



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 Kassim Busuri
Councilmember Mitra Jalali Nelson
Councilmember Rebecca Noecker
Councilmember Jane L. Prince
Councilmember Dai Thao
Councilmember Chris Tolbert

Wednesday, November 6, 2019

3:30 PM

Council Chambers - 3rd Floor

Public Hearings at 3:30 and 5:30 p.m.

ROLL CALL

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

Councilmember Thao excused

Present 6 - Councilmember Amy Brendmoen, Councilmember Chris Tolbert,
Councilmember Rebecca Noecker, Councilmember Jane L. Prince,
Councilmember Mitra Jalali Nelson and Councilmember Kassim Busuri
Absent 1 - Councilmember Dai Thao

COMMUNICATIONS & RECEIVE/FILE

- 1 [CO 19-55](#) Letters from the Department of Safety and Inspections declaring 1286 Sherburne Avenue and 31 Winter Street nuisance properties. (For notification purposes only; public hearings will be scheduled at a later date if necessary.)

Received and filed
- 2 [AO 19-51](#) Authorizing the Department of Parks and Recreation to reallocate \$330,000 within its various accounting units in the 2019 adopted budget to most accurately reflect the projected actual spending in each accounting unit and provide the appropriate levels of spending authority.

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

Councilmember Tolbert moved approval of the Consent Agenda.

Consent Agenda adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

- 3 [RES 19-1792](#) Authorizing the City Attorney's Office to accept a grant of \$279,534 from The Office of Justice Programs of the US Department of Justice and the Minnesota Department of Public Safety, and authorizing the execution of a grant agreement.
Adopted
- 4 [RES 19-1940](#) Authorizing the proper City officials to accept a gift stipend from the VERA Institute for Assistant City Attorney Edmundo D. Lijo to attend the SAFE Network Annual Convening in Philadelphia, PA, November 12 - 14, 2019.
Adopted
- 5 [Min 19-45](#) Approving the minutes of the October 16 and 23, 2019 City Council meetings.
Adopted
- 6 [RES 19-1845](#) Approving the City's cost of providing Collection of Vacant Building Registration Fees billed during May 7 to July 22, 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. VB2004, Assessment No. 208803)
Adopted

- 7 [RES 19-1846](#) Approving the City's cost of providing Boarding and/or Securing services during August 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. J2004B, Assessment No. 208103)
Adopted
- 8 [RES 19-1847](#) Approving the City's cost of providing Collection of Fire Certificate of Occupancy Fees billed during June 18 to July 13, 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. CRT2004, Assessment No. 208203)
Adopted
- 9 [RES 19-1848](#) Approving the City's cost of providing Excessive Use of Inspection or Abatement services billed during June 24 to July 22, 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. J2004E, Assessment No. 208303)
Adopted
- 10 [RES 19-1849](#) Approving the City's cost of providing Graffiti Removal services during May 2 to August 13, 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. J2003P, Assessment No. 208402)
Adopted
- 11 [RES 19-1872](#) Approving the City's cost of providing Towing of Abandoned Vehicle services during January to June 2019, and setting date of Legislative Hearing for December 3, 2019 and City Council public hearing for February 5, 2020 to consider and levy the assessments against individual properties. (File No. J2001V, Assessment No. 208000)
Adopted
- 12 [RES 19-1907](#) Accepting the gift of travel expenses from National Fallen Firefighters Foundation, for Steven Sampson, Deputy Chief SPFD, to attend the National Fallen Firefighters Foundation October meeting in Fort Myers, FL, October 27 - 29, 2019.
Adopted

- 13 [RES 19-1921](#) Authorizing the Fire Department to accept the 2018 Staffing for Adequate Fire and Emergency Response (SAFER) grant in the amount of \$1,470,861 from the Federal Emergency Management Agency to hire nine additional firefighters.

Adopted

- 14 [RES 19-1922](#) Authorizing the Fire Department to accept the 2018 Assistance to Firefighters Grant (AFG) in the amount of \$341,113.63 from the Federal Emergency Management Agency for training for firefighters.

Adopted

- 15 [RES 19-1924](#) Authorizing the Fire Department to accept the donation of 240 9-volt batteries from Energizer valued at \$324.

Adopted

- 16 [RES 19-1914](#) Authorizing payment in the amount of \$9,296.42 in full and final settlement of the claim of American Family Insurance Company as subrogee of Susan Roach.

