

WEST ST. PAUL CITY COUNCIL MEETING
August 8, 2016 at 6:30 p.m.
MUNICIPAL CENTER COUNCIL CHAMBERS

1. Call to Order

Mayor David Meisinger called the meeting to order at 6:33 p.m.

2. Roll Call

Present: Mayor David Meisinger and Councilmembers Ed Iago, John Bellows, Dave Napier, Jenny Halverson, Pat Armon and Dick Vitelli.

Others: City Manager Matt Fulton, Assistant City Manager and HR Director Sherrie Le, Finance Director Joan Carlson, Community Development Director Jim Hartshorn, Public Works Director Ross Beckwith, City Attorney Korine Land, Police Chief Manila Shaver and City Clerk Chantal Doriott.

3. Pledge of Allegiance

4. Adopt the Agenda

- Add 12.I. Consideration of Robert Street easement acquisitions

Motion was made by Clpn. Bellows and seconded by Clpn. Halverson to approve the agenda with the revisions stated above. All members present voted aye. Motion carried.

5. OCWS Briefing

The City Council held a work session prior to this meeting to discuss the following:

- Robert Street Easements
- River to River Study
- Postponed the Renaissance Plan Update

6. Robert Street Review

Director Beckwith gave an overview. Most work on the east side is between Wentworth and Lothenbach. Next Monday at 5:00 a.m. Lothenbach to the east will be closed. We should see some curb at Wentworth. Crusader has a retaining wall going in and it's progressing fast. The west side is still one lane, with lights and other curb working happening. Restoration should happen in early fall. The weeds are unsightly and are the contractor's responsibility.

7. Citizen Comments

No one wished to comment.

8. City Council Comments

Mayor Meisinger sends his gratitude and thanks to our police department especially Chief Shaver. The Mayor had the pleasure of visiting 40 block parties during Night to Unite. A special thank you goes to Fire Chief Mike Pott for chaperoning and thanks to those who organized neighborhood parties.

Clpn. Vitelli said his wife was at a fundraiser and Governor Dayton was attending as well. She spoke to our Governor and he said he wouldn't forget about us in regards to Robert Street funding. There was a critical article in a past newspaper about spending \$50,000 on an art project. We are not spending that much money on the art park. The budget is a work in progress and no final decisions have been made at this time. Also, we do not own the Rainbow building – there is a lease with the owners and we don't have the ability to make them operate a business at this site.

Clpn. Napier reminded all to vote the Primary tomorrow. Polling sites open at 7:00 a.m. and close at 8:00 p.m.

Clpn. Bellows said vote the Primary because it's important and because it shows us how it will be in the general election. He rode with West St. Paul police on Night to Unite – there are clear messages – they drive around with their windows down and it's obvious that people recognize them and wave. Work sessions are open to the public; they help us to be more organized at Council meetings. One other thing – there will be disagreements from time to time and different viewpoints but he believes all Council is supported, as are there differences. After this meeting there will be an EDA meeting. Those at home, stick around to see what we are trying to do in West St. Paul to improve the city.

Clpn. Halverson said thanks to the hosts of Night to Unite. Art on the Avenue has a few spots for color dash – register by August 12. The event will take place at the Sports Complex on August 27 at 6:00 p.m. and end with a movie in the park. There was some concern about Art on the Avenue and the color dash not being publicized. We did advertise and it was included in our newsletter, discussed with a variety of community groups, on our website, flyers were available at meetings and at city hall. The art park is not something new and Clpns. Halverson and Armon are working on grant opportunities for the park. Feel free to contact Clpn. Halverson with questions.

Clpn. Armon made it to half of the Night to Unite parties in Ward 1. It was a fun evening. Also, do your business on Robert Street and Shop Robert.

Clpn. Iago saw an article on July 28 – there was a quote by our state educational commissioner – regarding the academic students, specifically addressing St. Paul, that grades may not improve without first addressing the outside factors that hold children back. Basically they are saying the children are getting low grades because of their home life. The commissioner seems to be giving up. It's a little disappointing to see the state is ready to give up on some of our students. Don't give up – there is a good reason to keep working hard – they are our future. Election is tomorrow and polls open at 7:00 a.m. to 8:00 p.m.

9. Proclamations, Presentations and Recognitions

There were no proclamations or presentations this evening.

10. Consent Agenda

- A. City Meeting Minutes: OCWS and regular meeting from July 25, 2016
- B. List of Claims August 8, 2016
- C. Council Report – Resolution No. 16-73 Additional Election Judge Appointments
- D. Rental Licensing
- E. Animal Control JPA Renewal – Resolution No. 16-74

Motion was made by Clpn. Halverson and seconded by Clpn. Armon to approve the consent agenda items as outlined above. All members present voted aye. Motion carried.

Welcome to the new owners of Tappers and please maintain the landscaping which is beautiful.

11. Public Hearing

A. Ordinance Change, Parking or Stored Motor Vehicles (Second Reading)

Police Chief Shaver gave an overview. There was an issue of people living out of their vehicles and the department was getting a lot of calls about this issue. This is the second reading of an ordinance amendment to allow officers to inquire why citizens are in the position they are in and not getting the assistance they need. The City Attorney has drafted a simple language change to section 72.05(D) of the City Code making it a violation of City Code for a person to live out of a vehicle, tent, trailer or some other type of temporary structure.

Public hearing opened at 6:56 p.m.

No one present wished to speak.

Public hearing closed 6:56 p.m.

