

**City of West St, Paul  
City Council Meeting Minutes  
June 13, 2016**

**1. Call to Order**

Mayor Meisinger called the meeting to order at 6:30 p.m.

**2. Roll Call**

Present: Mayor David Meisinger and Councilmembers Pat Armon, Ed Iago, Jay Bellows, DaveNapier, Dick Vitelli and Jenny Halverson.

Others: City Manager Matt Fulton, Assistant City Manager and HR Director Sherrie Le, Community Development Director Jim Hartshorn, Police Chief Manila Shaver, Fire Chief Mike Pott, Finance Director Joan Carlson, Public Works and Park Director Ross Beckwith, Civil Engineer Darin Rezac, City Attorney Korine Land, and Recording Secretary Jennifer Dull.

**3. Pledge of Allegiance**

**4. Adopt the Agenda**

ON MOTION of Clpn. Bellows, seconded by Clpn. Iago, to adopt the agenda with the following changes:

- Remove item 10.A.
- Add item 13.B. Town Center II Update/Discussion

All members present voted aye. Motion carried.

**5. OCWS Briefing**

Mayor Meisinger provided an update of the topics discussed at the open council work session preceding the regular meeting which included:

- Closed meeting to discuss Robert Street property easement acquisitions
- Recycling Program / Recycling Coordinator JPA
- Recycling Program / Organics Pilot Program Review
- Art Park Update

**6. Robert Street Review**

Director Beckwith provided an update regarding water main and median work and north end pedestrian walkways to be reinstated on the east side of Robert St.

Mayor Meisinger asked about contractor planting and maintenance responsibilities and when the City would take over. Direct Beckwith responded that a large matrix has been established to identify plants, locations, and dates in the ground and roots to be established before City takes over.

Clpn. Vitelli noted there were no cap blocks on the west side of Robert and requested staff look into it.

Clpn. Bellows asked about median work stone on planting beds and their anticipated completion date. Director Beckwith did not have a completion date available.

## **7. Citizen Comments**

George Hammernick, 1323 Manomen

Mr. Hammernick was concerned with the inflow and infiltration issues. He stated he received information that he needs a liner estimated at \$12,000 but that it was a minimal amount of water intrusion and the estimate seemed unreasonable for the small amount of water from his property.

## **8. Council Comments**

Clpn. Halverson noted there have been some issues at Harmon Park with trash pick-up and requested some sort of mitigation such as extra pick up or a phone number posted to call for service. Director Beckwith advised that was a staff discussion earlier and they were looking at options including: implementing temporary staff to split time of four hours on Saturday and four hours on Sunday, dedicating a staff person to Harmon Park with a rotation and other options. He stated the phone number suggestion may not work due to different phone numbers for on-call rotation employees.

Clpn. Armon thanked individuals who volunteered to pick up the park on their own. He also noted that West St. Paul has not received any monetary contribution for Robert St. from the legislature and encouraged residents to shop Robert St. businesses.

Mayor Meisinger advised he would be at a conference committee session at the legislature on June 14, 2016 along with other council members to request funds for Robert St. He also noted that June 18, 2016 is Police Day at Marthaler which is hosted by 6<sup>th</sup> and 8<sup>th</sup> grade girls who are holding a scavenger hunt, live music, dunk tank, raffle, and food for sale. Proceeds are to be used for the K-9 fund.

Clpn. Iago stated Benjamin Franklin Plumbing has been sending out letters with false information. They have been turned over to the MN Department of Labor and Industry which is conducting an on-going investigation. He urged residents to confirm information and check licenses, and to call the City if there was any confusion regarding the I/I requirements. Congratulations to local graduates as well as his granddaughter.

Clpn. Napier sent thoughts and prayers to those in Orlando stating it was a time to reflect on the Police Department for keeping the community safe.

Clpn. Vitelli noted the Sibley baseball team has made it to the state tournament and congratulations to local graduates.

## **9. Proclamations, Presentations and Recognitions**

A. Thomas Schaffer Day

Mayor Meisinger read a Proclamation honoring Thomas Schaeffer. The Council gave a round of applause. Mr. Schaffer thanked the community for the honor and thanked the Council for their work.

## B. Presentation by TNT (Teens Networking Together) Update

Lewis Dixon provided an overview of the current activities and movement of the group. Marthaler Park has been adopted by TNT, and they have also engaged in various other public service activities such as Feed My Starving Children, Ronald McDonald House Christmas toy drive, and SCARED (Students Concerned About Racism and Diversity), and SHOT addressing bullying and teen suicide.. Mr. Dixon stated the organization has received its 501c3 status and is currently meeting at the West St. Paul YMCA. He requested support from the City by promoting on the City calendar, having kids speak at meetings, and partnerships with City to engage the community.

Clpn. Halverson recognized the demand for this type of organization and asked that Mr. Dixon communicate with Council members regarding how they can support the organization.

Clpn. Napier suggested the organization work with the City's volunteer coordinator. Manager Fulton confirmed staff would communicate to get it done.

## 10. Consent Agenda

- A. Meeting Minutes – REMOVED
- B. April 2016 Bank Reconciliation
- C. City Licensing
- D. City Licensing
- E. City Licensing – Art on the Avenue
- F. Personnel Policy Revision – Respectful Workplace Policy
- G. Rental Licensing
- H. List of Claims 6/13/16

ON MOTION of Clpn. Iago, seconded by Clpn. Vitelli, to adopt the consent agenda items as listed above and presented. All members present voted aye. Motion carried.

## 11. Public Hearings

A. Final Reading – Zoning Ordinance Amendment, Section 153.029 Regarding Interim Use Permits  
Community Development Director Hartshorn reviewed the staff memo to the Mayor and Council.

Mayor Meisinger opened the Public Hearing at 7:06 p.m. and seeing no one wishing to speak for or against the proposed amendment, he closed the Public Hearing at 7:06 p.m. No further comments or discussion ensued.

