



Legislation Details (With Text)

File #: RES PH 16- 391 **Version:** 2

Type: Resolution-Public Hearing **Status:** Passed
In control: City Council
Final action: 11/2/2016

Title: Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for multiple properties appealed by John G. Hoeschler. (File No. 16ROW FINAL2, Assessment No. 16032B)

Sponsors: Dai Thao, Rebecca Noecker, Russ Stark, Amy Brendmoen, Dan Bostrom, Jane L. Prince

Indexes: Right of Way Maintenance Assessment, Ward - 1, Ward - 2, Ward - 4, Ward - 5, Ward - 6, Ward - 7

Code sections:

Attachments: 1. Hoeschler - Email Memo to Mayor Clerk and Council Members, 2. Hoeschler - letter with properties, 3. Hoeschler Letter with expanded list, 4. John Hoeschler.Response for Above-Standard Lighting districts and rates (LMoser).10-18-16, 5. Hoeschler Summary of Objections 10-14-16, 6. 16ROW FINAL2 Assmt 16032B, 7. Classification of Streets, 8. CAO Memo to LHO re 2016 ROW hearings (CSisk, CAO), 9. Hoeschler -Moermond.Email.10-24-16, 10. John Hoeschler.Response for Street Maintenance Grade Differential regarding the ROW assessments (LMoser).10-19-16, 11. RES 11-1098, 12. Appeal Settlement Agreement & Release and Dismissal_5-2-2016, 13. Skally email, 14. RE Proposed Assessment Adjustments 11-2-16

Date	Ver.	Action By	Action	Result
11/3/2016	2	Mayor's Office	Signed	
11/2/2016	2	City Council	Adopted As Amended	Pass
10/14/2016	1	Right of Way Hearing	Referred	

Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for multiple properties appealed by John G. Hoeschler. (File No. 16ROW FINAL2, Assessment No. 16032B)

Date of Hearing: 10/14/16
Time of Hearing: 3:00 PM
Date of Council Public Hearing PH: 10/5/16 & 11/2/16

Appellant/Owner/PIN/PINS:

Hoeschler obo Krinkie Company	1400 CONCORDIA AVENUE	34-29-23-34-0004 (W1)
Hoeschler obo J. James Walsh	626 ARMSTRONG AVENUE	11-28-23-41-0135 (W2)
Hoeschler obo J. James Walsh	646 ARMSTRONG AVENUE	11-28-23-41-0122 (W2)
Hoeschler obo J. James Walsh	560 RANDOLPH AVENUE	12-28-23-32-0007 (W2)
Hoeschler obo J. James Walsh	565 RANDOLPH AVENUE	12-28-23-23-0116 (W2)
Hoeschler obo 475 Cleveland Assoc., LLC	475 CLEVELAND AVENUE N	32-29-23-41-0125 (W4)
Hoeschler obo Dart Transit	540 CLEVELAND AVENUE N	33-29-23-23-0008 (W4)
Hoeschler obo Dart Transit	770 PRIOR AVENUE N	28-29-23-34-0216 (W4)
Hoeschler obo Midway Fuel	543 CLEVELAND AVENUE N	32-29-23-14-0015 (W4)
Hoeschler obo Eaton Street LLC	260 EATON STREET	08-28-22-12-0104 (W2)
Hoeschler obo Eaton Street LLC	0 CHESTER STREET	05-28-22-43-0004 (W2)