Motion was made by Clpn. Vitelli and seconded by Clpn. Halverson to approve Ordinance 16-09 amending Section 72.05(D) of the City Code regarding Parked or Stored Motor Vehicles. All members present voted aye. Motion carried.

12. New Business

A. Appeal of a Decision by the Committee of Adjustments relating to a Variance request to allow a reduction in minimum lot width at 260 Edgewood Lane

Assistant Community Development Director Ben Boike gave an overview. Sylvia and Chuck Dorsey have filed an appeal to overturn the variance denial. The applicant is proposing to

subdivide lot 6, block 1 in Charlton Estates Addition. Staff feels that other lots platted at smaller widths is not out of character for the neighborhood but the Planning Commission did not agree. There are several lots in the subdivision that do not meet the 100 ft. setback (variance request). The motion by the committee to deny was due to drainage concerns and tree issues.

Comments:

- Chuck Dorsey lived and worked here for close to 50 years. They built their home and it has been their intention to split the lot into 2 parcels. On June 21 the Planning Commission denied on a split vote. The findings and fact have been met and staff recommends approval and he asks Council to do the same. He finds it hard to believe that the wildlife will diminish with the lot split. A lot of trees were removed to build homes that his neighbors live in. This is not a nature center but a neighborhood. He respectfully requests that his appeal be overturned and the Council votes in favor of the variance.

The public hearing opened at 7:07 p.m.

Erick Shubert, 280 Edgewood Lane, is one of 24 neighbors who oppose this proposal for several key reasons. The city statute says the lot is too small and the variance is a request to go outside of the code. He read the open space code that he and other neighbors have been living under. If the appeal goes through then the neighborhood would be changed forever. Lots in this area were made larger to make less impact on the topography. This request goes against page 56 of the comprehensive plan – which he read. He had pictures he reviewed of Mr. Dorsey's property which included water runoff. There are substantial water and erosion problems in this area. The Dorsey's will be benefiting financially but this will change the dynamic of the neighborhood. He is not in favor of overturning the variance denial.

Colleen Loney, 273 Sherwood Court, said she is benefitting with the water issue. She thinks the water issue might worsen with the lot split. The source of the water is her main concern. It has been there for the last 5 or 6 years. In the winter the water sometimes goes out into the street and they have a skating rink. The city has kept it sanded. She has had her property inspected for sources of this water, where it is coming from is undetermined. She thinks disturbing the hill will add to the source of the water issue and add erosion issues. The street will be resurfaced next year and they can't do this until they find out the source of the water. She spoke about the 30 years of enjoying the wildlife.

Director Beckwith said this is an area of focus – water seems to be weeping out of the hillside and we are looking to put in drain-tile and the city is working with a consultant. The issue encompasses more than one lot. We believe it's a natural flow of water.

Chuck Dorsey said it seems there is runoff because of the slope. It seems that if the Council requested a building permit the applicant would be required to provide proper drainage. This will remain a slope. That lot does meet the requirement for size for a variance approval.

Mark Karth, 322 Sherwood Court, thanked the Council for the hearing. He is a real estate broker for West St. Paul and there will definitely be a loss in property value for two properties. He did a price analysis of 273 and 280 Edgewood and the value would decrease if a split happens. One

other point is that most of the lots on Sherwood Court and Edgewood are 100 sq. ft. in size. The new lot would be 1700 sq. ft. which would alter the character of the neighborhood. Uphold the Committee of Adjustments and deny the appeal.

Joe Werne, 282 Sherwood Court, said his biggest concern is that the manhole is full of grass and along the curbing is sludge and weeds and algae. He believes there is a spring on the hill – there has been water in the spring all summer. If it was runoff it would have dried out with reconstruction and assessments. He wants due diligence to take care of this problem.

Dave Phillips, 300 Sherwood Court, has reviewed the map and his family lives at the bottom of a hill. There is a natural stream and with rain the water runs over his driveway. Block 5 and 6 drain into 7. There are a couple of lots with incredible slope and topography. There is something funky going on there and you need to look at this issue. These are lovely lots and the variance will change the property values and character of our neighborhood.

The public hearing closed at 7:30 p.m.

Mayor Meisinger doesn't have a problem giving the variance. Anyone who buys the lot will do so because of the tree line away from the street. As a side note we buy property as an investment. There is a process to appeal denial or approvals. That is the reason for the appeal.

Clpn. Bellows commented on the water drainage issue which does not have anything to do with the request. The proposed resolution requires the building permit be submitted and needs to include drainage plans. Is this going to change the character of the neighborhood? The character is residential and it appeals most homes are set back from the street. I am not sure the Dorsey's request is unusual or inappropriate or alters the character of the neighborhood.

Clpn. Iago said it's our job to see if the landowner has a right to divide the property and he does. Does it meet the city's code requirements? Staff said it does. He would like to see the water issue cleared.

Clpn. Halverson said what we are looking at – she gives great weight to recommendations of our committees. She understands the rights of Mr. Dorsey but the sticking point is the changing of neighborhood character.

Clpn. Napier said that after investigating this issue he tried to look at consistency in the neighborhood – lots 1 and 2 are similar; another to the south is the same size. He looked at the setback. We subdivided other lots and the size often fits the neighborhood. The challenges of building on the slope and water issues and proximity to the house to the east could be a challenge.

Clpn. Vitelli said the reason he made his motion is because everything is written. He thinks a variance will alter the character of the neighborhood and it will be improper of us to approve a variance to benefit the Dorsey's economically.