ON MOTION of Clpn. Halverson, seconded by Clpn. Bellows, to approve the final reading of an Ordinance Amending West St. Paul Zoning Ordinance Section 153.029 Regarding Interim Use Permits. All members present voted aye. Motion carried.

B. Permit Parking Ordinance, Second Reading

Police Chief Shaver reviewed the staff memo to the Mayor and Council.

Mayor Meisinger confirmed the proposed ordinance applied to all neighborhoods. Chief Shaver clarified that it would change the ordinance to allow a petition for review.

Clpn. Halverson suggested continuance until the next meeting due to the original issue that brought the idea about may be addressed and as such, the proposed ordinance may not be needed. She also pointed out that the amendment would allow a petition process and Council review and that it would be a tedious process but gives residents an option.

Clpn. Iago agreed with Clpn. Halverson to continue the item.

Clpn. Bellows stated he hasn't seen any interest in permit parking in the City elsewhere and this proposed amendment was raised by one group that had reservations which now may be a private issue that can be resolved. He was concerned with possible negative aspects noting permit parking in St. Paul, as an example, was more problems than solutions.

Clpn. Vitelli noted a Bernard resident has issues in front of her home and parking was also an issue with Twin Pines. He confirmed with Attorney Land that the ordinance amendment would apply to anyone interested whether it be a single home or a block.

Clpn. Armon agreed with Clpn. Bellows' comments.

Clpn. Napier noted the petition was the significant piece of the proposal which would require parking to be a significant problem for a neighborhood to come forward.

Manager Fulton advised the amendment would enable future legislation to allow permit parking which may be justified as the City moves forward with development on Robert Street.

Mayor Meisinger opened the Public Hearing at 7:16 p.m. and seeing no one wishing to speak for or against the proposed ordinance amendment, he closed the Public Hearing at 7:16 p.m.

ON MOTION of Clpn. Iago, seconded by Clpn. Vitelli, to continue the decision to a future meeting pending the results of the private issue that brought about the proposed amendment. All members present voted aye. Motion carried.

## **12. New Business**

### **A. Approve Consultant Contract for Crusader Ave. Sewer Lining City Project 17-2**

Parks and Public Works Director Beckwith reviewed the staff memo to the Mayor and Council.

Clpn. Armon asked whether the City has previously had experience with AE2S, Inc. given the low bid hoping that Foth doesn't know things about the project that the others may not know. Director Beckwith advised that AE2S, Inc. was contracted for stations 5 and 6 and their hours and timeline were realistic when staff extensively reviewed the bid.

Clpn. Vitelli asked whether there was extensive concrete corrosion or erosion and whether a liner will fix the problem. Director Beckwith confirmed a liner would address all issues.

ON MOTION of Clpn. Bellows, seconded by Clpn. Halverson, to approve a contract with AE2S, Inc. for the design and construction administration of the Crusader Avenue Sewer Lining Project, City Project 17-2, for an hourly not-to-exceed contract amount of \$38,900. All members present voted aye. Motion carried.

**B. 435 Bernard St. E. – 463 Action**

City Attorney Land reviewed the memo to the Mayor and Council noting the building inspection and code enforcement reports and photographs in the packet are submitted to the record. She outlined the process for service and appeal and advised she would seek reimbursement of costs incurred as part of this process.

Clpn. Vitelli asked whether there were issues with rodents. Attorney Land noted the only known issue is that the home is unsecured and the City could do an emergency abatement if necessary.

Clpn. Armon stated the Council has seen their share of these and encouraged residents to let the City know when they see these things. Mayor Meisinger added that residents should be aware of neighbors and offer assistance or contact the City.

ON MOTION of Clpn. Vitelli, seconded by Clpn. Armon, to adopt the Resolution and Order to Remove Structure at 435 Bernard Street East. All members present voted aye. Motion carried.

**13. Old Business**

**A. Final Reading on Proposed Amendments to City Code Chapter 50 Section 50.08 Regarding Discharge of Prohibited Clear Water Drainage; Sump Pumps (Continued from May 23, 2016)**

City Manager Fulton reviewed the staff memo to the Mayor and Council and clarified that property owners would be responsible for sewer from house to the main, City would be responsible at the main, and the proposed effective date would be January 1, 2017 to allow for education and promotion.

Mayor Meisinger stated the ordinance has been on the books for eight years with multiple amendments. He noted that he received three emails from realtors in opposition to the proposed point-of-sale inspection. He also asked if the proposed amendment is passed is the City off the hook to the Met Council.

Manager Fulton advised that the Met Council provides continuing work in I&I and as long as the City is working with them to reduce the issues, Met Council will not surcharge the City provided the City is meeting the Met Council's expectations. He added that once the inspected and in compliance, it will be good for 10 years.

Clpn. Vitelli confirmed with Manager Fulton the proposal would also apply to rental properties.

Clpn. Halverson stated she hoped this doesn't have to change again and that this would be the final solution because residents have been confused. She believed the amendment as proposed strikes a balance with burden and service to the community. Clpn. Halverson added that the amendment meets the Met Council's needs and allows time to make the changes required.

Clpn. Bellows stated this was a difficult issue because the Met Council has proposed severe restrictions and penalties due to clean water in sewers. He noted West St. Paul was an aging community and infrastructure and noted he was also on the list to address the issue. Clpn. Bellows stated that corrections would be a substantial value to the house and while it is a burden, everyone should recognize that the problem will not go away. As proposed and under the circumstances, the City is attempting to address the problem and work with everyone so as not to receive a \$1.7 million fine. He

added that the inspections and corrections would occur when selling or when street is under reconstruction, that the buyer and seller could negotiate issues, and stated this wasn't a perfect solution but better. He stated that the City needs to make sure the decision is communicated to all citizens correctly and let them know what resources are available, i.e. 15% reimbursement up to \$5,000 contribution by City. Understanding the real estate community is upset, he noted that other communities also require truth-in-housing inspections.