Adopted

- 17 [RES 19-1915](#) Authorizing payment in the amount of \$9,875.75 in full and final settlement of the claim of Progressive Insurance Company as subrogee of Jenna Traut.

Adopted

- 18 [RES 19-1919](#) Authorizing payment in the amount of \$12,311.53 in full and final settlement of the claim of Yost & Bail as authorized agents of State Farm Insurance Company as subrogee of Susan Flaagan.

Adopted

- 19 [RES 19-1926](#) Approving the Memorandum of Agreement for the December 2019 Wage and Fringe Adjustment between the City of Saint Paul and the United Association Pipefitters Local Union #455.

Laid over to November 13 for adoption

- 20 [RES 19-1905](#) Authorizing Como Park Zoo and Conservatory to accept funding for two employees to attend the second annual Empathy Symposium hosted by the Advancing Conservation through Empathy for Wildlife Network and Woodland Park Zoo in Seattle, Washington, February 18 - February 20, 2020.

Adopted

- 21 [RES 19-1913](#) Supporting an application by Metropolitan Council / Metro Transit and Ramsey County for an FTA grant to conduct Advanced Station Area Planning for the Rush Line BRT Project.
Adopted
- 22 [RES 19-1876](#) Accepting the gift of the cost of travel expenses from the American Council on Germany for Safety Advocate Fay Simer to participate in the Sustainable Urban Development Study Tour.
Adopted
- 23 [RES 19-1723](#) Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Elite Wedding Event LLC (License ID # 20190001160), d/b/a Elite Wedding Event, for a Rental Hall license at 217 Mackubin Street.
Adopted
- 24 [RES 19-1928](#) Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Bing Concepts LLC (License ID #20190002510), d/b/a Hope Breakfast Bar, for Liquor On Sale - 100 Seats or Less, Liquor On Sale - Sunday, and Liquor Outdoor Service Area (Patio) licenses at 1 Leech Street.
Adopted
- 25 [RES 19-1891](#) Authorizing the City to enter into an agreement with Apple for use of their business manager and volume purchase programs.
Adopted

FOR DISCUSSION

- 26 [RES 19-1870](#) Committing to advocating for the renewable, equitable, and locally-produced energy commitments expressed in the Climate Action and Resilience Plan, and to opposing proposed new fossil fuel energy infrastructure. (Laid over from October 23 and November 6)

Councilmember Prince said St. Paul 350 had been having productive conversations with Xcel Energy and had asked for a layover to December 18.
Laid over to December 18

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

Nay: 0

Absent: 1 - Councilmember Thao

- 27 [RES 19-1943](#) Commemorating the observance of Veterans Day on November 11, 2019 and recognizing city employees who are veterans.

Councilmember Prince invited St. Paul Police employee Brian Balfanz and his daughter to the podium. She read the resolution.

Mr. Balfanz and Miss Balfanz made brief comments.

Councilmember Prince said the Employee Resource Network council had voted unanimously to approve Mr. Balfanz's application to create a Veterans' and Military Employee Resource Network.

Toni Newborn, Human Rights and Equal Economic Opportunity, spoke about the Employee Resource Network.

Councilmember Prince moved approval of the resolution.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

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

- 28 [Ord 19-69](#) Amending Section 105.04 of the Legislative Code to aid construction of boulevard rain gardens.

Laid over to November 20 for third reading/public hearing

First Reading

- 29 [Ord 19-64](#) Granting the application of David Wetherill to rezone property at 600-602 Lawson Avenue West from RM2 Multiple Family Residential to T2 Traditional Neighborhood, and amending Chapter 60 of the Legislative Code pertaining to the zoning map.

Laid over to November 13 for second reading

PUBLIC HEARINGS (3:30 p.m.)

- 30** [RES PH 19-341](#) Amending the financing and spending plans in the Office of Financial Services in the amount of \$30,000 for a contribution received from the Fund for Cities of Service, Inc.
- No one was present to testify. Councilmember Noecker moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson and Councilmember Busuri
- Nay:** 0
- Absent:** 1 - Councilmember Thao
-
- 31** [RES PH 19-365](#) Amending the financing and spending plans in the Fire Department in the amount of \$107,286.45 for a contribution received from the Minnesota Board of Firefighter Training and Education to pay for training for firefighters.
- 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 Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson and Councilmember Busuri
- Nay:** 0
- Absent:** 1 - Councilmember Thao
-
- 32** [RES PH 19-369](#) Amending the financing and spending plans in the Fire Department in the amount of \$125 for a contribution received from the Saint Paul Area Chamber of Commerce for health and wellness equipment for the firefighters.
- No one was present to testify. Councilmember Tolbert moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson and Councilmember Busuri
- Nay:** 0
- Absent:** 1 - Councilmember Thao

- 33** [RES PH 19-366](#) Authorizing an increase in the Parks and Recreation Grant Fund Budget in the amount of \$1,795,500 to reflect various grant funding awarded in 2019 from the State of Minnesota DEED, Minnesota State Arts Board, Como Friends, Metropolitan Council, and State of Minnesota DNR.

