



## Legislation Details (With Text)

**File #:** RES 10-1123 **Version:** 1

**Type:** Resolution **Status:** Passed  
**In control:** City Council  
**Final action:** 10/27/2010

**Title:** Approving assessment(s) removed for separate consideration from Council File 10-924, entitled Resolution approving assessment, pursuant to Chapter 14 of the Saint Paul City Charter, in the matter of the assessment of benefits, cost, and expenses for property clean-up on private property at 1136 Ross Avenue [Real Estate Project J1009A2].

**Sponsors:** Dan Bostrom

**Indexes:** Special Tax Assessments, Ward - 6

**Code sections:**

**Attachments:** 1. 1136 Ross.GreenSheet & Old Resolution.10-20-10 .pdf, 2. 1136 Ross.Supplemental Info from Appellant.10-20-10 .pdf

Date	Ver.	Action By	Action	Result
11/15/2010	1	Mayor's Office	Signed	
10/27/2010	1	City Council	Adopted	Pass

Approving assessment(s) removed for separate consideration from Council File 10-924, entitled Resolution approving assessment, pursuant to Chapter 14 of the Saint Paul City Charter, in the matter of the assessment of benefits, cost, and expenses for property clean-up on private property at 1136 Ross Avenue [Real Estate Project J1009A2].

WHEREAS, the Office of Financial Services Real Estate Section has attached to this Council File both a report of completion outlining the costs and fees associated with (type of tax roll) [RE Project #] and the tax roll including all properties for which these assessments are proposed for Council ratification; and

WHEREAS, the City Council's Legislative Hearing Officer has reviewed the tax roll, considered appeals of affected property owners and developed recommendations for the City Council with respect to those assessments; and

WHEREAS, a public hearing having been had upon the assessment for the above improvement, and said assessment having been further considered by the Council and having been considered financially satisfactory; now, therefore, be it

RESOLVED, that the said special assessment tax roll be and the same is hereby in all respects ratified; and  
and be it further

RESOLVED, that the said special assessments be payable in one equal installment.

### August 17, 2010 Legislative Hearing

### 1136 Ross Avenue (J1009A)

Mr. Essling stated that according to STAMP this property was demolished by the City in March, 2010. This

vacant lot has become a dump site; there have been three (3) work orders done by Parks to remove garbage/rubbish and to mow tall grass and weeds.

Ms. Moermond rescheduled all the 2010 assessments for the August 31, 2010 Legislative Hearing session, at 9:00 a.m. There was a subsequent request to reschedule from the attorney for the appellant, the hearing was moved to September 21, 2010 at 10:00 a.m.

### **September 21, 2010 Legislative Hearing**

#### **1136 Ross Avenue** (J1009A)

The following appeared: Hertz, attorney for the owner; Frank Bly (phonetic), agent for the owner. Neither is aware of other assessments besides the demo.

Moermond stated there was a property cleanup on May 6. There was a request to lay it over to September 1. The demo occurred in April 2010. There was a boarding and securing levied on May 6. There was an excessive consumption from 2008. There was another cleanup between June 9 to 29 for \$300. There was another cleanup the latter half of July for \$428. There was one recently that would have happened first half of this month. That one is still coming forward. Bly responded that is inaccurate.

Hertz stated they came here with the understanding of dealing with the demo. Moermond responded that she has a note that he wanted to deal with all of the assessments. It was set up for a tax hearing a few weeks ago. He could not make that time and it was laid over to September 21. It is the City's error that they did not have it on the actual agenda, but they are ready to go on this. Bly stated that was his understanding, too.

Hertz stated most of the issues are ancillary to the main demo. The other ones are nominal, although he is not sure about the amount of the board-up.

Yannarely stated that upon inspection by Steve Magner and Friel [Thomas]. They found a contractor and his crew along with Xcel crew. The first portion of the house was torn down and being discarded into dumpsters. A person told Steve that someone was coming with a permit. Gas and electric were still hooked up. Xcel then disconnected gas and electric. The permit presented was for a remodel. (Yannarely then gave Hertz a copy of the photos.)

Moermond looked at photos and said this does not look like any remodel that she has seen. Hertz responded there are two sides of the story.

Yannarely continued Magner's notice: Notice to proceed for emergency demo was mailed on March 25. Prior on March 15, Magner met with staff and the property owner. Ramsey County explained that the property was not properly inspected for demo and the owner needed to fill out the demo checkup. Property owner that he would not and no one would tell him what to do. Magner told him to remove the dwelling or the City would do it at his cost. DSI says the site is a nuisance because it is partially moved. Ramsey County has declared the site to be contaminated with asbestos. Later that day, a notice to proceed was issued (as noted earlier).

Moermond read some of the invoice amounts, including Semple Excavating and Trucking.

(Yanarely gave Moermond some documents.)

Yannarely said there are more assessments, too.

Hertz stated he does not have several documents, including the Semple invoice. Also, he does not have

another e-mail from Ramsey County. Prior to this hearing, they are entitled to an opportunity to meet and discuss the matter. Moermond responded that this is the informal meeting before the meeting the City Council has.