Clpn. Napier advised he received multiple emails and that his response has been that this process has not been quick, rather it's been slow and well thought out. He stated he was against this early on but as now proposed, it provides the most flexibility to the process and time. He added that the City would have an in-house inspector at no cost to property owners.

Clpn. Iago expressed concern for the Robert St. properties stating he wished they would have thought about the burden to residents of South Robert St. He asked that if the camera goes down in a dry area and there is a crack, how they will know what the I&I impact is. Clpn. Iago asked if there was a way to address size of cracks, where they were located, etc. because some cracks may be so minimal it shouldn't require lining. He suggested developing something with the Met Council to provide some wiggle room as he wasn't comfortable leaving the determination to one person's opinion whether a sewer will require lining.

Manager Fulton provided numbers for compliance and non-compliance with homes on Robert St. He stated that the proposal requires all properties on Robert St. must be inspected by July 1 and in compliance by September 1 so as not to require reopening of the street. He recognized that cracks would be different from one area to the next and stated they would work with Met Council to identify where replacement and/or lining would be required. Manager Fulton added that it wouldn't be a judgment on the size of cracks but rather to get a person on board to work with and define the issues. He suggested they work with Met Council to see what is acceptable to them and that maybe there was some way to allow for some type of judgment call to be made. He also stated that the roads were fragile, that the City would not require property owners to do their own excavation and they should also preserve the integrity of the streets.

Clpn. Armon noted that the main reason for requiring this was the significant surcharge by the Met Council adding he was not a fan of the Met Council but they were flexible so this was the balance.

Clpn. Halverson noted that on April 11, 2016 they decided the City would send out notices regarding changes but that these notices did not go out and a number of properties completed the work. She asked if there was something that could be done to help those that have already done the work.

Manager Fulton stated staff did send a letter regarding not excavating in the right-of-way and apologized that the correct notice wasn't sent out because of miscommunication. He stated people got ahead of the game for coming into compliance that they would have to do any way so there wasn't an easy solution.

Clpn. Halverson wasn't satisfied with saying sorry as there were thousands of dollars spent for repairs.

Mayor Meisinger advised that homes were inspected last year and the plan has changed each time. He said others have also complied previously and he did not want to move on this because the City is no liable to those that have done repairs that were or would be required of them anyway.

Clpn. Bellows reiterated that residents would have to have the work done any way. He was concerned that if the City decided to reimburse some, where it would end. He stated that under the circumstances with trying to make the program as easy as possible, he did not want to ask some residents to reimburse other for work that would have to be done either way.

Clpn. Napier asked Finance Director Carlson to look into whether it was an option to allow some residents to be assessed retroactively.

Clpn. Halverson stated she wasn't look at going back to 2008 but noted it in the record on 4/11/16 and she was looking for something from 4/11/16 to present since it was on record and noted she was uncomfortable with not addressing the time period. She stated they made the mistake and they should fix it.

Clpn. Vitelli suggested maybe having a reverse assessment and reimbursement but that he could not support complete reimbursement.

Attorney Land suggested possibly allowing a voluntary 429 procedure. Direct Carlson advised that is how the issues are currently being handled and she would check into the numbers.

Mayor Meisinger stated that staff has been given direction to come back to Council with numbers and the issue will be revisited.

#### Citizen Comments:

- George Hammernick, 1323 Manomen  
Mr. Hammernick asked whether the deadline for lining was extending pending final decision and noted the minimal intrusion from his inspection. Mayor Meisinger confirmed the deadline was extended and request Mr. Hammernick contact staff to review inspection data and further investigate.
- Lauren Smith, 1092 Ohio  
Ms. Smith stated she has lived in her home about four months and she received a scary letter stating a search warrant would be obtained. She also noted that the camera inspection says 70 feet of pipe but the house is only 30 feet from roadway and questioned how there could be an additional 40 feet. Ms. Smith also noted for the record that she did receive a letter saying she doesn't have to move forward with the lining at this time.

Manager Fulton requested Ms. Smith bring in her inspection report and staff would help interpret. He also noted that the search warrant language was in letters but was redone and apologized for the miscommunication. Clpn. Halverson noted the issue with some residents receiving the letter and other not. Clpn. Bellows clarified the responsibility of homeowners to the main line and the City at the main line and in right-of-way.

- Eric Meyers, St. Paul Association of Realtors  
Mr. Meyers stated realtors recognize the difficulties of the problem and that they were appreciative of resources of sellers and buyers. However, they do renew their opposition. He stated the Met Council has handcuffed the City with the million dollar plus fine and if it

weren't for that, this would not be moving forward. Mr. Meyers stated on an average year the City has 150-200 homes for sale and when 200 homes have inspections, they won't even be looked at. He stated that clean water will continue to invade that owners of 30-40 years will be stripped of their equity and that it will be difficult to find buyers to take on these issues as new homeowners will be underwater right off the bat. Mr. Meyers stated that with the assessments, the City will be uncompetitive with other homes in the market. He provided numbers for a \$150,000 - \$200,000 home of about \$200-\$300 more per year and stated he was concerned for the residents of the community because it seems that the City was doing a backroom deal with Met Council. Mr. Meyers stated that realtors recommend a phased approach to delineate the various issues so as not to do inflow or infiltration, stating that correcting the problems over the long term will take time, and to avoid passing the buck to residents.

Cpln. Bellows stated he didn't appreciate the lecture and noted Mr. Meyers didn't identify a solution. He added that Mr. Meyers did not represent the citizens of WSP and that this solution has been a long discussion and continuous working effort. He advised there were no backroom deals, and told Mr. Meyer that he was operating solely on profit. Cpln. Bellows stated he had never seen someone more disrespectful and obnoxious.

Further exalted argument and discussion ensued between Mr. Meyers and Cpln. Bellows. Mayor Meisinger requested order in the chambers.