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 Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson and Councilmember Busuri

Nay: 0

Absent: 1 - Councilmember Thao

- 34** [RES PH 19-342](#) Amending the financing and spending plans in the Department of Public Works Capital Budget by adding Ramsey County funding into the 2018 Signalized Intersection Safety Improvements Program for the replacement of the traffic signal at Lexington and St. Clair.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

- 35** [RES PH 19-367](#) Recommending an amendment to Saint Paul Regional Water's 2019 Adopted Budget to record the increased financing and spending from the Minnesota Historical Society Grant for \$250,000 for repair to the historic Highland Park Water Tower, and to transfer \$285,000 in capital funds to operating funds for a portion of the grant match.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

- 36** [RES PH 19-371](#) Recommending an amendment to the 2019 adopted budget to record the increase in spending and financing for the demolition of the Highland Reservoir, pipe assessment, modifications and repairs to buildings and structures, and technology improvements.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

- 37** [RES PH 19-358](#) Approving the application of Podium Sports Marketing for a sound level variance for amplified music or announcements during the Turkey Trot Saint Paul on November 28, 2019 on Shepard Road at Washington Street and at Sherman Street.

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

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

LEGISLATIVE HEARING ITEMS FOR DISCUSSION

- 46 [RLH CO 19-15](#) Appeal of Fred Sande Sr. to a Correction Notice, including Condemnation, at 1561 SCHEFFER AVENUE.

Legislative Hearing Officer Marcia Moermond gave a staff report on the appeal of the condemnation. She said the condemnation was due to a basement room being used as a sleeping room with no egress, and a second basement room with a ceiling that was too low according to the code. She said the other issue was that the home was being occupied by six unrelated adults; code allowed four. She said the property owner had asked that she read the item into the record and read his written statement. She said he was in agreement with the recommendation, which was to deny the appeal, and grant an extension for compliance.

No one was present to testify. Councilmember Tolbert moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Tolbert moved to adopt Ms. Moermond's recommendation.

Adopted

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

Nay: 0

Absent: 1 - Councilmember Thao

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

No one was present to testify. Councilmember Prince 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 Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson and Councilmember Busuri

Nay: 0

Absent: 1 - Councilmember Thao

- 38 [RLH VBR 19-64](#) Appeal of Jay Mitchell, on behalf of Quality Residences, to a Vacant Building Registration Notice at 569-571 CHARLES AVENUE.

Adopted

- 39 [RLH TA 19-823](#) Amending Council File RLH AR 19-41 to delete the assessment for Collection of Delinquent Garbage Bills for services during October to December 2018 at 61 DELOS STREET WEST. (File No. CG1901A3, Assessment No. 190056)

 Adopted
- 40 [RLH TA 19-824](#) Amending Council File RLH AR 19-75 to delete the assessment for Collection of Delinquent Garbage Bills for services during January to March 2019 at 61 DELOS STREET WEST. (File No. CG1902A2, Assessment No. 190102)

 Adopted
- 41 [RLH TA 19-833](#) Amending Council File RLH AR 19-84 to delete the assessment for Collection of Delinquent Garbage Bills for services during January to March 2019 at 1656 FIFTH STREET EAST. (File No. CG1902C1, Assessment No. 190109)

 Adopted
- 42 [RLH RR 19-5](#) Ordering the rehabilitation or razing and removal of the structures at 718 ORANGE AVENUE EAST within fifteen (15) days after the March 13, 2019 City Council public hearing. (Amend to 180 days) (Public hearing continued from October 23)

 Adopted as amended (180 days to remove or repair)
- 43 [RLH RR 19-26](#) Ordering the rehabilitation or razing and removal of the structures at 578 LAFOND AVENUE within fifteen (15) days after the October 23, 2019 City Council public hearing. (Amend to grant 180 days)

 Referred to Legislative Hearings on November 12
- 44 [RLH VBR 19-67](#) Appeal of Miranda Donnelly, of Renters Warehouse on behalf of MNSF T2 SPE, LLC, to a Vacant Building Registration Notice at 1798 NEBRASKA AVENUE EAST.