Clpn. Bellows said to Mr. Schubert – water is pre-existing and he remembers a time there was not water on the street. He sees where this comes from. The overriding thing is, if you build a house it will dramatically change the character of the neighborhood. It's reversing the neighborhood how it was set up. If it's a residential neighborhood how is it taking away from the neighborhood character? This house will be on top of Colleen Loney and will take out a ton of trees that make that Sherwood Court a unique area. When he reads the comprehensive plan it feels it applies to this issue. Clpn. Bellows said it would be very challenging to put a house on this lot.

Clpn. Iago said part of this Council's requirement is to look at something legally and not emotionally. We also look to staff's recommendations. The size of the lot fits the code.

Attorney Land gave information on a variance and the test. If it doesn't meet the test, it is within your discretion.

Mr. Shubert added additional comments.

Clpn. Vitelli said the land was plotted "as is" many years ago. It will alter the character of the neighborhood.

Clpn. Halverson said the part of the legal test shows it could alter the essential character of the neighborhood. Clpn. bellows commented on the neighborhood's character as did Clpn. Napier.

Clpn. Vitelli said the water is a non-issue for the rezoning. Any lot is buildable. The city will address the water when the street is rebuilt. This does not meet the test.

Clpn. Iago said if you go with what staff has indicated (staff recommendation) – a variance will not alter the character of the neighborhood.

Clpn. Vitelli asked why split the lot now? It doesn't make sense and doesn't meet the test.

Clpn. Bellows said there isn't anything that says you need to wait a certain time to apply for a variance. This application meets the test so do we agree with staff or the Committee of Adjustments.

Clpn. Halverson supports the Committee of Adjustments denial of the application – it's the third prong of the test and it does alter the character.

Clpn. Napier said the Planning Commission battled over the same issue and it's because of the uniqueness of this issue. He has made several visits and walked around to see what the slope was like, etc. He could support the denial.

Motion was made by Clpn. Vitelli and seconded by Clpn. Halverson to uphold the Committee of Adjustments denial of a variance for the Dorsey property located at 260 Edgewood Lane. Clpns. Halverson, Armon, Napier and Vitelli voted aye. Clpns. Iago and Bellows voted nay. The motion carried.

B. First Reading - City Ordinance Amendment regarding Temporary Family Health Care Dwellings

Assistant Community Development Director Boike gave an overview and summary of the State Legislature bill which creates a new process for landowners to place mobile residential dwellings on their property to serve as a temporary home for health care of relatives. The bill does allow a city to opt out of this requirement by passing an ordinance.

Motion was made by Clpn. Bellows and seconded by Clpn. Halverson to approve the first reading of an ordinance opting-out of the requirements of Minnesota Statutes, Section 462.3593 which permit and regulate temporary family health care dwellings. All members present voted aye. Motion carried.

C. 1st Reading of an Ordinance Regarding Vacation of Allen Avenue

Attorney Land gave an overview of a property that needed to be vacated. As part of the Safe Routes to School (“SRTS”) project, it was discovered that there exists a portion of a “vacated” Allen Avenue that encumbers the property owned by Joan Kopp at 217 Wentworth Avenue W. By a Decree of May 29, 1929, the City Council vacated the eastern half of Allen Avenue. On May 22, 1946, the City Council intended to vacate several rights of way and alleys in the subdivision plat, including Allen Avenue, but, due to a scrivener’s error, Allen Avenue was accidentally excepted from the vacation and it still exists, as depicted on the attached map. The underlying property is owned by Ms. Kopp.

Motion was made by Clpn. Bellows and seconded by Clpn. Vitelli to approve the first reading of an ordinance providing for the vacation of a right-of-way easement for a portion of Allen Avenue which is unimproved and reserve for itself a drainage and utility easement. All members present voted aye. Motion carried.

D. Approve Installation of Snow Shields on Dome Exits

Public Works Director Ross Beckwith gave an overview. Due to the elevation and slopes on the property, the dome was designed with the west side being below grade. Since the dome is required to have emergency exits all the way around, the 6 exits on the west side of the dome exit into a stairwell that goes up into the west parking area. Due to the design, even though there is a roof over the stairwell, those exits are subject to rain and snow flowing into them off the roof because of a gap between the dome fabric and hard roof structure. This has been problematic in the winter, as every time it snows the snow shed off the roof fills the stairwells and gets compacted, sometimes to the point of ice due to the warm air coming out the doors. (Picture attached) Staff must manually remove the snow, but cannot safely do so until all the snow has slid off the roof, sometimes days later. The snow sometimes slides down in large sheets at high rates of speed, similar to an avalanche.

Staff received quotes from three companies to manufacture the steel shields and the low bid was from Superior Iron, Inc. for a cost of \$6,155.00 per structure. We also received quotes from two

companies to install the six fabric flaps. The low bid was from Arizon Companies for a cost of \$12,602.00 for all six. The total cost for this improvement project, with installation charges, is expected to be under \$60,000.00

Clpn. Napier said this is long overdue but he would like a warranty or known success rate. Director Beckwith said this is not something everyone is doing. This should have been built a little differently but this works and it's a solution.

Clpn. Vitelli said he assumes the drawing is sufficient and works for a heavy snow load.

Clpn. Bellows is a little perplexed by why the dome accumulates snow that runs off. Clpn. Vitelli said it was a design flaw with the stairwells – it's more of an architectural issue than a dome fabric issue.

Manager Fulton said the warranty issue should probably not be considered because this was a basic design flaw.