Manager Fulton suggested Mr. Meyer be accountable on the numbers noting that when he said it would cost someone \$200-\$300 more in a mortgage payment, that equates to approximately \$50 per year and it was not in Mr. Meyers' best interest to scare the real estate world.

- Vince Granley, 1003 Cherokee Ave.  
Mr. Granley advised he had his sewer line fixed but that he would not have been affected by the 4/11/16 letter since his was earlier. He asked what his options were since his repair took place in March. He stated that if he'd known he could wait, he would have and would have appreciated notice.

Mayor Meisinger thanked Mr. Granley for fixing his line. He stated there wasn't much that could be done since the issue was under the previous ordinance but that maybe the City can come up with a reverse plan to help folks out.

Cpln. Bellows asked that staff make sure he applies for the 15% reimbursement. He also noted that in 2008 there was grant money provided by the Met Council, which was not City money, but those grant funds are no longer available.

Cpln. Napier stated there would be residents that will have to complete the repairs if their street is being reconstructed and it was still the City's plan to repair/reconstruct five streets per year. Manager Fulton connected with Cpln. Napier and stated that a homeowner would not be required to do the repairs at that time.

- Barbara Lowe, 1040 Cherokee Ave.  
Ms. Lowe asked what WSP's inflow and infiltration goals are with respect to the MOU providing for goals. She asked where the measure points were and whether there were other options than a camera test and about disconnecting in-ground gutters.

Clpn. Iago advised there were three meters in town and there was an acceptable rate line determined by Met Council who will make sure the City stays within the rate line. He stated the measuring points were at South Robert, Dodd and Delaware at Annapolis.

Mayor Meisinger added that the Met Council tracks water return and that ground water into sanitary systems during heavy rain is accounted for. He also stated that in-ground gutters will likely be disconnected at the inspection.

Clpn. Vitelli clarified that gutters were not believed to be connected to sanitary sewer and asked that Ms. Lowe provide an address to staff to look into.

- Evonne Pulsak, 993 Cherokee Ave.  
Ms. Pulsak stated she had her lining done a couple days later received the letter stating it wasn't necessary afterward. She thanked Clpn. Halverson for trying to address this noting an apology just wasn't enough. Ms. Pulsak advised there were three holes drilled into her basement floor and it required many days off work.

Mayor Meisinger asked how many properties have been inspected. Manager Fulton replied 300 properties have come into compliance.

ON MOTION of Clpn. Vitelli, seconded by Clpn. Bellows to approve the Ordinance Amending City Code Chapter 50, Section 50.08 Regarding Discharge of Prohibited Clear Water Drainage; Sump Pumps. All members present voted aye. Motion carried.

ON MOTION of Clpn. Bellows, seconded by Clpn. Iago, to approve the 2016 Memorandum of Understanding Relating to Ongoing Inflow and Infiltration Program between City of West St. Paul and Metropolitan Council. All members present voted aye. Motion carried.

ON MOTION of Clpn. Halverson, seconded by Clpn. Iago, to direct staff to explore options for the City to address issues as identified during discussion to address homeowners that came into compliance since 4/11/16. All members present voted aye. Motion carried.

#### B. Town Center II Update/Discussion

Clpn. Bellows noted that a plan for the redevelopment of the area has been approved by the Council and that as part of that approval, Council provided a one year period of time to provide easement access across the development if it was possible with neighboring property owners. He asked whether there has been any activity on the part of staff to propose continuation of Lothenbach or delay the project.

Manager Fulton stated he provided direction to Director Hartshorn to facilitate communication with the developer and neighboring property owners with respect to the approved access and noted that the Lothenbach road extension has always been a possibility but nothing has moved forward on this at this point. He added that he was not trying to delay the project in any way.

Director Hartshorn advised that there have been no discussion with City involvement beyond what has been approved. However, previous discussions did take place about making access easier and

connecting with the Lothenbach light. If that is the direction the developer decides to go, he would work with the developer to consider direct route but no discussions to this affect have taken place.

Clpn. Iago asked whether the developer was on board with a new connection beyond what was previously approved. He indicated that the plan was already approved so there shouldn't be a need for anyone to go back and change it. He stated it would be inappropriate to talk to land owners without the developer.

Manager Fulton clarified that the plan was approved at the las Council meeting but that the owners to the south were not aware of the plan. The plan was to enter into dialog with the property owners to the south to get a discussion going regarding the access.

Clpn. Bellows advised that a public hearing was held at the last meeting and was open to the public. He stated a process was in place for notification and to be heard. He asked why staff should go back and look at other plans when one was already approved.

Manager Fulton indicated that the development does impact surrounding properties and did want them to be aware.

Additional questioning and discussion ensued between Clpn. Bellows and Manager Fulton with respect to the approved plan and access arrangement and whether or not staff was proposing alternative access beyond and outside of the Council's decision.

Clpn. Vitelli stated he was offended by Clpn. Bellow's comments and tone and treating the City Manager as if he was under interrogation. He stated the Chambers was not a court room and recited the language for the approval from the last meeting. Clpn. Vitelli urged staff to talk to property owner to the south to provide the connection as approved.

Clpn. Bellows asked what the options were for potential investigation into the City Manager and whether he suggested changing the plans after they were approved.

Attorney Land advised that a motion could be made and that her office could conduct an independent investigation of the facts and report back to the Council with the findings.

Clpn. Armon stated he would like to review the tape before ordering an investigation.

Clpn. Halverson indicated she was not comfortable with an investigation.

Clpn. Iago noted there was direction to Director Hartshorn to engage in communication even though everyone was keenly aware of what was approved and he would like to know what was said.

Clpn. Bellows stated the approved plan was clear and there is the potential for an easement. There is no question about that and Mr. Carlend acknowledged the potential for the easement. He would like to know whether there was subsequent direction to staff to modify the plan contrary to the plan as passed, specifically, to extend Lothenbach from Robert St. to Livingston; whether there was some additional discussion afterward contrary to Council's direction.

