

**OFFICIAL PROCEEDINGS
CITY OF COLUMBIA HEIGHTS
CITY COUNCIL MEETING
FEBRUARY 24, 2020**

The following are the minutes for the regular meeting of the City Council held at 7:00 pm on Monday, February 24, 2020, in the City Council Chambers, City Hall, 590 40th Avenue N.E., Columbia Heights, Minnesota.

1. CALL TO ORDER/ROLL CALL

Mayor Schmitt called the meeting to order at 7:00 pm.

Present: Mayor Schmitt; Councilmember Buesgens; Councilmember Murzyn, Jr.; Councilmember Novitsky, Councilmember Williams

Also Present: Kelli Bourgeois, City Manager; John Bristow; Aaron Chirpich, Community Development Director; Barrett Corwin; Sandra Feist; Kevin Hanson, Public Works Director; Jim Hoeft, City Attorney; KT Jacobs; Robert Kirwin; Ben Lindau; Amada Marquez-Simula; Dewayne Morrell; Jonathon Rehlander; Nancy Robinett; Theresa Strike; Nicole Tingley, City Clerk; Associate Pastor Drew Zuehlke

2. INVOCATION

Invocation was provided by Associate Pastor Drew Zuehlke, Hope Community Church.

3. PLEDGE OF ALLEGIANCE

4. MISSION STATEMENT, Read by Mayor Schmitt

Our mission is to provide the highest quality public services. Services will be provided in a fair, respectful and professional manner that effectively address changing citizen and community needs in a fiscally-responsible manner.

5. APPROVAL OF AGENDA

Motion by Councilmember Murzyn Jr., seconded by Councilmember Novitsky, to approve the agenda as presented. All Ayes, Motion Carried 5-0.

6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS

None

7. CONSENT AGENDA

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

A. Approve Minutes of the City Council

MOTION: Move to approve the minutes of the City Council Meeting of February 10, 2020.

B. Authorization to Seek Bids for 2020 Miscellaneous Concrete Replacement and Installation Project

MOTION: Move to authorize staff to seek bids for the 2020 Miscellaneous Concrete Replacement and Installation Project.

C. Resolution No. 2024-24 Declaring the Intent to Bond for Street Rehabilitation – Zone 4A, Silver Lake Lift Station, and Silver Lake Park Boat Landing

MOTION: Move to waive the reading of Resolution No. 2020-24, there being ample copies available to the public.

MOTION: Move to adopt Resolution No. 2020-24, being a resolution approving the declaration for the official intent of the City of Columbia Heights to bond for the Zone 4A Street Rehabilitation projects on 5th and 6th Streets from 50th Avenue to 51st Avenue – Project 1802, Silver Lake Boat Landing – Project 1912, and Silver Lake Lift Station – Project 2008.

D. Accept MWMO Grant Agreement and Approve Contract with Stantec

MOTION: Move to accept the grant from the MWMO in the amount of \$40,000.00 for the Huset Park Feasibility Study and accept the proposal from the consulting engineering firm of Stantec for the Huset Park Feasibility Study in the amount of \$40,000.00 and authorize the Mayor and City Manager to enter into a contract for the same.

E. Authorization to Purchase Smith & Loveless Pumps for the Silver Lake Lift Station

MOTION: Move to authorize the purchase of a Smith & Loveless Everlast Series 1000 vacuum pumping system in the amount of \$74,846.00 for the Silver Lake Lift Station.

F. Second Reading of Ordinance No. 1660, an Ordinance Pertaining to the Rezoning of Certain Property Located at 3989 Central Avenue N.E., 3889 Central Avenue N.E., 961 Gould Avenue N.E. and 950 40th Avenue N.E. from Mixed-Use Development District to PUD, Planning Unit Development District No. 220-01

MOTION: Move to waive the reading of Ordinance No. 1660, there being ample copies available to the public.

MOTION: Move to adopt Ordinance No. 1660, an Ordinance pertaining to the rezoning of certain property located at 3989 Central Avenue N.E., 3889 Central Avenue N.E., 961 Gould Avenue N.E. and 950 40th Avenue N.E. from Mixed-Use Development District to PUD, Planning Unit Development District No. 220-01 and direct staff to send the Ordinance, as presented for publication in the legal newspaper.

G. Consideration of Approval of Attached List of Rental Housing Applications

MOTION: Move to approve the items listed for rental housing license applications for February 24, 2020, in that they have met the requirements of the Property Maintenance Code.

H. Approve Business License Applications

MOTION: Move to approve the items as listed on the Business License Agenda for February 24, 2020, as presented.

I. Review of Bills

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8, the City Council has reviewed the enclosed list of claims paid by check and by electronic funds transfer in the amount of \$1,080,331.42.