Motion was made by Clpn. Iago and seconded by Clpn. Vitelli to approve installation of snow shields on the west side Sports Dome exits. All members present voted aye. Motion carried.

E. Approve Consultant Contract for Safe Routes to School Project #17-3

Public Works Director Ross Beckwith gave an overview. The City submitted a Safe Routes to School (SRTS) federal grant application for the installation of a sidewalk along the east side of Bidwell Ave., from Thompson Ave. to Butler Ave. The City was recently notified that we were successful in obtaining a SRTS grant toward the construction of the project. Construction costs were estimated at \$360,500 at the time of the submittal which requires a 20% local match. The City was granted \$288,400 for construction of this project, but will need to pay 100% of preliminary engineering, right-of-way and construction engineering.

Motion was made by Clpn. Halverson and seconded by Clpn. Armon to approve the consultant agreement with Kimley-Horn in the amount of \$129,700 for preliminary engineering and design services on the Bidwell Avenue Safe Routes to School Project #17-3. All members present voted aye. Motion carried.

F. Award Bid for Safe Routes to School Project #14-6

Public Works Director Ross Beckwith gave an overview. Bids for the Wentworth/Bellows Safe Routes to School Project were opened and read aloud on Tuesday, July 26. Seven bids were submitted. The bids are shown below along with WSB's estimate.

Bidder	Base Bid
Ti-Zack Concrete, Inc.	\$209,716.50
Sunram Construction, Inc.	\$212,391.00

Max Steininger, Inc.	\$215,562.33
Pember Companies, Inc.	\$217,901.00
Bituminous Roadways, Inc.	\$226,146.50
Urban Companies	\$227,589.00
Park Construction Company	\$229,303.05
Engineer's Estimate	\$191,260.00

Motion was made by Clpn. Vitelli and seconded by Clpn. Napier to accept the bids and approve a construction contract with Ti-Zack Concrete, Inc. for an amount of \$209,716.50 for the Wentworth/Bellows Safe Routes to School Project #14-6. All members present voted aye. Motion carried.

G. Approve Change Orders for City Lift Station and Forcemain Project #16-2

Public Works Director Ross Beckwith gave an overview of the lift station and forcemain project.

Change Order #2 – A portion of the sanitary sewer service at the property adjacent to LS 5 will be impacted during construction of the new wet wells. The existing service does not come straight out of the house as it typically does, but rather runs at an angle across the property's yard.

Change Order #3 – There are three power lines that run out the generator (garage) at Lift Station 6 which supply power and backup power to both LS 6 and LS 5. Upon excavation of the wet well at LS 6 it was determined the exact location of the three power lines were in conflict with the new wells. There was not enough slack to move them out of the way, which is sometimes the case. In order to proceed with the lift station installation the power lines have to be relocated.

Clpn. Armon asked how far we are into digging and learning more about this project. Director Beckwith said there are a lot of unknowns but we are about 25% done with the lift stations.

Clpn. Vitelli asked about generator power. Director Beckwith said we are putting in a new generator so each lift station has its own.

Motion was made by Clpn. Napier and seconded by Clpn. Armon to approve Change Orders #2 and #3 for a total amount of \$21,605.88 for the Lift Station 5 & 6 Project #16-2 as presented. All members present voted aye. Motion carried.

Clpn. Vitelli left the meeting briefly at 8:28 p.m.

H. Approve Consultant Contract for Charlton Street Improvement Project

Public Works Director Ross Beckwith gave an overview. At the July 11, 2016 City Council meeting staff recommended certain streets to be included as candidates for the 2017 Street Improvements Project. It was noted by Council that Charlton St. between Marie Ave. and TH

110 was not included on this list and that it should be brought back for Council consideration as a 2017 street improvement project, instead of a likely 2018 project.

This stretch of Charlton St. is a state aid road, clearly in need of reconstruction. The City's Pedestrian & Bicycle Master Plan shows a proposed on-street bike lane along this stretch of Charlton St. which would greatly benefit the neighborhood and the region as it ties in to the North Urban Regional Trail (NURT) at Trunk Highway 110.

Since Bolton & Menk, Inc. is starting on the 2017 Street Improvement Project field work, they were asked to submit a scope of services proposal mirroring the 2017 Street Improvement Project proposal. The only difference is that since Charlton Street is a state aid road it has extra requirements for design and construction.

Mayor Meisinger asked if Bolton & Menk has enough employees to handle our project – yes said Director Beckwith.

Clpn. Napier said this is the single most complained about and well-traveled road. This repair is needed.

Clpn. Armon agrees – what is the bid plan? Director Beckwith said we will do this with other things that Bolton and Menk is doing for us. Staff is going for a February bid date.

Clpn. Halverson said it is not just a Ward 3 issue and she is glad to get it in and on the schedule.

Mayor Meisinger said Charlton has become a raceway. This is a major concern and it's something we should think about – reducing the speed on this street.

Motion was made by Clpn. Iago and seconded by Clpn. Halverson to approve the contract with Bolton & Menk, Inc. for Charlton Avenue as part of the 2017 Street Improvement Project, City Project #17-1, for an hourly not to exceed the contract amount of \$176,129.00. All members present voted aye. Motion carried.

I. Consideration of Robert Street Easement Acquisitions

Motion was made by Clpn. Bellows and seconded by Clpn. Iago to approve to Robert Street easement acquisitions as discussed at the closed session. All members present voted aye. Motion carried.

13. Old Business

There was no old business to discuss this evening.