 Adopted
- 45 [RLH SAO 19-52](#) Appeal of Cedric Benjamin to a Vehicle Abatement Order at 958 REANEY AVENUE.

 Adopted
- 47 [RLH VO 19-46](#) Appeal of James Sazevich to a Correction Notice at 454 SMITH AVENUE NORTH.

 Adopted

- 48 [RLH FCO](#) Appeal of Jim and Jane Ertl to a Fire Inspection Correction Notice at
 [19-103](#) 1370 SNELLING AVENUE NORTH.

Adopted

Council members shared information about news in their wards.

The Council recessed at 3:55 p.m.

PUBLIC HEARINGS (5:30 p.m.)

The Council reconvened for Public Hearings at 5:31 p.m.

Councilmembers Thao and Busuri excused

- Present** 5 - Councilmember Amy Brendmoen, Councilmember Chris Tolbert,
 Councilmember Rebecca Noecker, Councilmember Jane L. Prince and
 Councilmember Mitra Jalali Nelson
- Absent** 2 - Councilmember Dai Thao and Councilmember Kassim Busuri

- 49 [RES PH 19-337](#) Approving adverse action against the Auto Body Repair Shop and Auto Repair Garage License held by SKD Auto Tek LLC, d/b/a SKD Auto Tek (License ID # 20170002848) at 80 Cottage Avenue West. (Public hearing continued from October 16)

Therese Skarda, Assistant City Attorney representing the Department of Safety and Inspections (DSI), gave a staff report on the violation of four license conditions. She said DSI was recommending a first violation matrix penalty of \$500.

In opposition:

Licensee Soe Doh said there were a lot of vehicles there when he purchased the property he purchased the property 3 1/2 years ago, and he had been trying to clean up, and had disposed of more than 20-30 cars. He said he was present to contest the fine. He said he had cleaned up all of the used tires and it had cost him about \$3200. He said since the violation he had requested weekly garbage service rather than every other week. He displayed photos of the front and rear of the property, and said the back section was cleaned up and cars parked in a single line. He said he had requested a bin for metal recycling. He said the back section was Class V and he couldn't park there, and he was working toward paving the back and re-doing the site plan so he could utilize the property in the back. He said he served the Karen community and employed Karen refugees. He said he also had a vehicle transport company and would like to use the property as a terminal to store the vehicles.

Council President Brendmoen moved to close the public hearing. Yeas - 5 Nays - 0

Council President Brendmoen thanked Mr. Doh for his efforts to clean up the site. She said things had accumulated over time, and Mr. Doh had taken responsibility and done amazing work. She said her recommendation was that they stay the fine provided there were no same or similar violations for 12 months. She said she was Interested in continuing to talk with Mr. Doh about resources for the black-topping so he could utilize the full space.

Adopted as amended

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

50 [ABZA 19-6](#)

Public hearing to consider Daniel Carlson's appeal of a decision by the Board of Zoning Appeals approving variances of the lot coverage and height requirements allowing construction of a two-story detached garage in the rear yard of an existing single-family dwelling at 1780 Goodrich Avenue.

Matthew Graybar, Department of Safety and Inspections, gave a staff report on the application and appeal.

In response to a request from Councilmember Tolbert, Mr. Graybar reviewed the findings of zoning staff.

Appellant:

Appellants Dan Carlson and Barbara Pilling appeared. Mr. Carlson said their initial objections were never reported to the public hearing even though they were submitted in a timely way. They and many neighbors were not aware of the Mac-Groveland public hearing. He noted from the staff report that staff found three of the six findings were not met. He and his wife found there were more objections from neighbors than were indicated at the BZA and district council meetings. He provided a document with signatures from neighbors and he noted emails sent to staff. He said the garage was out of scale, and would be the first three-car garage in their alley and the first two-story garage in over 110 years. The garage was larger than a number of neighboring homes and was closer to four other homes than to property owner's home, and those home-owners objected to the size.

Council President Brendmoen said the Council needed to hear there was an error as opposed to how people felt. Mr. Carlson said the first error was that they weren't notified and their objections were never aired, and that they agreed with the staff report that was over-ruled by the BZA itself.

Ms. Pilling said they weren't trying to make enemies of the neighbors but felt that the variance was unwarranted and the size was out of scale and unnecessary.