Clpn. Napier asked what if staff got together with businesses to the south and there was a better concept that businesses, staff, and developer are ok with. He asked if Councilmembers would be angry if the developer came back with a different proposal, noting this was a hypothetical scenario. Clpn. Napier stated the developer would have to come back with changes if they decided something else any way so it doesn't seem to be an issue.

Clpn. Vitelli agreed with Clpn. Napier stating it was an excellent analogy. He stated that Mr. Carlendis going to build the plan as passed but, if staff and the businesses and the developer want to come back with a better plan, why would there be any opposition. If Mr. Carlend decided to make a change, would there still be opposition from Clpn. Bellows.

Clpn. Bellows noted that the developer was already dedicating money to put the plans as approved into play. However, why wouldn't staff go to the developer first to see if the developer wanted to change the plans. He stated it seemed to him that if something different was going to be done, Mr. Carlend and the other property owners should discuss. Mr. Carlend is presumably moving forward with his development as approved and is not aware that other options were being discussed without him that would affect his development.

Clpn. Halverson indicated that Mr. Carlend said he was willing to work with the surrounding property owners. To her, this is where the Council asked Mr. Carlend for permission to explore other options to work with surrounding property owners. She stated that following that permission, staff went to work to engage in communication with the business owners to figure out how the access would best work. She stated permission was received by Mr. Carlend during the meeting and that alternatives, if any, weren't coming out of the blue. She also noted that staff has not had the conversations with the property owners yet and that the conversation with Mr. Carlend had taken place before the Council. She stated Mr. Carlend was willing to explore options and clarified to Clpn. Bellows that Mr. Carlend was not being left out of the discussions.

Mayor Meisinger noted that staff was spending time and money on something the developer may not move forward with.

ON MOTION of Clpn. Bellows, seconded by Clpn. Iago, to investigate whether City Manager Fulton gave direction to staff to push a potential road extension of Lothenbach or just engage in discussion with surrounding property owners regarding the connection.

Ayes: 2 (Bellows, Iago) Nays: 4 (Armon, Halverson, Napier, Vitelli). Motion failed.

#### **14. Adjourn**

ON MOTION of Clpn. Halverson, seconded by Clpn. Bellows, to adjourn the meeting at 9:08 p.m. All members present voted aye. Motion carried.

*Jennifer L. Dull*

Jennifer L. Dull  
Recording

Secretary

**ORDINANCE NO. 16-06  
CITY OF WEST ST. PAUL  
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING CHAPTER 50, SECTION 50.08 OF THE WEST ST. PAUL CITY CODE REGARDING DISCHARGE OF PROHIBITED CLEAR WATER DRAINAGE; SUMP PUMPS**

The City Council of West St. Paul does ordain:

**SECTION 1.** West St. Paul City Code Chapter 50, Section 50.08 relating to the Discharge of Prohibited Clear Water Drainage; Sump Pumps, is hereby amended as follows:

§ 50.08 DISCHARGE OF PROHIBITED CLEAR WATER DRAINAGE; SUMP PUMPS.

- (A) *Definition.* **CLEAR WATER DRAINAGE**, for the purpose of this section, is defined as stormwater, natural precipitation, ground water or flow from roof runoff, surface runoff, subsurface drainage, down spouts, eave troughs, rainspouts, yard drains, sump pumps, foundation drains, yard fountains, ponds, cistern overflows or water discharged from any nonresidential air conditioning unit or system.
- (B) *Ownership.* The property owner shall own and be responsible for the maintenance of the sanitary sewer service lateral between the city's sanitary sewer main within the street and the building being served, including the connection to the main.
- (C) *Prohibited discharges.* No person shall directly or indirectly discharge or permit to be discharged any clear water drainage into the city's sanitary sewer system.
- (D) *Prohibited connections.* No person shall make or maintain a connection between any conductor used to carry clear water drainage and the city's sanitary sewer system.
- (E) *Sump pumps.* Dwellings and other buildings and structures that require a sump pump system to discharge excess water because of the infiltration of water into basements, crawl spaces and the like shall obtain a permit and have a permanently installed discharge line that complies with the following:
  - (1) It shall not any time discharge water into the city's sanitary sewer system;
  - (2) It shall provide for year-round discharge capability to either the outside of the dwelling, building or structure, to the city's storm sewer system;
  - (3) It shall consist of a rigid discharge line inside the dwelling or building, without any connections for altering the path of discharge, and if connected to the city's storm sewer line must include a check valve; and

(4) Must be directed toward the front or rear yard so as not to trespass or discharge on to adjoining properties.

(F) *Inspections.* The City shall conduct inspections of single-family owner-occupied properties to ensure compliance with this section. Failure to have an inspection as required in this section is a violation of the city code.

(1) Except as set forth in § 50.08 (F)(3), inspections are required when the following occurs:

- a. The property is offered for sale or conveyance by deed or contract for deed, unless the Certificate of Compliance is still valid pursuant to § 50.08 (G);
- b. The city orders a street reconstruction project and the property is adjacent to a street in the project area;

(2) Inspections shall be conducted pursuant to §10.17. In addition to the inspection requirements in §10.17, owners shall be required to comply with the following:

- a. Provide sufficient access to the sanitary sewer service lateral within the dwelling, building or other structure, including removal of any obstacles so that the sanitary sewer service lateral is completely accessible to the inspector;
- b. Clear the sanitary sewer service lateral of any root intrusions or any other intrusions to allow clear televising of the sanitary sewer service lateral from the dwelling, building or other structure to its connection with the city's sanitary sewer main.