Yannarely says he has the asbestos report.

Hertz listed the items that he has not received. Yannarely responded that he did not know this was going to be at the Legislative Hearing today. There is a document from Michael Reed.

Hertz stated that procedurally those are his concerns. If this is the hearing, that is okay. The March 10 claim that there is a legal demo is incorrect. On March 10, there was a submittal of an architectural plan to do a rebuild on this property. The plans were submitted, approved, stamped, and redlined by the City. The plans indicated there would be a removal of the house down to the floor joists. The City represented that a demo permit was not required. The majority of the property would come down. It is not a mystery. His client then proceeded to start the demo. On March 12, there was a letter issued from Steve Ubl (DSI) for a stop work order. The letter says this was known to the City and issued in error. The remodel permit was for removal of the dwelling. He acknowledged and admitted he knew the floor joists were coming down. That it was an illegal demo was erroneous. The permit included building a new structure. That is clearly not the case. The pictures indicate the demo had just begun. There is nothing to suggest the client did anything different than what was done by the City. They said he needed to apply for a demo permit, and his client applied for it on March 11. He was stalled at the water department because they needed additional information from him. They then suggested that there may be hazardous waste on the property. His client had an asbestos report done. That report came back that there was negligible asbestos on the property.

Moermond asked was it provided to City staff when it was written and to whom. Bly responded it was e-mailed directly to Steve Ubl, Steve Wagner, and Michael (Bly couldn't think of the last name). His client attempted to alleviate any concerns for the City. Ramsey County sent a letter on March 19 saying to desist until they were comfortable that the asbestos was going to be done. There was a meeting in which this was referenced. If there had the cooperation with Wagner and other staff, the demo permit would have been issued.

Moermond asked did he request this before and been denied. Hertz said that he requested a copy of the file yesterday and got it this morning. Moermond responded it was timely.

Hertz presumed that all the documents would be in the file. He asked for these things and is getting them now.

Hertz said that on March 25, a letter was sent indicating the demo permit had been issued. It was applied for on March 25 and granted the same day. Semple got it. He is not sure how Semple did not have to go through the same things as his client. On March 25, there was an emergency nuisance abatement order mailed-or somehow delivery-and they were given two days to correct the violation. The same day on March 25 was a letter sent to Semple Excavating to proceed with the demolition. It is clear that they were not interested in his client doing the demo. Under Minnesota State Statute, there is a clear process that the City goes through and it did not follow that. That cannot be usurped by the City of Saint Paul. This would be allowing for an answer of 20 days for his client. They did not follow the state statute nor city ordinance. There is a whole process under the City ordinance. If the period of time is 3 days or less, then U.S. mail is not appropriate. Then it goes through an abatement procedure and a hearing. It appeared they revoked the emergency abatement procedure, even though for 12 days, they did not consider it to be an emergency. They would ask for one thing and his client would comply with it. He would comply with everything they ask to attempt to get the demo permit. They required him to mark the house as being hazardous waste so that when the demo occurred, they would have to treat the entire house as hazardous waste.

Moermond stated that with fires, it is a common thing with the waste getting mixed: there are hazardous and nonhazardous materials together and they cannot sort it out. It seems like they were following that procedure.

She is wondering how much time the appellants would like for comments today. She would also like to hear from him in writing because he just received these documents. Hertz responded that he only has a couple more comments. He would need three to four weeks. The asbestos report indicated that he had done the entire house except for the Second Floor. He didn't go to the second floor because a stairwell had been removed. DSI said if they want to eliminate that issue, they could get up there. It was safe up there. Then there was a battle of wills between his client's representative and Magner about whether the building was safe. Bly was there, but he is the contractor and not the owner.

Moermond asked who he is representing. Hertz responded he is representing the owner and the contractor. The City could have marked the second floor and the items identified instead of the entire house. Magner refused to do that. Magner acted in a manner that made it difficult for the parties to communicate; therefore, the discussion was not fruitful. The parties are trying to see who is going to be right. Magner did not allow his client to proceed as he was permitted to do. He went immediately through this process.

Moermond asked about Draco Properties LLC. Hertz responded that is the owner. They are very experienced property managers and builders.

Moermond asked who signs off on things for Draco Properties, who is the agent. After consulting with Bly, Hertz responded he needs to talk to the owners and members before he answers that question. It is an LLC and there are members involved. He will provide that information.

Moermond stated she will get a hold of the plan that Hertz is referencing and look over the pertinent information to see if that gives her more insight into what is going on.

Bly stated the City indicated there was no need for a demolition permit because they were not taking the basement out. They proceeded to the letter the way the City wanted them to do this situation. The City said there was a miscommunication between Magner and DSI.

Moermond laid this over to October 15 for additional materials October 20 City Council Public Hearing.

### **..Staff Recommendation**

Additional materials were not forthcoming by October 15, 2010. Therefore, Moermond recommends approval of the assessment.

Marcia Moermond  
Joel Essling  
Joe Yannarely