Stewart Corn (1793 Princeton Avenue) seconded what Mr. Carlson said. The proposed garage was out of scale with the neighborhood and the initial objections weren't heard.

In opposition to the appeal:

Julie Bustos (1780 Goodrich Avenue) said her husband was the applicant for the variance. She said it was a multi-year process done with diligence and care. They did research on area garages; there weren't many large garages in their alleyway but were multiple instances of multi-car garages in the neighborhood. Their architect's rendering showed the garage did not appear egregious in size in their yard. Neighbors said they wouldn't object to a conforming structure, but the variance they were requesting was a minor variance. The material difference from a conforming garage was minimal in terms of neighborhood impact but significant in terms of their own use. She said they presented those arguments to BZA and their findings were that both the hardship and other findings were met. She said she didn't see or hear anything in the appeal that substantiated a reversal of the approval from the BZA.

Councilmember Tolbert asked why the garage couldn't be built within code. Ms. Bustos said the biggest reason was to afford the third stall to be separated, and provide enough head room on both floors to be reasonably usable space, primarily to allow them to do art projects together. She said they had two cars and wanted to be

able to see the garage stall to facilitate off-street parking.

Richard Gerzak (1790 Goodrich) said he supported the project, and didn't feel it altered the status of the neighborhood. The neighborhood had large lots, and he felt it would add to the value of the neighborhood. The Bustos went through the right process, knocked on everyone's doors and notified everyone, and a lot of neighbors were in support.

Andy Valentine (124 Wheeler Street S.) said the Tangletown neighborhood was unusual in character, and variation was a characteristic of St. Paul. He said he and his wife had plenty of time to respond but chose not to respond because they had no issue. He was looking forward to the Bustos having off-street parking, and getting vehicles off the street.

Ms. Bustos said she reached out to Mr. Graybar after the appeal was filed because there was the implication that there were additional objections, and he confirmed that there was one email and no attendees at the meeting.

Councilmember Tolbert moved to close the public hearing. Yeas - 5 Nays - 0

Councilmember Tolbert asked Mr. Graybar what the date was by which a determination had to be made. Mr. Graybar said the deadline was November 1, and they had sent the letter to extend out to December.

Councilmember Noecker said the one error she was seeing was the clerical errors; she asked Mr. Graybar what occurred. Mr. Graybar said he was out of the office, and the staff person to whom his email was being forwarded was not able to make it into the office to receive the email of opposition prior to the hearing.

Councilmember Noecker asked Deputy City Attorney Rachel Tierney what the line was in terms of error in procedure. Ms. Tierney said the basis for denial needed to be based the zoning code, and an error in procedure didn't in and of itself form a basis for denial. She noted the 1599 requirements and said there was not the option to send the matter back for further review as was sometimes the case in other matters.

Councilmember Tolbert said it made sense to lay this over to 3:30 next week. He clarified that the Council would make a decision but there wouldn't be more public testimony.

Public hearing held and closed; laid over to November 13 at 3:30 p.m.

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

51 [RES PH 19-354](#) Establishing the Water Charges for 2020. (Public hearing held November 6)

No one was present to testify. Councilmember Tolbert moved to close the public hearing and lay the matter over to December 11 for adoption.

Public hearing held and closed; laid over to December 11

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

- 52** [RES PH 19-359](#) Setting the 2020 Sanitary Sewer and Storm Sewer rates. (Public hearing held November 6)

No one was present to testify. Councilmember Tolbert moved to close the public hearing and lay the matter over to December 11 for adoption.

Public hearing held and closed; laid over to December 11

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

- 53** [RES PH 19-377](#) Setting the recycling service fee for 2020, and authorizing Public Works to request \$840,830 in SCORE grant funds from Ramsey County to support the curbside recycling program under contract with Eureka Recycling. (Public hearing held November 6)

No one was present to testify. Councilmember Prince moved to close the public hearing and lay the matter over to December 11 for adoption.

Public hearing held and closed; laid over to December 11

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

- 54** [RES PH 19-378](#) Setting the Solid Waste Service Fee portion of the Recycling and Solid Waste Service Fee for 2020. (Public hearing held November 6)

No one was present to testify. Councilmember Noecker moved to close the public hearing and lay the matter over to December 11 for adoption.

Public hearing held and closed; laid over to December 11

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

55 [Ord 19-67](#)

Amending section 220.05 of the Legislative Code to set rates for base level garbage service to be effective January 1, 2020.

Deputy Mayor Jaime Tincher gave a staff report on the correspondence and negotiations leading to the proposed base rates.