Hoeschler obo Eaton Street LLC	0 LAFAYETTE ROAD	08-28-22-12-0113 (W2)
Hoeschler obo 2085 Capp Road, LLC	2185 CAPP ROAD	29-29-23-41-0001 (W4)
Hoeschler obo 2085 Capp Road, LLC	2185 CAPP ROAD	29-29-23-14-0015 (W4)
Hoeschler obo 1047 Raymond, LLC	1043 RAYMOND AVENUE	29-29-23-12-0055 (W4)
Hoeschler obo 802 Prior, LLC	802 PRIOR AVENUE NORTH	28-29-23-34-0084 (W4)
Hoeschler obo Church of St. Pascal Baylon	1757 CONWAY STREET	34-29-22-14-0046 (W7)
Hoeschler obo Church of St. Pascal Baylon	510 WHITE BEAR AVENUE N	35-29-22-23-0088 (W7)
Hoeschler obo Church of St. Pascal Baylon	470 WHITE BEAR AVENUE N	35-29-22-32-0072 (W7)
Hoeschler obo Bolander Real Estate, LLC	0 EUSTIS STREET	29-29-23-22-0008 (W4)
Hoeschler obo Bolander Real Estate, LLC	0 WESTGATE DRIVE	29-29-23-22-0014 (W4)
Hoeschler obo Bolander Real Estate, LLC	251 STARKEY STREET	05-28-22-33-0046 (W2)
Hoeschler obo Bolander Real Estate, LLC	236 STARKEY STREET	05-28-22-33-0062 (W2)
Hoeschler obo Thaemert (White Castle)	1601 WHITE BEAR AVENUE	22-29-22-11-0155 (W6)
	N	
Hoeschler obo Craig Thaemert	1567 WHITE BEAR AVENUE	22-29-22-11-0156 (W6)
	N	
Hoeschler obo Thaemert (Dairy Queen)	1537 WHITE BEAR AVENUE	22-29-22-14-0020 (W6)
	N	
Hoeschler obo Alice Thaemert Trustee	1529 WHITE BEAR AVENUE	22-29-22-14-0021 (W6)
	N	
Hoeschler obo Alice Thaemert Trustee	1766 MONTANA AVENUE E	22-29-22-14-0022 (W6)
Hoeschler obo Le Auto	468 UNIVERSITY AVENUE W	36-29-23-31-0033 (W1)
Hoeschler obo Dey Properties	525 SNELLING AVENUE N	33-29-23-14-0052 (W4)
Hoeschler obo Lethert Skwira Schultz & Co Building Partnership	170 7TH PL EAST	31-29-22-44-0059 (W2)
Hoeschler obo Kirtland Properties, LLC	570 HATCH AVENUE	25-29-23-23-0075 (W5)
Hoeschler obo Kirtland Properties, LLC	582 HATCH AVENUE	25-29-23-23-0076 (W5)
Hoeschler obo Sewell Prop., LLC (owner) (Ericson taxpayer)	2274 UNIVERSITY AVENUE	32-29-23-12-0030 (W4)
	W	
Hoeschler obo Sewell Prop., LLC (owner) (Ericson taxpayer)	2288 UNIVERSITY AVENUE	32-29-23-12-0035 (W4)
	W	
Hoeschler obo Sewell Prop., LLC (owner) (Ericson taxpayer)	2263 MYRTLE AVENUE	32-29-23-12-0036 (W4)
Hoeschler obo Sewell Prop., LLC (owner) (Ericson taxpayer)	2291 MYRTLE AVENUE	32-29-23-12-0041 (W4)
Hoeschler obo Minnesota Public Radio	480 CEDAR STREET	31-29-22-43-1506 (W2)
Hoeschler obo Minnesota Public Radio	0 7TH ST EAST	31-29-22-43-1548 (W2)
Hoeschler obo Minnesota Public Radio	606 FRONTENAC PLACE	32-29-23-23-0030 (W4)
Hoeschler obo Minnesota Public Radio	598 FRONTENAC PLACE	32-29-23-23-0031 (W4)
Hoeschler obo Minnesota Public Radio	594 FRONTENAC PLACE	32-29-23-23-0032 (W4)
Hoeschler obo Minnesota Public Radio	590 FRONTENAC PLACE	32-29-23-23-0033 (W4)
Hoeschler obo Minnesota Public Radio	586 FRONTENAC PLACE	32-29-23-23-0034 (W4)
Hoeschler obo Minnesota Public Radio	582 FRONTENAC PLACE	32-29-23-23-0035 (W4)
Hoeschler obo Minnesota Public Radio	578 FRONTENAC PLACE	32-29-23-23-0036 (W4)
Hoeschler obo Minnesota Public Radio	611 FRONTENAC PLACE	32-29-23-23-0045 (W4)
Hoeschler obo Minnesota Public Radio	10 EXCHANGE STREET	31-29-22-34-0264 (W2)
	EAST	
Hoeschler obo Minnesota Public Radio	0 7TH ST EAST	06-28-22-21-0073 (W2)

Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B1	31-29-22-34-0281 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B2	31-29-22-34-0282 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B3	31-29-22-34-0283 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B4	31-29-22-34-0284 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B5	31-29-22-34-0285 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B6	31-29-22-34-0286 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B7	31-29-22-34-0287 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N B8	31-29-22-34-0288 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1A	31-29-22-34-0289 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1B	31-29-22-34-0290 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1C	31-29-22-34-0291 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1D	31-29-22-34-0292 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1E	31-29-22-34-0293 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1F	31-29-22-34-0294 (W2)
Hoeschler obo Minnesota Public Radio	488 WABASHA STREET N 1G	31-29-22-34-0295 (W2)
Hoeschler obo Minnesota Public Radio	45 7TH ST EAST	31-29-22-43-0505 (W2)
Hoeschler obo Minnesota Public Radio	53 9TH ST EAST	31-29-22-43-0557 (W2)
Hoeschler obo Church of St. Mary	261 8TH ST EAST	31-29-22-41-0216 (W2)
Hoeschler obo Church of St. Mary	466 WACOUTA STREET	31-29-22-44-0003 (W2)
Hoeschler obo First Baptist Church	0 WACOUTA STREET	31-29-22-41-0024 (W2)
Hoeschler obo First Baptist Church	499 WACOUTA STREET	31-29-22-41-0182 (W2)
Hoeschler obo First Baptist Church	499 WACOUTA STREET	31-29-22-41-0179 (W2)
Hoeschler obo Short and Miller St Paul, LLC	278 7TH STREET EAST	31-29-22-44-0038 (W2)
Hoeschler obo Lexington Convenience Properties	390 LEXINGTON PARKWAY N	35-29-23-32-0149 (W1)
Hoeschler obo Lexington Convenience Properties	374 LEXINGTON PARKWAY N	35-29-23-32-0150 (W1)
Hoeschler obo Lexington Convenience Properties	374 LEXINGTON PARKWAY N	35-29-23-32-0151 (W1)
Hoeschler obo Town & Country	282 OTIS AVENUE	32-29-23-42-0001 (W4)
Hoeschler obo Town & Country	336 OTIS AVENUE	32-29-23-34-0017 (W4)

Hoeschler obo Town & Country	294 MISSISSIPPI BOULEVARD N	32-29-23-34-0018 (W4)
Hoeschler obo Town & Country	300 MISSISSIPPI BOULEVARD N	32-29-23-34-0013 (W4)
Hoeschler obo Town & Country	304 PELHAM BOULEVARD	32-29-23-31-0044 (W4)
Hoeschler obo Town & Country	2380 BEVERLY ROAD	32-29-23-31-0023 (W4)
Hoeschler obo Town & Country	2400 BEVERLY ROAD	32-29-23-31-0022 (W4)
Hoeschler obo Upper Corner Venture	266 7TH ST EAST	31-29-22-44-0040 (W2)
Hoeschler obo Center LLC	218 7TH ST EAST	31-29-22-44-0425 (W2)
Hoeschler obo Center LLC	229 6TH ST EAST	31-29-22-44-0898 (W2)

0 Westgate, PIN 29-29-23-22-0014 , has no ROW charges and is not considered in the appeal.
266 7th Street East is one of 3 addresses (262, 266 and 268) listed under the PIN 31-29-22-44-0040.
218 7th Street East is one of 3 addresses (216, 218 and 220) listed under the PIN 31-29-22-44-0425.
229 6th Street East is correctly listed as 235 6th Street East under the PIN 31-29-22-44-0898.

AMENDED 11/2/2016

WHEREAS, on October 5, 2016, the City Council adopted Council File RES PH 16-287 which ratified the assessments roll for 2016 services in the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program; and

WHEREAS, the Council received all written objections from property owners, either before the hearing or at the hearing, and directed the city clerk to make a record thereof and remove those properties from the assessment roll ("remaining properties") for separate consideration; and

WHEREAS, the Council directed that the remaining properties be laid over from the October 5, 2016 public hearing for separate hearings to consider individual objections, and to return to the Council on November 2, 2016; and

WHEREAS, the Council ratified the assessments roll for those parcels for which property owners did not object, and ratified the balance of the assessment roll; and

WHEREAS, Council File RES PH 16-287 also directed the Legislative Hearing Officer to receive written and oral submissions regarding the remaining properties from the affected property owners, city officials, and other witnesses regarding any non-constitutional objections to the proposed assessment; and

WHEREAS, the Legislative Hearing Officer has the authority to make factual determinations regarding the non-constitutional objections for each proposed assessment and consult with the City Attorney to determine whether an objection is a constitutional objection; and