(3) Inspections shall not be required under the following circumstances:

- a. It is a newly constructed dwelling and title to the property is transferred to the first owner;
- b. It is the sale or other transfer of title of any property with a dwelling that is being conveyed to a public body;
- c. It is the sale or transfer of title of any property that contains a dwelling that will be demolished;
- d. It is the sale or conveyance of any property that contains a dwelling by a sheriff or other public or court officer in the performance of their official duties. This exception does not apply to the sale by a person appointed by a probate court.

(4) The city shall complete its inspection reports within 10 business days from the date of the inspection and immediately send the report to the property owner. The

reports shall indicate all deficiencies discovered in sufficient detail to identify the obstructions and the specific section(s) of the sanitary sewer service lateral that must be repaired.

- (G) *Certificates of Compliance.* If a property is in compliance with this section, the city shall issue a Certificate of Compliance. No new inspections or certificates for single-family owner occupied properties shall be required until one of the events in section 50.08(F)(1) occurs. Certificates of Compliance for single-family residential properties are valid for a period of 10 years. Certificates of Compliance for residential rental properties and commercial, industrial and HOA properties (as defined below) are valid for a period of 10 years.
- (H) *Residential rental properties.* For residential rental properties, the property owner is required to obtain an independent inspection and submit an inspection report to the city upon submission of a new or renewal rental license application. The inspection report shall indicate that the property is free from prohibited discharges and prohibited connections, including illegal sump pumps. If there are any violations discovered, the property owner shall have 24 months from the date of adoption of this ordinance to correct any deficiencies and provide a corrected inspection report. The city shall conduct a reinspection of all service lines connecting to the sewer main to verify compliance. Upon verification, the city shall issue a Certificate of Compliance.
- (I) *Commercial, Industrial and HOA Properties.* For commercial and industrial properties and condominium or townhome residential properties with a homeowner's association ("HOA Properties"), property owners are required to obtain an independent inspection and submit an inspection report to the city. The inspection report shall indicate that the property is free from prohibited discharges and prohibited connections, including illegal sump pumps. If there are any violations discovered, the property owner shall have 24 months from the date of adoption of this ordinance to correct any deficiencies and provide a corrected inspection report, unless a different correction date is required by the city. The city shall conduct a reinspection of all service lines connecting to the sewer main to verify compliance. Upon verification, the city shall issue a Certificate of Compliance.
- (J) *Violations.*
  - (1) Violations discovered at time of sale.
    - a. Seller Responsibilities. When the inspector determines that there has been a violation of any provision of this section prior to the sale, the seller is responsible for correcting the violations, unless the buyer has assumed such responsibility as provided in subsection b. below. Failure of a seller to disclose to a buyer that there are uncorrected violations of this section is a violation of the city code. When correcting the violations, all necessary permits shall be obtained from the city. Upon completion of the corrections, the city shall reinspect the property to verify compliance.

b. Buyer Responsibilities. If a seller cannot correct the violations prior to the sale the buyer must assume the responsibility for correcting the violations. The buyer shall sign a written acknowledgement from the city that includes:

1. The buyer's acceptance and assumption of responsibility for correcting the violations within one year after closing on the property;
  2. That the buyer understands that a reinspection is required to verify the corrections have been completed;
  3. That the buyer holds the city harmless from liabilities and claims if the buyer occupies the dwelling prior to corrections of the violations.
  4. That failure to correct violations or deficiencies is a violation of the city code and subjects the buyer to penalties as stated in §50.08 (K), (M), and (N)
- (2) Violations and corrections under the roadway. When the inspector determines that there has been a violation of any provision of this section and the violations are under the roadway, the property owner will perform the repairs, except as stated in subsection (3) below. However, a property owner shall not excavate in the roadway without permission from the City Engineer.
- (3) Non-excavation violations and corrections within two feet from the main. When the property owner is correcting violations of the sanitary sewer service lateral between the street and the building and the corrections only involve lining of the sanitary sewer service lateral, the owner shall stop all repairs at a distance of two feet from the city's sanitary sewer main. The city shall assume responsibility for any lining within two feet from the main, which will be done in conjunction with scheduled street repair work.

(K) *Penalty.*

(1) A monthly penalty of \$50 for owner-occupied single-family properties not on Robert Street; a monthly penalty of \$500 for owner-occupied single-family properties on Robert Street; a monthly penalty of \$300 for residential rental, commercial, industrial and HOA properties not on Robert Street; and a monthly penalty of \$1,000 for residential rental, commercial, industrial and HOA on Robert Street shall be added to each sewer and water bill if:

- (a) An owner fails to complete an inspection pursuant to §50.08(F), (H) and (I);
- (b) An owner whose property was found in violation of this section did not make the necessary changes and furnish proof of those changes to the city within the time frames required by this ordinance;
- (c) An owner fails to allow an inspection or reinspection to verify compliance; or
- (d) There has been a reconnection of a previously disconnected prohibited discharge. If a property is certified in compliance with this section and the same owner is later found to have reconnected to the city's sanitary sewer system, the property owner will be subject to the surcharge for all months between the last two inspections.

(2) The penalty shall be added for every month during which the property is not in compliance.

- (L) *Temporary waiver.* The City Engineer may allow or require a temporary waiver from the provisions of this section when strict enforcement would cause a threat of damage to other property, the environment or public safety because of circumstances unique to the individual property. A written request for a temporary waiver must be first submitted to the City Engineer specifying the reasons for the request. City Engineer. The City Engineer may terminate the waiver upon a failure to comply with any conditions imposed in the temporary waiver or may take appropriate legal action to enforce those conditions. After expiration or termination of a temporary waiver, the property owner must comply with the provisions of this section.
- (M) *Public nuisance.* An owner or occupant who fails to have an inspection, who has done work that does not comply with this section, who reconnects to a previously disconnected prohibited discharge, who fails to pay the penalty or who has failed to do the work required by this section within the specified time limit, will be deemed to have created a public nuisance subject to abatement and assessment, as provided in Chapter 94.
- (N) *Remedies.* The remedies provided in this section do not limit the right of the city to pursue any other available legal remedy.