Chris Swanson, Public Works, reviewed the proposed rates and calculations used to arrive at them, based on the formula in the contract and data provided by the haulers.

Councilmember Noecker confirmed that the proposed rates were approximately \$1 less per month than the current rates.

In response to questions from Councilmember Prince, Mr. Swanson clarified that the haulers had initially asked for a \$2.5 million increase in 2020 but had reduced that to a request to leave rates flat for the first six months in 2020. The City had proposed an approximately \$1 million decrease. Mr. Swanson reviewed the rates and fees that went into the calculation of the proposed fees. Councilmember Prince said based on that, there should be little room for disagreement. The tonnage came from the haulers, and the figures were set in law.

Council President Brendmoen said the rates described by Mr. Swanson were reflected in Version 2 of the ordinance; she moved the amended version. Yeas - 5 Nays - 0

In opposition:

Dan Schleck, attorney representing St. Paul Haulers LLC consortium, said he felt the characterization of the communications so far were not true and inappropriate, and not defensible legally. He said City staff had attempted to intimidate the haulers and say it was the City's way or the highway, which was problematic in terms of the contract requirement that the City work with the haulers in good faith. He said it was beneficial to the residents that the referendum had passed, and they would continue with the contract currently in place. The City had expressed interest in keeping small haulers involved, and three haulers had dropped out of the consortium because of the unreasonable administrative and bureaucratic burden placed on the small haulers. The small haulers would be most affected by the rates. New reporting requirements and changes to documents and bills cost small and large haulers lots of money in IT and administrative costs.

Councilmember Prince asked whether those changes had been handled through amendments to the contract. Mr. Schleck said they had not. Ms. Prince asked Mr. Schleck to be specific about changes not reflected in the contract. Mr. Schleck said the City had requested changes to the format of notices of late payment in each of the three quarters notices had been sent. There were other changes with respect to the imposition of late fees, which was addressed by way of an amendment, but not the cost of changing all the systems. These were the things that had been driving the small haulers out.

Mr. Schleck reiterated that they didn't feel City staff had negotiated in good faith, but had told the consortium what the rates would be. He said there had been no changes to the rates since the beginning of the negotiations other than correction of errors by the City, and the haulers' withdrawal of their request for a \$2.5 million increase, which he noted was less than 10% of the value of the contract. The consortium's current proposal was to keep rates the same for 2020 as for 2019.

Councilmember Noecker asked how the consortium could justify a \$2.5 million

increase given that the contract was specific about the reason rates could go up, and then also justify no increase. Mr. Schleck said displayed a letter from Ramsey County showing a \$13 per ton increase in disposal rates for 2020. He said they were required by the City to use the Ramsey County recycling center.

Councilmember Prince said that was negotiated as part of the contract; she asked why Mr. Schleck was bringing it up now as new information that should impact the bottom line.

Mr. Schleck said it was important in terms of their argument and justification for the rate increase they originally asked for. He noted this was a 20% increase in disposal cost, and their request had been for a 10% increase in rates. Councilmember Prince said the increase in the Ramsey County fee was factored into the City's proposed rates. Mr. Schleck said he disagreed. He said the Ramsey County rate increase was 20%, and the haulers were now proposing no increase, which was almost a \$5 million benefit to the City.

Council President Brendmoen said the haulers were tipping significantly less than originally estimated, and that was part of the formula the City was using.

Mr. Schleck said, with regards to Councilmember Prince's and Mr. Swanson's statements about a formula in the contract, the City didn't abide by the formula in the past and had amended the contract by its performance. He said the rates currently being charged didn't match the disposal pricing in the contract, and said he challenged anyone with the City to tell him how that rate was calculated based on the terms of the contract.

Councilmember Noecker asked whether Mr. Schleck was saying the consortium had had a problem with the rates all along, but it was just being registered now. there is no formula. Mr. Schleck said Councilmember Noecker had misunderstood, and what he was saying was that there was no longer a formula in the contract for adjusting rates because the parties had amended the contract by their performance.

Councilmember Tolbert said this was the first year of the contract; he asked whether the formula been applied before. Mr. Schleck said not when the rates were changed before. Councilmember Tolbert asked when the rates were changed. Mr. Schleck said they were changed before the first bills went out in October of 2018, and the process undertaken by the City wasn't consistent with the contract. He asked why the process had to be followed now when it didn't before.

Council President Brendmoen said now they were setting rates in an ordinance as opposed to in a contract so this made sense to her.