WHEREAS, on October 14, 2016, the Legislative Hearing Officer conducted a hearing regarding the appeal for John G. Hoeschler, on behalf of multiple property owners, at 1400 CONCORDIA AVENUE, 626 ARMSTRONG AVENUE, 646 ARMSTRONG AVENUE, 560 RANDOLPH AVENUE, 565 RANDOLPH AVENUE, 475 CLEVELAND AVENUE NORTH, 540 CLEVELAND AVENUE NORTH, 770 PRIOR AVENUE NORTH, 543 CLEVELAND AVENUE NORTH, 260 EATON STREET, 0 CHESTER STREET, 0 LAFAYETTE ROAD, 2185 CAPP ROAD, 2185 CAPP ROAD, 1043 RAYMOND AVENUE, 802 PRIOR AVENUE NORTH, 1757 CONWAY STREET, 510 WHITE BEAR AVENUE NORTH, 470 WHITE BEAR AVENUE NORTH, 0 EUSTIS STREET, UNASSIGNED, 251 STARKEY STREET, 236 STARKEY STREET, 1601 WHITE BEAR AVENUE NORTH, 1567 WHITE BEAR AVENUE NORTH, 1537 WHITE BEAR AVENUE NORTH, 1529 WHITE BEAR AVENUE NORTH, 1766 MONTANA AVENUE EAST, 468 UNIVERSITY AVENUE WEST, 525 SNELLING AVENUE NORTH, 170 7TH PL EAST, 570 HATCH AVENUE, 582 HATCH AVENUE, 2274 UNIVERSITY AVENUE

WEST, 2288 UNIVERSITY AVENUE WEST, 2263 MYRTLE AVENUE, 2291 MYRTLE AVENUE, 480 CEDAR STREET, 0 7TH ST EAST, 606 FRONTENAC PLACE, 598 FRONTENAC PLACE, 594 FRONTENAC PLACE, 590 FRONTENAC PLACE, 586 FRONTENAC PLACE, 582 FRONTENAC PLACE, 578 FRONTENAC PLACE, 611 FRONTENAC PLACE, 10 EXCHANGE STREET EAST, 0 7TH ST EAST, 488 WABASHA STREET B1-B8, 488 WABASHA STREET NORTH 1A- 1G, 45 7TH ST EAST, 53 9TH ST EAST, 261 8TH ST EAST, 466 WACOUTA STREET, 0 WACOUTA STREET, 499 WACOUTA STREET, 499 WACOUTA STREET, 390 LEXINGTON PARKWAY NORTH, 374 LEXINGTON PARKWAY NORTH, 374 LEXINGTON PARKWAY NORTH, 336 OTIS AVENUE, 282 OTIS AVENUE, 294 MISSISSIPPI RIVER BLVD NORTH, 300 MISSISSIPPI RIVER BLVD NORTH, 304 PELHAM BLVD, 2380 BEVERLY ROAD, 2400 BEVERLY ROAD, 266 SEVENTH STREET EAST, 218 SEVENTH STREET EAST and 235 SIXTH STREET EAST and appellant's representative, Mr. Jack Hoeschler, was granted the opportunity to present oral or written testimony and evidence to support their objections to the proposed assessments; and

WHEREAS, oral testimony and documentation regarding the assessments were provided by City staff; and

WHEREAS, the Legislative Hearing Officer made the following determination(s) and recommendation:

- A previous appeal of 2015 RAYMOND AVENUE to Energy Park Drive Paving and Lighting Project for 1043 Raymond led to a settlement in which approximately one-fourth of the original assessment was assessed;
- Based on the Legislative Hearing Officer's review of the above appealed assessment, a commensurate reduction in the assessment for this property is recommended;
- A factual basis was established for modifying the 1043 Raymond Avenue assessment from a total of \$1,097.80 to \$283.74; and
- A factual basis was established for deleting the assessments for 294 AND 300 MISSISSIPPI RIVER BOULEVARD NORTH - due to the existing retaining wall and general configuration of the roadway, reasonable access does not exist to Mississippi River Boulevard North at this time; and
- A factual basis was not established for modification or deletion of the assessments for the following properties which were investigated to determine whether right of access or grade separation exists; these addresses being: 236 STARKEY STREET, 251 STARKEY STREET AND 468 UNIVERSITY AVENUE WEST; and
- the Real Estate Office recommends adjusting the assessment, based on an adjustment to frontage to eliminate the portion of 9th Street previously vacated, thus reducing the charge from a total of \$6,451.68 to a total of \$5,179.20;
- With respect to the balance of properties under appeal by Sandra Jacobs, no written, oral testimony or material evidence were provided regarding non-constitutional objections to support a reduction or deletion of the assessments;
- No factual basis was established for modifying the proposed assessments; and therefore the Legislative Hearing Officer is;
- Recommending ratification of assessments; Now, Therefore, Be It

RESOLVED, that pursuant to Minnesota Statute 429, the determination(s) and recommendation enumerated above are adopted by the Council and said assessments are hereby ratified as proposed and made a part of the assessment roll as ratified by Council File RES PH 16-287; and be it finally

RESOLVED, that the service charges shall be collected using the procedures set forth in Minn. Stat. Sections 429.061 and 429.071, and any appeals shall be made to the district court pursuant to Minn. Stat. Section 429.081.