14. Adjourn

Motion was made by Clpn. Bellows and seconded by Clpn. Armon to adjourn the meeting at 8:34 p.m. All members present voted aye. Motion carried.



David Meisinger
Mayor
City of West St. Paul

CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 16-73

RESOLUTION APPOINTING ADDITIONAL ELECTION JUDGES AND/OR
ABSENTEE BOARD JUDGES FOR THE AUGUST 9 PRIMARY and
THE NOVEMBER 8, 2016 GENERAL ELECTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST ST. PAUL,
MINNESOTA:

The persons named below are hereby appointed as Election Judges and/or Absentee Ballot Board Judges for the 2016 Primary and/or General Election to be held in the City of West St. Paul, Dakota County, and State of Minnesota. The Election Judges are appointed to serve at any or all elections conducted by the City.

Lisa Antony
Danette Malerich
Joyce Wahlquist
Maria Dorman

Jim Hansen
Michael Kuchera
Kay Russell
Penelope O'Kane

Marjorie Haselrud
Diana Kammerer
Gabe Fromm

Adopted by the City Council of the City of West St. Paul this 8th day of August, 2016.

Ayes: 6

Nays: 0



David Meisginer, Mayor



Chantal M. Doriott, City Clerk

On Motion of Clpn. Halverson

Seconded by Clpn. Armon

RESOLUTION NO. 16-74

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT

BE IT RESOLVED, that the City of West St. Paul will enter into a cooperative agreement with Dr. David Abramowicz (South St. Paul Animal Hospital) and the City for animal impound services.

WHEREAS, Section 90 of the Code provides for a kennel to be the Municipal Animal Pound for the impounding of Animals found in violation of Section 90 or the laws of the State of Minnesota; and

WHEREAS, Dr. David Abramowicz, a licensed veterinarian, owns and operates an animal hospital and a kennel known as South St. Paul Animal Hospital PA at 501 North Concord Street, South St. Paul, Minnesota; and

WHEREAS, the Parties desire to operate the Municipal Animal Pound upon the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Parties agree to the conditions and responsibilities as outlined in the executed agreement.

The City Manager matt Fulton is hereby authorized to execute such agreements and amendments, as are necessary to implement the project on behalf of the City of West St. Paul.

Adopted by the City Council of the City of West St. Paul on August 8, 2016

Ayes: 6 Nays: 0



David Meisinger, Mayor

Attest:



Chantal Doriott, City Clerk

MUNICIPAL ANIMAL IMPOUND AGREEMENT

AGREEMENT, dated as of August 8, 2016, by and between the City of West St. Paul, a Minnesota municipal corporation, and Dr. David Abramowicz. (Each being sometimes referred to as Party", or collectively as "Parties").

WHEREAS, Section 905 of the Code provides for a kennel to be the Municipal Animal Pound for the impounding of Animals found in violation of Section 905 or the laws of the State of Minnesota; and

WHEREAS, Dr. David Abramowicz, a licensed veterinarian, owns and operates an animal hospital and a kennel known as South St. Paul Animal Hospital PA at 501 North Concord Street, South St. Paul, Minnesota; and

WHEREAS, the Parties desire to operate the Municipal Animal Pound upon the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Parties agree as follows:

ARTICLE ONE

Definitions

Section 1.01. Definitions: When used in this Agreement, the following words or phrases have the following meanings and the following definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined:

"Agreement" means this Agreement, as it may be amended, supplemented or restated from time to time,

"Animal" means a dog or cat.

"City" means the City of West St. Paul.

"Municipal Animal Pound" or "Pound" means the South St. Paul Animal Hospital PA, 501 North Concord Street, South St. Paul, Minnesota.

"Code" means the West St. Paul City Code.

"Abramowicz" means Dr. David Abramowicz.

Certain other terms capitalized but not defined herein shall have the meaning assigned to such terms in Section 905 of the Code.

ARTICLE TWO
The Agreement

Section 2.01. Purpose: The purpose of this Agreement is to define the rights and obligations of the City and Abramowicz with respect to the operation of the Pound throughout the term of this Agreement.

Section 2.02. Cooperation: The City and Abramowicz will cooperate and use their best efforts to ensure the most expeditious implementation of the various provisions of this Agreement. The Parties agree in good faith to undertake resolution of disputes, if any, in an equitable and timely manner and in accordance with the provisions of this Agreement. Unforeseen problems and situations involving the Agreement on any additional concerns not covered in the contract, can be resolved by having an open discussion with Dr. Abramowicz and a representative of the City.

Section 2.03. Term: This Agreement shall remain in effect for two (2) years commencing August 27, 2016 unless either party gives written notice for termination as articulated in Section 6.05 of this agreement.

Section 2.04. Recitals: The above recitals are true and correct as of the date of this Agreement and constitute a part of this Agreement.

ARTICLE THREE
Designation of Pound

Section 3.01. Pound Designation: The City hereby designates the South St. Paul Animal Hospital as the Municipal Animal Pound and Pound Keeper pursuant to Section 905 of the Code.

ARTICLE FOUR
Abramowicz's Obligations

Section 4.01. Impoundment: Abramowicz shall confine Animals in the Pound delivered there by police officers or the community service officers of the City, for the time periods required by this Agreement, and dispose of unclaimed Animals as provided herein, and with the understanding that not more than eight (8) Animals may be confined at any time. If Animals are delivered to the Pound that will result in the maximum number being exceeded, Dr. Abramowicz will use his best efforts to find appropriate boarding facilities for them.