**SECTION 4. EFFECTIVE DATE FOR COMMERCIAL, INDUSTRIAL, HOA AND RESIDENTIAL RENTAL PROPERTIES NOT ON ROBERT STREET.** For Commercial, Industrial, HOA and residential rental properties not on Robert Street, this Ordinance shall be in full force and effect on July 1, 2016. Failure to comply as of the Effective Date shall result in the imposition of the appropriate penalties stated in §50.08(K).

**SECTION 5. EFFECTIVE DATE FOR SINGLE-FAMILY OWNER-OCCUPIED PROPERTIES.** For single-family owner-occupied properties, this Ordinance shall be in full force and effect on January 1, 2017. Failure to comply as of the Effective Date shall result in the imposition of the appropriate penalties stated in §50.08(K).

**SECTION 6. EFFECTIVE DATE FOR ALL PROPERTIES ON ROBERT STREET.** For all properties fronting on Robert Street this Ordinance shall be in full force and effect on July 1, 2016. For these properties, any violation in the road right of way that would require excavation to repair must be corrected by September 1, 2016. Failure to comply as of the Effective Date shall result in the imposition of the appropriate penalties stated in §50.08(K).

**SECTION 7. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The ordinance amendment provides new triggering events when homeowners have to comply with inflow and infiltration deficiencies. For single family owner-occupied homes, the inspections will be conducted by city inspectors at the time of sale or at the time of a street reconstruction project. If the property is being sold, any deficiencies may be repaired by the seller or buyer. If the buyer elects to complete the repairs, the buyer has one year after the sale to do it. If there is a street reconstruction project and the issues are between the curb and the city main, the city will perform the repairs. Rental properties will be required to have an inspection at the time the owners apply for or are renewing a rental license, but must do so within 24 months after the ordinance is adopted. Commercial, industrial properties and those properties with a homeowners' association will be required to obtain independent inspections and complete any repairs within 24 months after the ordinance is adopted. After the city has verified compliance, a Certificate of Compliance will be issued, which shall be valid for a period of 10 years.

Passed and adopted by the City of West St. Paul City Council on this 13<sup>th</sup> day of June, 2016.

Ayes: 6

Nays: 0

Attest:

  
\_\_\_\_\_  
David Meisinger, Mayor

  
\_\_\_\_\_  
Chantal Doriott, City Clerk

Ord. No. 16-07

CITY OF WEST ST. PAUL  
DAKOTA COUNTY, MINNESOTA

AN ORDINANCE AMENDING  
WEST ST. PAUL ZONING ORDINANCE SECTION 153.029  
REGARDING INTERIM USE PERMITS

The City Council of West St. Paul does ordain:

**SECTION 1. AMENDMENT.** West St. Paul Zoning Ordinance Section 153.029 is hereby amended by adding the following:

(G) Exceptions. Notwithstanding the provision of division 153.029 (C) above, an interim use shall not require a hearing before the Planning Commission or City Council and may be approved administratively, provided that:

- (1) The application is a renewal of an Interim Use Permit which was previously approved by the City Council pursuant to 153.029 (C);
- (2) There have been no issues or violations with the existing Interim Use Permit;
- (3) There are no substantial changes to the Interim Use Permit as determined by the Zoning Administrator;
- (4) The Community Development Department has conducted an administrative review; and
- (5) The property owner on which the Interim Use Permit is located is current on all City fees.

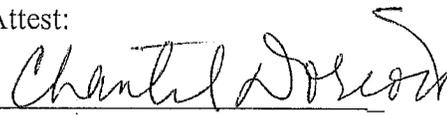
**SECTION 2. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 13 day of June, 2016.

Ayes:

Nays:

  
\_\_\_\_\_  
David Meisinger, Mayor

Attest:  
  
\_\_\_\_\_  
Chantal Doriott, City Clerk

**PROCLAMATION**  
**Thomas Schaffer Day - June 13, 2016**

Whereas, Tom graduated from Mechanic Arts High School in 1956, and served his country from 1958 to 1959 as a cook in the U.S. Army, and

Whereas, after military service Tom chose engineering where he spent the next 30 years as a draftsman, and

Whereas, in 1990 Tom's father became ill, so Tom took a leave from work for the next four years to care for his father until he passed away, and

Whereas, wanting to try something new, Tom enrolled in cooking school at Dakota County Technical College and in 1996 received his diploma in Quantity Food Preparation, and

Whereas, Tom obtained a position cooking at St. Catherine University, then at the University of St. Thomas, and as an employee of the university, Tom was provided tuition remission to continue his education, and

Whereas, Tom took his first class in the summer of 1999, Theology 101, receiving an "A" minus, and after retiring in 2001, Tom started taking classes towards his degree in history since, as he states, "I'm just nosy and want to know what went on and who did what and with whom," and

Whereas, to keep it fun, Tom purposely took his time by taking only one class per semester, and has shown that dreams can and do come true, and

Whereas, Thomas Schaffer received his Bachelors Degree in History from the University of St. Thomas on May 21, 2016, at the young age of 77,

NOW BE IT RESOLVED, that the Honorable Mayor David Meisinger and the members of the City Council do recognize Thomas Schaffer for being an inspiration for education and a friend to many in our community and do hereby declare today, June 13, 2016, to be Thomas Schaffer Day in the City of West St. Paul, Minnesota.