Motion by Councilmember Buesgens, seconded by Councilmember Novitsky, to approve the Consent Agenda items. All Ayes, Motion Carried 5-0.

Mayor Schmitt excused herself from the meeting due to illness, and Council President Novitsky presided for the remainder of the meeting.

8. PUBLIC HEARINGS

A. Resolution No. 2020-25 Approving PUD, Planned Unit Development District Plan for Property Located in the City of Columbia Heights, Minnesota

Director Chirpich provided background information regarding the project, located at the intersection of Central Avenue and 40th.

Primary project components for the vertical, mixed-use redevelopment project include a 20,650 SF City Hall, 3,400 SF café/coffee shop and 265 market-rate residential rental units with best-in-class amenities and underground parking.

He explained reasoning for the PUD and described the PUD District Plan (site plan) and PUD District Plan elements (comparing a proposed project standard with a mixed-use base standard).

Miscellaneous additional items being reviewed include utility connections and/or relocations; storm water, grading and drainage; Anoka County review (40th Avenue) and MnDot review (Central Avenue).

Some conditions of approval, of which there are 17 in total, that relate to the PUD include: 1) property owner and the City will enter into a development contract that governs site improvements, which will be executed by the property owner and the City prior to any building permit; 2) developer shall provide a financial guarantee in the form of an Irrevocable Letter of Credit for landscaping and other public improvements, the amount determined by the City Engineer; 3) applicant shall adhere to any requirements made by the Anoka County Highway Department; 4) applicant shall adhere to any requirements made by the MnDot; 5) the City Engineer, Watershed District and MnDot shall review and approve the site grading and stormwater management plans; 6) developer shall enter into a stormwater maintenance and management agreement with the City; 7) the site utility plans are subject to review and final approval by the City Engineer and Fire Chief; 8) developer shall pay park dedication fees as outlined in City Code; and 9) developer will provide record plans or as-built drawings to the City following project completion.

Councilmember Buesgens inquired as to whether the developer would control any residential units in the building that may possibly be used by Airbnb. Barrett Corwin, Development Associate of Alatus, LLC, stated that no furnished units have been planned for which his organization would facilitate.

Councilmember Buesgens then asked whether the developer would consider in the future purchasing solar panels to reduce heating and cooling costs. Mr. Corwin stated that his organization had contracted a study on that option and the report concluded the more effective way would be to utilize the VRF system through Xcel Energy's renewable program.

Council President Novitsky opened the public hearing.

Dewayne Morrell, City resident, inquired about walkups to the building and building elevators. Director Chirpich highlighted on the site plan drawing where stairwells would be located, and Mr. Corwin identified where residents on foot would access the building off 40th and enter the centrally-located elevator, confirmed wheelchair accessibility and said the café/coffee shop would be one story in height and City Hall 1-1/2 stories. Additionally, Ben Lindau, Senior Architect of Doran Companies, described grading and ceiling height differentials of the building.

Amada Marquez-Simula inquired as to whether there would be guidelines should residents rent their own units as Airbnb's and if there would be lease limitations for long-term guests. Attorney Hoeft said the City does not permit Airbnb's and current Code requires full rental licensing for any amount of time. Mr. Corwin added that Alatus, LLC, does not allow subletting in their leases.

Motion by Councilmember Buesgens, seconded by Councilmember Murzyn, Jr., to close the public hearing and waive the reading of Resolution No. 2020-25, there being ample copies available to the public. Motion Carried 4-0.

Motion by Councilmember Buesgens, seconded by Councilmember Murzyn, Jr., to approve Resolution No. 2020-25, approving PUD, Planned Unit Development District Plan for property located in the City of Columbia Heights, Minnesota, subject to certain conditions of approval. Motion carried 4-0.

B. Resolution No. 2020-26 to Acquire Certain Leasehold Interests(s) of 3989 Central Avenue N.E., Columbia Heights, Minnesota, by Proceedings in Eminent Domain

Director Chirpich provided background information regarding the site, which was purchased by the EDA in 2019 with the intent of development and the EDA succeeded as the lessor in one or more agreements for the site's telecom rooftop leases. Various relocation strategies were evaluated with Crown Castle because they had expressed to the City that they wished to vacate the building but they became unwilling to work on an expedited relocation strategy; therefore, the lease was terminated with Crown Castle per the terms of the contract. Crown Castle countered, saying the termination was invalid; so, staff worked to engage the telecom carriers directly so AT&T Sprint would expedite their removal. However, Crown Castle interfered with staff efforts, as they were cautioning the carriers not to work with the City.

Without a willing partner to facilitate relocation of the antennas and the need to clear title to the property and provide for removal of the existing building in the coming months, staff believes a new strategy needs to be explored and, therefore, seeks Council approval to move forward with taking the leasehold interests by Eminent Domain. To initiate the process, the City would need to order an appraisal of the current leases and make an offer to Crown Castle to buy out the leases. If unsuccessful, the City would then move legally through the condemnation process in the courts.

