a staff report on violations of six license conditions documented at an August 8 inspection. She said because this was the third violation in 18 months, the department was recommending penalty a \$2000 matrix penalty and 10-day suspension of the license. She said the licensee admitted to the violation and had requested a public hearing on the penalty. She reviewed the violations.

In opposition:

The licensee thanked the Council for allowing the hearing to be rescheduled due to his hospitalization for heart surgery. He said he called the City attorney after receiving the notice of violation in March, and was told to pay the \$500 and everything would go away. He said there was some cleaning up to do and they did it. He said he received another notice with a \$1000 fine, which he paid, and he called the inspector because he wanted to solve these problems. He said the inspector came over and explained many things he wasn't aware of. He said with his health condition end everything, things got a little bit out of hand. The inspector gave them two weeks to complete the work, and they worked really hard and cleaned everything. He said after two weeks the inspector showed up along with a trainee, and commented on how nice things looked, but the next day he was written up for a couple of things they hadn't finished cleaning. He said they were fined \$2000 for something they had worked hard on and spent a lot of money on. He said another issue was that for the last year or two, anytime there was a matter involving the City he felt he was being passed from one person to another and none of the problems got solved. He said he'd been having problems for the last four years. He said he'd held a license for a body shop on Westminster for six years, and his inspector at that location always said he had the cleanest place in that area. He said he sold that place and came to Pierce Butler in 2003, and had three licenses: auto mechanic, second hand sales, and salvage. He said that place was grandfathered in and never had water and sewer, and he was told everything was fine as long as he kept it clean. He said he didn't have the money to add sewer and water but he was selling cars and doing business and had no problems at all. He said he had one problem with the dead end of Griggs Street at the railroad tracks. He said the City never did any maintenance on that street, there was no curb or gutter or asphalt and no lighting, and people dumped a lot of garbage in that area. He said he made a complaint because he had twice paid \$1400 to clean that area up, and he was told he could apply for an encroachment permit to get control of that area. He said they obtained the permit and were allowed to put a fence up to protect the property, and the garbage dumping stopped. He said now all of a sudden he was being told the fence had to come down, and that he had to clean up the street and couldn't park any cars on the street. He said a neighboring business claimed they (Corp Auto) couldn't park any cars on Griggs Street. He said if that was the case it had to apply to everybody. Council President Brendmoen asked the licensee to focus on the adverse action. The licensee said it was all related. He said they cleaned and made sure they got rid of everything, and the only things left were a garbage can, for which the company had not yet made the scheduled pick-up, and only one vehicle parked in front. He said when they (inspectors) came on August 8 they said "wow wow wow, you guys did beautiful work," and he didn't hear anything else until almost a month and a half later he received another letter that he'd been fined \$2000. He said he didn't understand why he was told he was doing a good job and then you written up and not told until a month and a half later. He said they were almost out of business because of all of these

things, and paying the \$2000 would put them out of business. He said the City was running them out of business and he felt there was something wrong with that. He said he would respect the Council's decision.

Councilmember Jalali Nelson moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Jalali Nelson asked Ms. Skarda why the fine was \$2000. Ms. Skarda there was a penalty matrix; she said the first violation was \$500 and the second violation \$1000, which the licensee paid in June. She said the licensee was correct that there was progress in addressing the violations; she reviewed the inspection record which noted progress but still violations. She said the matrix didn't have to be followed exactly but provided a framework.

Council President Brendmoen clarified that the penalty was \$2000 and a 10-day license suspension. She said if Councilmember Jalali Nelson wasn't comfortable or didn't feel like she had enough information, the option was there to lay the matter over.

Councilmember Jalali Nelson asked whether there a way to move forward with a less penalty, given that the licensee had been working collaboratively with the City, and the next penalty level seemed much higher than previous ones. Ms. Skarda said all or a portion of the penalty could be reduced or stayed.

Council President Brendmoen said she was looking around the table, and given that they all thought there was not enough quite information to make a decision, a layover would be desirable and helpful.

Councilmember Jalali Nelson moved to lay the matter over to January 9.

Public hearing held and closed; laid over to January 9, 2019

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

35 [RES PH 18-381](#)

Approving adverse action against the Second-Hand Dealer-Motor Vehicle license held by KKamp Enterprises, LLC, d/b/a K2 Cars at 370 Maryland Avenue West.

Council President Brendmoen said the item had been withdrawn.

Withdrawn

- 36 [RES PH 18-382](#) Approving adverse action against the Auto Body Repair Shop license held by S & S Automotive Service Corp., d/b/a Parkway Auto Body, Inc. at 1906 Stillwater Avenue.

Therese Skarda, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the adverse action for violations of three license conditions. She said this was the second violation within 12 months, and DSI was looking for a \$1000 matrix penalty. She described the violations of conditions 2, 3, and 4. She said the licensee responded with admission but requested this hearing.

Councilmember Prince asked whether the original matrix violation was for any of the same conditions, and the date of the violations. Ms. Skarda reviewed those violations and noted some were the same; she said the date was June 28, 2018. She said she had received an email on December 10 from that licensing manager Eric Hudak stating that he was out at the location with the license holder, at the request of the license holder, to review, educate, and affirm the City's expectations.

Mike Essien, attorney representing S & S Auto Body, said there was a violation in June, and his client did not recognize the severity of the violations. He said they paid the fine and took action to correct the violations. He said when the inspector came the second time there was monumental progress, but a lot of cars had been brought in and were not put away properly. He said the licensee called him about the resulting \$1000 penalty, and he explained the gravity of the matrix penalty. He said at that time he contacted the City Council, and tried to get the inspectors, and went back and talked to his clients, and they understood the seriousness of the perceived violations. He said the challenge was the next one was a 10-day suspension and \$2000 fine. He said they didn't intend to violate again but were running the risk of being suspended for 10 days, and people were depending on the business and getting paid. He said his clients were very concerned and wishing for the City Council to understand they really made progress. He said he had asked the inspector to come back and check again, and just about everything was up to spec at that time. He said they had done everything and it looked nice. He said it wasn't a salvage shop, but when people brought one too many cars it looked like they were piling cars on cars until they could put them away. He said they were not trying to do anything outside the license provisions, and their request was to waive the penalty or do whatever could be done to take it out of the matrix system. He said they did not intend to violate in the future, and had been in business at that location for over 15 years, and this was literally the second penalty they'd gotten in that time.

Councilmember Prince said both times S & S was inspected it looked like vehicle salvage, and the pictures looked like vehicle salvage. She said having the first penalty in June and now this one in October; she confirmed with Ms. Skarda that there wasn't anything they could do to take it out of the matrix. Ms. Skarda said nothing in the code prohibited (the Council) from suspending the entire violation. She said it could be withdrawn after a period of time with no same or similars, or continue or lay it over for an amount of time.

Councilmember Prince moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Prince said she was troubled by the same violation occurring in rapid succession, and she was not inclined to withdraw the violation. She moved to impose \$500 and suspend the remaining \$500 if there were no same or similar violations in 6 months.

Adopted as amended

Yea: 6 - Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali

Nay: 0

Absent: 1 - Councilmember Bostrom

ADJOURNMENT

Councilmember Brendmoen adjourned the meeting.

Meeting adjourned at 6:59 p.m.

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