Councilmember Jalali Nelson said she was looking for argument from the tonnage collected, which was the changeable factor. She said all she was hearing was re-litigation of things; she asked Mr. Schleck for the basis of their argument. Mr. Schleck said they agreed on three of the four things the City was using to calculate rates, and the one they disagreed on was disposal and disposal pricing. He said Ramsey County was raising disposal prices by 20% and for some reason the City thought disposal pricing should go down.

Mr. Schleck said it was problematic that City staff was representing to Council that they were following a formula, when they clearly weren't. He noted that the rates being proposed for different cart sizes and levels of service were not mathematically

proportional, and the people with every-other-week service were subsidizing the rest of the city. He said a random adjustment was being made that was inconsistent with any mathematical formula

Councilmember Prince said this went back to the original negotiation. She said she agreed, and had voted against the contract because there was only a \$3.00 difference between every other week and every week, but that was something the consortium agreed to, and was not new information.

Mr. Schleck said he felt Ms. Prince was missing the point. Councilmember Brendmoen said that was the second time Mr. Schleck had said to a woman at the Council table that she didn't understand what he was talking about; she said she was running out of patience. Mr. Schleck said this was not directed at any particular gender. He said his point was that if rates were being calculated based on a formula, they should be proportional.

Council President Brendmoen said she didn't understand this approach and agreed with Councilmember Prince that they weren't renegotiating the contract. She asked Mr. Schleck to answer Councilmember Jalali Nelson's question about what piece the consortium didn't agree with.

Greg Revering, consortium manager, said they didn't have total tonnage for 12 months until September 30, and all they were asking was to negotiate and not have the City arbitrarily set and publish the rates. He said they understood there would be a decrease in rates, and he had challenged that in emails sent to the Council. He said all they were looking for was to negotiate.

Council President Brendmoen said she appreciated the comments, but it was November 6 and they were running out of time.

Councilmember Tolbert asked isn't that how the contract laid out how to do this. Mr. Revering said they wanted rates in place by September 1 but they didn't have 12 months of data. Councilmember Tolbert asked what the consortium wanted to negotiate. Mr. Revering said the formula City staff was using was inaccurate because the rates were not proportional to the cart size and service level. Councilmember Tolbert asked if the consortium was open to negotiating other things. Mr. Revering said if the parties negotiated the pricing, the other issues would work themselves out.

Councilmember Prince asked whether Mr. Revering was suggesting that the lowest price cart might be negotiated. Mr. Revering said it was a formula and not a methodology, and it said "shall be negotiated." Councilmember Prince said the original rates were set based on a negotiation and not on tonnage, but what she was understanding Mr. Schleck to be saying was that of it was going to be based on tonnage they might be able to get to a point where the lowest priced service was half the price of every week service. Mr. Revering said the disposal portion only.

Council President Brendmoen said the public hearing would be closed that day and the Council would vote next week so there was some time, but they did need to vote next week for the rates to be effective January 1. Mr. Revering said they believed there was an error. Council President Brendmoen noted that this was the third reading of the ordinance.

Councilmember Jalali Nelson said City staff was working with the contractual formula and not just telling the consortium what the rates were.

Councilmember Tolbert said it was clear the consortium didn't like this provision of the contract and would like to renegotiate it. Mr. Schleck said their disagreement was on what the contract said, and there was not a meeting of the minds on how disposal pricing was set in the future. The consortium wanted to follow the contract and would continue to follow the contract, and didn't believe there was a default adjustment provision in the contract.

Councilmember Tolbert asked Mr. Revering what he wanted to negotiate. Mr. Revering said they wanted to negotiate the rates, as set in 3.51 of the contract. Councilmember Tolbert asked whether the consortium was open to negotiating cart sharing. Mr. Revering said if they looked at the rates and did the rate adjustments per the contract, they could negotiate a pricing that made sense.

Councilmember Tolbert said the City was trying to set the pricing per the contract, and the consortium wanted to negotiate because they didn't like what the contract said. The City didn't like the outcome of cart sharing, of duplexes, triplexes and quads, and of some of the pricing; he asked if the consortium was open to negotiating those things. Mr. Revering said if they could talk through and negotiate the pricing, they could handle that portion as well without amending the contract.

Mr. Revering said they wanted to negotiate and could handle the discussion around sharing within the rate negotiations. Consortium members had talked it through and had an understanding of what they thought would work for the City as well. They needed to be able to sit down with the City and have that structured conversation.