If the process moved to court action, the City would be required to deposit funds into escrow that would be equivalent to the appraised value of the lease. Staff has requested quotes and timelines from several firms to complete the lease appraisals and seek authorization to expend up to the \$15,000.00 limit, which would not require further Council approval, for a professional service contract with a qualified appraisal firm that would assist in providing the appraisal and then, from there, make an offer to the leaseholder based on that appraisal. If those negotiations failed, the City would proceed with condemnation through the court. Staff seeks approval of Resolution No. 2020-26, which would allow staff to seek the appraisal and then move through the process, even though attorneys from both sides now plan to meet for negotiation.

Councilmember Buesgens inquired as to whether there would be a timeline as to when attorneys, following their anticipated upcoming meeting, would make a final decision. Attorney Hoeft reported on the City's frustration with Crown Castle's non-responsiveness to date and the intent would be to proceed with condemnation immediately, which would then take time to get into court. He said, in the interim, the City would be willing to entertain any options presented by Crown Castle's attorney but believes the City has provided sufficient time to move forward with its relocation.

Councilmember Buesgens and Council President Novitsky both stated their support of the City's stance and said Crown Castle has been given plenty of time to negotiate with the City.

Council President Novitsky opened the public hearing.

KT Jacobs, City resident, inquired as to if and how the process in question would affect the timeline for Alatus, LLC, to move forward with the demolition and begin the project. Director Chirpich said there would be no anticipated delay, which is why staff would seek to get ahead of the process because the primary concern would be to make sure the project stays on track.

Motion by Councilmember Buesgens, seconded by Councilmember Murzyn, Jr., to close the public hearing and waive the reading of Resolution No. 2020-26, there being ample copies available to the public. Motion carried 4-0.

Motion by Councilmember Buesgens, seconded by Councilmember Murzyn, Jr., to approve Resolution No. 2020-26, to acquire certain leasehold interest(s) of 3989 Central Avenue N.E., Columbia Heights, Minnesota, by proceedings in eminent domain. Motion carried 4-0.

9. ITEMS FOR CONSIDERATION

A. Other Ordinances and Resolutions

None

B. Bid Considerations

None

C. New Business and Reports

None

10. CITY COUNCIL AND ADMINISTRATIVE REPORTS

Councilmember Buesgens attended: the Sister City Meeting, which included a presentation by a Polish photographer; the Fridley Environmental Quality and Energy Commission to see how they operate sustainability; the East Metro City Climate Action Conversation, which also included Anoka County, Ramsey County Washington County and was funded to see what other cities are doing to increase sustainability and energy efficiency in the metro area; the Pancake Breakfast Fundraiser for Hope4Youth Homelessness at First Lutheran Church; the School Board meeting work session, where work included a policy spelling out the roles and responsibilities for the liaison and also discussing results of a professional survey completed with residents, parents and staff regarding North Park Elementary; the swearing-in of the City's new police officer, Guy Juran; and the Lola Winter Art Exhibit to see paintings of a City's resident and said she hoped in the future it would be possible in a gallery to feature other City artists. She thanked all residents who helped to increase the City's recycling by 3% and reduce trash by 4%.

Councilmember Murzyn, Jr., attended the swearing-in of Guy Juran as the City's new police officer and welcomed him to the City. He also attended the Lions Club wrestling match and thanked all who were part of the great turnout.

Council President Novitsky also attended Guy Juran's swearing-in ceremony and the well-attended Academic Night for Columbia Academy, where all A and B Honor Roll students were congratulated.

Manager Bourgeois reported the Council will have a goal-setting work session 2:30-5:30 pm on March 4; the Police Department will have a blood drive 10:00 am to 4:00 pm on February 26, and slots are still available; "Chili with a Cop" will be held 5:30 pm to 7:00 pm on March 4 at St. Matthews; the Lee Carlson Chili Cookoff is March 6 at the Embassy Suites in Brooklyn Center and City Police and Fire Departments will be participating; and the Fix-It Clinic will be held 10:00 am to 1:00 pm on March 7 at the Community Methodist Church.

11. COMMUNITY FORUM

Dewayne Morrell, City resident, inquired as to whether the Alatus, LLC, apartment building might better be relocated to 47th and Central because the acreage appears to be the same and the anticipated court proceedings relating to the telecom issue might delay the project. Council President Novitsky said that staff could investigate his questions and get back to him.

