



## Legislation Details (With Text)

**File #:** RES PH 16- 356      **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 properties appealed by K. Craig Wildfang, Robbins Kaplan LLP o/b/o Michael and Suzanne Schumann at 541 DAYTON and 1037 GRAND. (File No. 16ROW FINAL2, Assessment No. 16032B)

**Sponsors:** Dai Thao, Rebecca Noecker

**Indexes:** Right of Way Maintenance Assessment, Ward - 1, Ward - 2

**Code sections:**

**Attachments:** 1. Robins Kaplan LLP Letter, 2. Schumann 2016 Public Hearing Letter, 3. 541 Dayton Ave. Allocation of ROW Assessment Rates (JSpha).10-17-16, 4. 1037 Grand Ave. Allocation of ROW Assessment Rates (JSobania).10-17-16, 5. 541 Dayton; 1037 Grand\_Tree Trimming Response (RCoyle).10-20-2016, 6. 541 Dayton; 1037 Grand\_Email Wildfang.10-20-2016, 7. 16ROW FINAL2 Assmt 16032B\_541 DAYTON\_01-28-23-22-0013, 8. 16ROW FINAL2 Assmt 16032B\_1037 GRAND\_02-28-23-32-0006, 9. Memo to LHO re 2016 ROW hearings (CSisk, CAO), 10. Classification of Streets, 11. Above-Standard Lighting Districts and Rates 2016-17, 12. Skally email.pdf

Date	Ver.	Action By	Action	Result
11/3/2016	2	Mayor's Office	Signed	
11/2/2016	2	City Council	Adopted As Amended	Pass
10/17/2016	1	Right of Way Hearing	Referred	
10/10/2016	1	Right of Way Hearing	Laid Over	

Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for properties appealed by K. Craig Wildfang, Robbins Kaplan LLP o/b/o Michael and Suzanne Schumann at 541 DAYTON and 1037 GRAND. (File No. 16ROW FINAL2, Assessment No. 16032B)

**Date of Hearing:** ~~10/10/16~~ RESCHEDULED TO 10/17/2016  
**Time of Hearing:** 4:00 PM 2:00 PM

**Date of Council Public Hearing PH:** 10/5/16 & 11/2/16

**Appellant/Owner:** K. Craig Wildfang, Robbins Kaplan LLP; on behalf of Michael and Suzanne Schumann

**PIN/PINS:**  
541 DAYTON      01-28-23-22-0013  
1037 GRAND      02-28-23-32-0006

### AMENDED 11/2/16

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 17, 2016, the Legislative Hearing Officer conducted a hearing regarding the appeal for K. Craig Wildfang, Robbins Kaplan LLP; on behalf of Michael and Suzanne Schumann, for 541 DAYTON and 1037 GRAND and appellant Michael Schumann and his representative, Mr. K. Craig Wildfang, were 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:

- Appellant did not provide any written, oral testimony or material evidence 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 the 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 with the following amendment:

- As it could not be confirmed definitively at the Council's Public Hearing on November 2, 2016 if 541 Dayton Avenue is an arterial street and thus subject to those charges, the Council is reducing the street portion of the assessment from \$366.30 to \$342.00, plus the alley assessment of \$77.40, for a total of \$419.40 noting that a re-assessment of the deleted portion may be made should the findings support that action; 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.