Section 4.02. Pound Condition: The Pound shall be maintained in a clean and sanitary condition at all times.

Section 4.03. Animal Care: Animals impounded in the Pound shall receive kind treatment, sufficient food and water for the Animal's comfort, and proper care and shelter.

Section 4.04. Pound Hours:

- a) The Pound shall be open to the public from 8:00 a.m. to 6:00 p.m., Monday through Friday and from 8:00 a.m. to noon on Saturday. The Pound will not be open to the public on Sunday or on legal holidays.
- b) Police officers and the community service officer of the City shall have access to the Pound 24 hours per day, 7 days a week.

Section 4.05. Holding Periods:

- a) Except as otherwise provided in this section, impounded Animals shall be confined for six (6) calendar days, unless sooner claimed by the owner.
- b) If an Animal is known to be or suspected of being rabid and has, or has not, bitten a person, it must be confined in the Pound for not less than ten (10) days.

Section 4.06. Kennel License: At all times during the term of this Agreement, Abramowicz shall maintain a kennel license issued by the State of Minnesota for the Pound.

Section 4.07. Claimed Animals; Fees: Prior to the release of a claimed Animal to its owner, Abramowicz shall collect in cash, or immediately available funds, the impound fee, boarding fee, and medical fee, if any. A dog shall not be released unless it has a valid license issued by the City, or the municipality in which the Owner lives, as the case may be.

Section 4.08. Unclaimed Animals: Unclaimed Animals are to be disposed of after the six (6) day period. This document defines a term in the contract between South St. Paul Animal Hospital PA and the City of West St. Paul in regards to the contract for impounding services. The purpose of the definition is to prevent a misunderstanding in regards to the term, and thereby avoid any unforeseen legal entanglement as a result of action taken by South St. Paul Animal Hospital PA.

The term to be defined as "Disposal;" It is agreed that when an impounded animal comes to the end of its six (6) days stay, it is to be disposed of. Typically, this is meant to mean euthanasia. However, it is understood that in the humanitarian interest to the citizens of the City of West St. Paul, animals may be disposed of in other ways that South St. Paul Animal Hospital PA sees fit. This can include, but not limited to, keeping the animal longer than the six (6) day period in order that the animal may be spared and placed in a home or shelter. No additional charges will be made to the City of West St. Paul beyond the disposal fee. All additional costs beyond the six (6) days shall be the responsibility of South St. Paul Animal Hospital PA.

The animals are not to be sold for research or any other purpose that the Minnesota Board of Animal Health would consider unethical.

Section 4.09. Insurance: Abramowicz, at his cost, shall at all times during the term of this Agreement, have and keep in force insurance in an amount not less than \$10,000 for property damage arising from one occurrence, \$200,000 for personal injuries or death, and \$600,000 for personal injuries or death arising out of a single occurrence. The City shall be named as an additional insured under the policy. Any policy maintained under this section shall provide that it shall not be canceled, materially changed, or not renewed without sixty (60) days prior written notice by the insurer to the City. Abramowicz shall furnish a certificate or certificates showing such insurance in effect.

ARTICLE FIVE

Fees; Payment

Section 5.01. Fees. The following fees shall be charged:

- A. Impound fee \$25.00;
- B. Boarding Fee:
 - 1. \$25.00 per day or fraction thereof for a dog,
 - 2. \$21.00 per day or fraction thereof for a cat.
 - 3. \$25.00 per day or fraction thereof for an exotic animal
- C. Disposal Fee:
 - 1. \$70.00 for an Animal under 50 pounds,
 - 2. \$90.00 for an Animal 50 pounds or more.
- D. Medical fee to stabilize Animal for the confinement period, \$50.00 maximum.
- E. After the first year of this contract and each year thereafter until the contract becomes void, Dr. Abramowicz may increase the disposal fees articulated in item "c" above once per year and by no more than 10% of the current disposal fee rate. Notification of an increase in disposal fees shall be done to the police chief in writing and at least 90 days before such an increase will take effect.

Section 5.02. Fees Payment: The City shall pay the boarding fee, euthanasia fee or medical fee with regard to each unclaimed Animal. Uncontested fees shall be paid within 30 days following receipt by the City of the statement.

Section 5.03. Monthly Statement; Activity Report: Abramowicz shall monthly submit a written statement to the City of all fees earned in the preceding month. At the same time, Abramowicz shall remit to the City all fees collected in the preceding month. The monthly statement shall show for each type of Animal in the preceding month (a) the number impounded, (b) the number of days each Animal was confined, (c) the disposal costs, (d) medical costs, and (e) the number

placed for adoption. The City shall make payment to Abramowicz for services including boarding, disposal, and medical treatment of animals where an owner cannot be found.

ARTICLE SIX

Default: Termination

Section 6.01. Events of Default: The persistent or repeated failure or refusal by a Party to fulfill substantially any of its material obligations under this Agreement shall constitute an Event of Default on the part of the defaulting Party.

Section 6.02. Opportunity to Cure: No event set forth in this Section 6.01 shall constitute an event of Default giving rise to the right to terminate unless and until (a) written notice is given to the defaulting Party, specifying that a particular Event(s) of Default exists which will, unless corrected within a reasonable period of time which shall be not less than five (5) days, constitute a material breach of this Agreement on the part of the defaulting Party, and (b) the defaulting Party has not corrected such default within such reasonable period of time.