David Meisinger  
Mayor  
City of West St. Paul

**CITY OF WEST ST. PAUL  
DAKOTA COUNTY, MINNESOTA  
RESOLUTION NO. 16-53**

**RESOLUTION AND ORDER TO REMOVE  
STRUCTURE AT 435 BERNARD STREET EAST  
IN WEST ST. PAUL**

**WHEREAS**, Marcia K. Lacore is the Owner (“Owner”) of 435 Bernard Street East, West St. Paul, Minnesota (the “Property”);

**WHEREAS**, in the fall of 2014, the West St. Paul Code Enforcement division began monitoring the Property after viewing excessive clutter on the exterior of the Property;

**WHEREAS**, in late November 2015, the West St. Paul Code Enforcement division began receiving complaints indicating that the severe dilapidation of the Property was allowing stray animals to enter into the Property;

**WHEREAS**, in late November 2015, a complainant reported that the Owner had been removed from the Property after a medical incident;

**WHEREAS**, the Owner currently resides at Southview Acres Health Care Center in West St. Paul, and the Property has been vacant since November 2015;

**WHEREAS**, on December 2, 2015, the West St. Paul Code Enforcement Officer inspected the exterior of the Property and confirmed that the complaints it had received were valid. Code Enforcement found that there were hazardous, unsanitary, and unsafe conditions on the outside of the Property;

**WHEREAS**, on December 4, 2015, the Property was deemed uninhabitable and posted for building violations (see notice attached hereto and incorporated herein as **Exhibit A**), St. Paul Regional Water was contacted for an emergency shut off due to the frozen rear exterior door and wall (see emergency water shut off letter attached hereto and incorporated herein as **Exhibit B**), and compliance letters were sent to the Owner for an abandoned vehicle and broken windows and doors (see compliance letters attached hereto and incorporated herein as **Exhibit C**);

**WHEREAS**, on December 4, 2015, the West St. Paul Code Enforcement Officer sent a letter to the Owner requesting that the City be allowed to conduct an inspection inside the Property on or around December 9, 2015 (see inspection request letter attached hereto and incorporated herein as **Exhibit D**);

**WHEREAS**, the West St. Paul Code Enforcement Officer contacted the Owner’s case worker at Southview Acres (the “Case Worker”);

**WHEREAS**, on December 11, 2015, the Owner, through her Case Worker, allowed West St. Paul Code Enforcement Officer and Building Official to conduct an interior inspection of the Property;

**WHEREAS**, the West St. Paul Code Enforcement Officer and Building Official found the Property to be in serious disrepair, with excessive clutter and an extreme amount of biohazard incontinence inside the Property. The Property met the criteria for a “level 5” rating, the highest rating possible, on the hoarding scale. A full interior inspection was not conducted due to the amount of clutter within the Property;

**WHEREAS**, following the inspection, West St. Paul Code Enforcement division issued a compliance letter to Owner ordering that the numerous code violations and life safety issues on the Property be corrected by January 29, 2016 (the letter is attached hereto and incorporated herein as **Exhibit E**);

**WHEREAS**, on January 15, 2016, the West St. Paul Code Enforcement division issued compliance letters to Owner ordering that the abandoned vehicles, broken windows, and broken doors be repaired and removed by February 15, 2016 (the letters are attached hereto and incorporated herein as **Exhibit F**);

**WHEREAS**, the Owner requested several extensions due to medical setbacks;

**WHEREAS**, the West St. Paul Code Enforcement division granted the extensions;

**WHEREAS**, the Building Official asked the Case Worker for permission to re-inspect the Property;

**WHEREAS**, through her Case Worker, the Owner gave the Building Official permission to re-inspect the Property;

**WHEREAS**, on April 5, 2016, West St. Paul Code Enforcement Officer and the Building Official re-inspected the Property and found that the numerous code violations and life safety issues remained on the Property;

**WHEREAS**, the Building Official has provided a timeline of the City’s involvement at the Property (**Exhibit G**) and submitted photographs of the interior and exterior of the Property (**Exhibit H**), all of which are attached hereto and incorporated herein;

**WHEREAS**, according to the Building Official’s reports, the following life, health, and safety hazards exist on the Property:

1. There is an extreme amount of used incontinence pads filling the dining room creating a serious biohazard and a foul odor.
2. The entire house lacks proper emergency egress.
3. There is excessive clutter within the entire house ranging from one feet to four feet deep.

4. The house has not been properly maintained; the interior and exterior walls and the ceiling are rotting and have developed holes.
5. The gutters are blocked.
6. The bay window in the rear of the Property is deteriorated to a point that it has fallen apart.
7. There are broken windows and siding left on the ground on the exterior of the home.
8. A concerning lack of housecleaning and maintenance has left the house in an extremely unsanitary condition.
9. There is no water service to the Property due to a suspected pipe breaking.

**WHEREAS**, it is the desire of the City Council that these life, health, and safety hazards be repaired or removed.

**NOW, THEREFORE, BE IT RESOLVED** that the West St. Paul City Council finds that the Property constitutes a fire hazard and a hazard to the public safety, health and welfare is a hazardous building, as defined in Minnesota Statutes, Section 463, because of inadequate maintenance, dilapidation, physical damage, and unsanitary conditions.

**NOW, THEREFORE, BE IT ORDERED** by the West St. Paul City Council as follows:

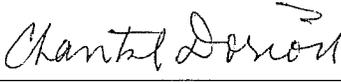
1. Marcia K. Lacore, Owner of the Property at 435 Bernard Street East, West St. Paul, Minnesota, must remove the building on the Property by July 13, 2016.
2. Neither the Owner nor any person nor animal is allowed to occupy or reside on the Property.
3. Unless an Answer is filed within 20 days of service, as provided in Minnesota Statutes, Section 463.18, if the Owner does not comply with this Order, a motion for summary enforcement of this Order will be made to the District Court of Dakota County. If summary enforcement is sought, the Court may issue a judgment, giving the Owner reasonable time to comply with the City's Order. If there is no compliance, the City will be authorized to remove the building on the Property. The cost of demolition of the building may be a lien against the real estate, which may be levied and collected as a special assessment.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST ST. PAUL  
THIS 13<sup>th</sup> DAY OF JUNE, 2016.

Ayes:            Nays:

  
\_\_\_\_\_  
David Meisinger, Mayor

Attest:

  
\_\_\_\_\_  
Chantal Doriott, City Clerk