Mr. Schleck said the consortium wanted to follow the contract, and the parties disagreed on what the contract said. The contract required them to negotiate the disposal portion of the price but did not say they would negotiate the entire contract. The consortium intended to follow all portions of the contract going forward even if this issue was not resolved. He said he apologized if he offended anyone.

Councilmember Noecker moved to close the public hearing. Mr. Schleck said if the public hearing was being closed, it was closed too early per statute.

Council President Brendmoen the public hearing would remain open.

Susan Stewart, Highland Sanitation, said as a small hauler, their struggle with how the City was determining the rates was that some individual routes were not making money or were even going backwards. She said their ability to adjust routes was limited because the routes were set to follow the recycling days. In response to a request for clarification from Councilmember Prince, she said the difficulty that Highland Sanitation was having was that the City was reducing all cart sizes by the same amount, which was where the unfairness came in. Highland Sanitation was looking at it from a tonnage standpoint of what it was going to cost them internally versus how the City was changing the pricing.

Councilmember Prince said her feeling was that was one of the problems customers were having, that the small bins were subsidizing the 96-gallon business. Ms. Stewart said the City was reducing all service levels by approximately \$.94 per month, but the 96-gallon was going to weigh a lot more than the 35-gallon every other week. Councilmember Prince said there might be an opportunity to negotiate something meaningful. Ms. Stewart said some people were stuffing 90 gallons of garbage into a 35-gallon cart, so it was a slippery slope and they were trying to come up with an idea

of what was fair to both.

Council President Brendmoen said her understanding was that they had been trying to set the rates according to the contract since July, and now it was November. She said they had one week to set the rates, and the proposal put forth by the City seemed to match the spirit of the contract.

Councilmember Noecker said it seemed what they'd been wrestling with was that they either agreed on the terms of the contract and didn't like the outcome that ha resulted from those terms, or they fundamentally disagreed with the terms of the contract, in which both sides should be open to renegotiating things that both sides had issues with.

Amended; public hearing continued to November 13 at 3:30 p.m.

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

56 [Ord 19-63](#)

Granting the application of Joseph and Nancy Schumacher to rezone property at 330 Prior Avenue North from OS Office Service to RT1 Residential, and amending Chapter 60 of the Legislative Code pertaining to the zoning map.

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

Public hearing held and closed; laid over to November 13 for final adoption

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

57 [Ord 19-68](#)

Amending Chapter 88 of the Legislative Code pertaining to water code meters by removing Section 88.10(g) in its entirety.

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

Public hearing held and closed; laid over to November 13 for final adoption

Yea: 5 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince and Councilmember Jalali Nelson

Nay: 0

Absent: 2 - Councilmember Thao and Councilmember Busuri

- 58** [RES PH 19-352](#) Ratifying the assessment for the 2019 Street Maintenance Service Program for sweeping and lighting. (File No. 2019SMSP, Assessment No. 190025)

Bruce Engelbrekt, Public Works, gave a brief staff report.

Jack Hoeschler (1630 Edgcumbe Road) expressed concerns about the wording of the notice and the legality of the way in which the charges were assessed to property owners.

John and Mary Purdy (10 Delos Street) spoke about the situation with their irregular lot. Mr. Purdy said a judge had ruled in their favor, giving them a 50-foot assessment for last year; they urged the Council to apply the decision to the current bill.

Councilmember Noecker moved to close the public hearing. Yeas - 5 Nays - 0

Councilmember Noecker said she appreciated the Purdys coming down and their persistence. She said the court didn't rule on the merits of the case, but the City did agree to the requested assessment. She said the case raised some questions about the City's policy with respect to irregularly-shaped lots, and she would be asking for real estate to present the policy to us so they could hear and discuss it. She said at this point she agreed with the Purdys and would move to amend their assessment to \$53 as requested. Vote on the amendment to the roll. Yeas - 5 Nays - 0

Councilmember Prince said she would be voting against the resolution because she had concerns about the law and the policy.

Councilmember Tolbert moved to approve the resolution with the amendment to the Purdy assessment.

Adopted as amended

Yea: 4 - Councilmember Brendmoen, Councilmember Tolbert, Councilmember Noecker and Councilmember Jalali Nelson

Nay: 1 - Councilmember Prince

Absent: 2 - Councilmember Thao and Councilmember Busuri

ADJOURNMENT

Council President Brendmoen adjourned the meeting.

Meeting adjourned at 7:21 p.m.

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