Section 6.03. Unavoidable Delay: Unavoidable Delay means a delay resulting from a cause over which the Party required to make performance does not have control and which cannot or could not have been avoided by the exercise of reasonable care, including but not limited to acts of God, accidents, war, civil unrest, embargoes, strikes, litigation, and delays of the other Party or its contractors, employees, or agents in the performance of their duties under this Agreement.

Section 6.04. Performance Excused: In the event of an Unavoidable Delay, the inability or delay in the performance of any of the terms and provisions of this Agreement shall be excused and shall not constitute an Event of Default.

Section 6.05. Termination: Either Party shall have the right to terminate this Agreement if an event of Default as defined in Section 6.1 on the part of the other Party has occurred. A Party shall give ninety (90) days written notice of termination to the other Party. No termination shall limit or otherwise affect the respective rights and obligations of either party accrued prior to the date of such termination.

ARTICLE SEVEN

General Provisions

Section 7.01. Notices: All notices, requests, or other communications required or permitted to be given or made under this Agreement by either Party hereto shall be in writing and shall be deemed to have been duly given or served if delivered personally to or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the party intended to receive such notice, at the addresses set forth below, or at such other addresses as the Parties may designate from time to time by notice given to the other party in the manner hereinbefore set forth:

If to the City: City: City of West St. Paul
 1616 Humboldt Avenue
 West St. Paul, MN 55118
 Attn: Chief of Police

If to Abramowicz: Dr. David Abramowicz
 501 North Concord Street
 South St. Paul, MN 55075

In the case of a mailed notice, the registration or certification slip, and not the return slip, shall be conclusive as evidence of the mailing date of any such notice. All mailed notices are deemed delivered 72 hours after deposit in a regularly maintained United States Post Office *mail* box in Minnesota, or upon personal delivery.

Section 7 .02. Further Action: The Parties agree to execute such further documents, and take such further actions, as may be reasonably required or expedient to carry out the provisions and intentions of this Agreement, or any agreement or document relating hereto or entered into in connection herewith.

Section 7 .03. Assignment: Neither Party's rights and obligations hereunder shall be assignable without the prior written consent of the other Party.

Section 7.04. Choice of Law: This Agreement shall be governed and construed and enforced in accordance with the laws of the State of Minnesota.

Section 7. 05. Entire Agreement: This Agreement supersedes any prior agreements and contains the entire agreement of the Parties and all representations with respect to the subject matter hereof. Any prior correspondence, memoranda, or agreements are replaced in total by this Agreement.

Section 7.06. Amendments: Any amendments to this Agreement shall be in writing and signed by all Parties.

Section 7.07. Counterparts: This Agreement may be executed in counterparts, any one of which shall be deemed to be an original, but such counterparts when taken together shall constitute but one agreement.

Section 7.08. Captions: Captions are for convenience only and shall not be deemed part of the contents of this Agreement.

Section 7.09. Parties in Interest: This Agreement shall be binding upon and inure solely to the benefit of the Parties hereto and their permitted assigns, and nothing in this Agreement,

expressed or implied, is intended to confer upon any other person any rights or remedies of any nature under or by reason of this Agreement.

Section 7 .10. Waiver: The waiver of any of the rights or remedies arising pursuant to this Agreement on any one occasion by any Party shall not constitute a waiver of any rights or remedies in respect to any subsequent breach or default of the terms of this Agreement.

Section 7 .11. Conflict of Interest: Abramowicz represents and warrants that no member, official, officer, or employee of the City has or shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 7 .12. Minnesota Government Data Practices Act: Information supplied by Abramowicz to the City is subject to the Minnesota Government Data Practices Act (the "Act"), Minnesota Statutes, Chapter 13. Such information shall become public data unless it falls into one of the exceptions in the Act. Abramowicz shall notify the City of any data that Abramowicz believes is classified as non-public data.

Section 7 .13. Examination of Records: Pursuant to Minnesota Statutes, Section 168.06, subd. 4, the books, records, documents, and accounting procedures and practices of Abramowicz relative to this Agreement are subject to examination by the City, or its authorized representative, and either the legislative auditor or the state auditor, as appropriate. Abramowicz shall maintain the records for a period of not less than three (3) years from the date of the termination of this Agreement.

CITY OF WEST ST. PAUL

By: 
David Meisinger, Mayor

By: 
Matt Fulton, City Manager

By: _____
Dr. David Abramowicz

ORDINANCE NO. 16-09
CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTION 72.05(D) OF THE WEST ST. PAUL CITY
CODE REGARDING PARKED OR STORED MOTOR VEHICLES

The City Council of West St. Paul does ordain:

SECTION 1. West St. Paul City Code Section 72.05 (D) relating to **Parked or Stored Motor Vehicles** is hereby amended as follows:

(6) No camp car, trailer, motor vehicle, tent or other temporary structure may be parked or placed upon any public street or on any public or private premises in the city and used as a shelter or enclosure of persons and their effects for the purpose of living therein.

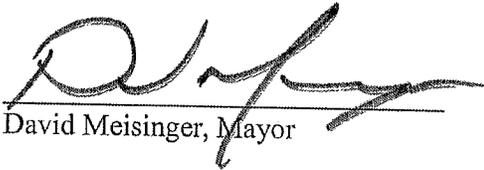
SECTION 2. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 8th day of August, 2016.

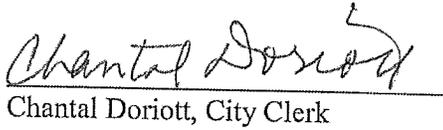
Ayes: 6

Nays: 0

Attest:



David Meisinger, Mayor



Chantal Doriott, City Clerk

July 12, 2016

TO: Ms. Chantal Doriott
West St. Paul City Clerk

FROM: Sylvia & John Dorsey

At a Committee of Adjustments meeting on June 21, 2016, an application for a variance to allow a reduction in minimum lot width for a new lot at 260 Edgewood Lane, Case #16-04, was denied on a split vote.

I am requesting an opportunity to appeal that decision in front of the West St. Paul City Council at the meeting on July 25.

Kind Regards,


Sylvia & John Dorsey 

260 Edgewood Lane; West St. Paul

651-457-0025

CC: Mr. Ben Boike

Printed Name	Signature	Home Address	Email and Tel. #
Mary Schubert	Mary Schubert	280 Edgewood	marybethschubert@gmail.com
SCOTT HAMILTON	Scott Hamilton	300 Edgewood	(612) 963 1163
Marco Maso	Marco Maso	270 Edgewood	marcojones@comcast.net
Charles Charles Jones	Charles Jones	270 Edgewood	charles.jones@mosslaw.com
Jennifer McMaster	Jennifer McMaster	246 Edgewood	jsmcmaster@comcast.net
David Phillips	David Phillips	200 Sherwood Ct.	dsp@att.net
Laura Phillips	Laura Phillips	300 Sherwood Ct.	lucellistrem@yahoo.com
TOM CIERZAN	Tom Cierzan	269 Sherwood Ct.	tcierzan@yahoo.com
Jenna Marfori Lang	Jenna Lang	290 Sherwood Ct.	Jenna.Lang@Target.com
Eric Lang	Eric Lang	270 Sherwood Ct.	Eric.W.Lang@wellsfargo.com
Kari Cierzan	Kari Cierzan	269 Sherwood	Karicierzan@yahoo.com
Nancy Weener	Nancy Weener	282 Sherwood	nancyweener@FHC.com
Joelle Weener	Joelle Weener	282 Sherwood	joelleweener@USF.com
Eric Schubert	Eric Schubert	280 Edgewood	eric.schubert@comcast.net
Colleen Loney	Colleen Loney	273 Sherwood Ct.	
Chris Wills	Chris Wills	237 Edgewood Ln.	chwillr@studentpaths.com
Heather Carland	Heather Carland	243 Edgewood Lane	carlandh@yahoo.com
Jody Hecht	Jody Hecht	330 Sherwood Ct.	jhecht15@gmail.com
Jae Klytje	Jae Klytje	312 Sherwood Ct.	smingebri.g@aol.com
Nancy Karth	Nancy Karth	332 Sherwood Ct.	NancyKarth@aol.com
Joelle Marth	Joelle Marth	311 Sherwood	WSPaul NW 55118
Dianne Hopen	Dianne Hopen	250 Edgewood Ln	W St Paul, Mn 55118

Why The Planning Commission Decision Should Stand

- **City Statute Declares The Lot is Too Small To Build Upon. A Variance Appeal Tries to Fit Square Peg in Cramped Round Hole:** According to West Saint Paul statute, the lot is too small to build upon. It would be a square peg trying to fit into a cramped round hole. The West Saint Paul statute has served the neighborhood well for years.

West Saint Paul Zoning Code, 153.008 REQUIRED YARDS AND OPEN SPACE.

- (A) *No yard or other open space shall be reduced in area or dimension so as to make the yard or other open space less than the minimum required by this chapter, and if the existing yard or other open space is less than the minimum required, it shall not be further reduced.*
- (B) *No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open spaces or minimum lot area requirements for any other building.*

- **Variance Appeal Irreparably Ruins Woodlands, Habitat and Steep Slope, Which Goes Against City's Comprehensive Plan:** Lots in this area are larger and have less impact on the topography and slope. That was the original intent. Squeezing a house in on this steep slope would destroy many mature trees and eliminate the natural wooded buffer between Sherwood Court and Edgewood Lane. This goes against the City's Comprehensive Plan, which states on page 56:

"The City's natural resources are valuable for both functional and aesthetic purposes. For example, wetlands serve as natural storm water retention areas during runoff periods. They also serve as natural habitat for numerous species of plant and animal life. In relatively recent years, their positive influence on residential environments has been recognized. This combination of functional as well as aesthetic values can be applied to most other environmental resources, including wooded areas and concentrated areas of steep slopes."

Removing the trees would be disruptive to habitat, such as the deer, wild turkeys and others that inhabit that area.

- **City Hasn't Solved Substantial Water Problems and Erosion That Occurs, And That Would Increase With Granting Variance Appeal:** Sherwood Court has experienced severe water runoff and erosion problems. This problem has only worsened without a fix. Water runoff from a house squeezed into this lot via a variance must run somewhere as it comes off the house, roof, and yard, and that's toward an area with substantial preexisting issues.
- **Variance Appeal Focuses on Financial Desire of Departing Neighbor Rather Than Upholding City Statute That Neighborhood Abides By:** Now one neighbor is leaving, and while this variance would benefit them financially, it leaves the neighborhood with something they don't want and which they felt would not occur because of the city statute above.
- **Opens Up Possibility to Change the Entire Neighborhood By Dividing More Lots:** This would open the door to effectively allow any future owner to change the topography, slope and natural landscape forever by altering lot sizes. That was not the intent of the city when it was built, and it is not the intent of current residents who will be impacted by the variance.