Mr. Morrell then directed to Councilmember Buesgens a question as to whether an adjustment could be made regarding his weekly trash removal, referencing him being a single person and he pays weekly for the service but utilizes it only every 6-8 weeks. Councilmember Buesgens said she believed there is a standard monthly fee that everyone pays depending on the gallon-size of the container. Director Hanson said the City's fee structure and how low fees are maintained for refuse is based on single-family pickup and other types of uses for residential, such as apartments, and the size of trash containers. If varying pickup from one-week to six-week to ten-week, the cost would not change as the trucks will still be required and that cost would be passed onto other rate payers; the cost is based on weekly pickup of a particular-sized container. He recommended Mr. Morrell utilize the smallest container, which would be less expensive. In addition, he said the rates have only gone up one-half of 1% this year from what the City charges.

Councilmember Buesgens thanked Mr. Morrell for reducing his garbage and said there is a 30-gallon waste container he could use. Director Hanson confirmed, for Mr. Morrell, that there are three waste carts available: garbage, recycling, compost (includes organics); and one can sign up for the compost level of service, which is collected year-round.

Mr. Morrell suggested that the City work with St. Anthony to clean up Silver Lake. Director Hanson stated that the pumping station is a sanitary sewer lift station that serves part of the Community.

KT Jacobs, as chair of the Complete Count Census Committee, reminded everyone that the committee's work will be completed on April 1, which is 2020 Census Day, and mailings will begin the middle of March. She asked that residents fill out the census forms and said the Library will be available to assist those with internet needs and language access. She also cautioned residents that she has become aware of text and email messages that appear to be soliciting information and opportunities to earn money but reassured residents that no phone calls, texts or emails are generated from the Census; should residents see any such messages, they should be deleted or disregarded. Ms. Jacobs then thanked the Council for their support the past 11 months.

Theresa Strike, City resident, and, as a member of the Senate DFL, works on the Communications Committee and said caucuses will be held on February 25. She said she was disturbed when she learned that the Library instructed that no political groups would be allowed to use their space. Ms. Strike earned her Master's in Library and Information Science from the University of Wisconsin-Milwaukee in 2003 and said libraries are "near and dear to my heart." She said one of the things she learned, going through the course, is the importance of libraries remaining viewpoint neutral in how they offer their services; that a library has to offer them to every group in the community equally, regardless of their affiliations or beliefs; and is a matter of professional ethics and a legal duty. When a library offers meeting space to public groups, it cannot be based in any way on the views of a group and has been tried in many courts. When such limitations are adhered to, referencing the refusal to allow space for the DFL meeting, she said it undermines trust in libraries. Mr. Strike encouraged the Council to uphold the Library's Facility Policy, which states: "The Library makes meeting space available to the public regardless of beliefs or affiliations of the individuals or groups requesting their use."

Jonathon Rehlander, Senate District 41 DFL Chair, said he appreciated the communication he has had with Manager Bourgeois since the meeting room reservation was pulled and had received an explanation and apology. Further, he re-emphasized that libraries are not considered to be endorsing of any groups that use the facilities and is a matter of equal opportunity once public space has been offered.

John Bristow, City resident, said he is an active Democrat and believes it is peculiar that the DFL is the only political group, he believes, that uses the Library and was refused access to the meeting space. He said it was his understanding that the policy which the City Manager implemented was pending, agreement or disagreement, from the City Council and suggested that it would be appropriate to override the policy. Attorney Hoeft said a lot of misinformation has been disseminated. When the new library was constructed, the City Council (not the City Manager) enacted a policy where a "limited public forum" was created, limited to City residents because they paid for the Library.

It was limited to nonprofit organizations. He said neither residency nor business organization is a protected class, the policy is sound, and apparently there has been some inability to follow the policy, which is a separate issue. Attorney Hoeft reiterated that the policy in place is valid, is legal and is conforming to all First Amendment rights and Nondiscrimination rights. He said the Council will revisit the subject at a work session and could be opened to a “full public forum.”

Ms. Strike thanked Attorney Hoeft for the clarification but said she was on the phone when told “no political group,” which is where her concern came from, and miscommunication undermines public faith in libraries and is of great concern to her.

Nancy Robinett, St. Anthony resident, said she’s used the Columbia Heights Library for years, has attended meetings at the Library (some of which have been DFL meetings) and is a member of Senate DFL 41. She said Columbia Heights is the largest city in 41B, the southern half of the Senate District and the DFL has a very large group of area residents. Reiterating that the Facility Policy states “Rooms may be scheduled by Columbia Heights residents or nonprofit groups,” she said if the DFL Party, the Senate District organization, is not held to be a nonprofit, what about all the people in the group that live in Columbia Heights; it is not an outside political organization that is trying to use the Library. Ms. Robinett encouraged the Council to reconsider the issue at next week’s work session and think about the exact language of the facility use policy and the fact that “the people before you from the DFL who are talking about this and who are concerned about the use are your residents and care very much about this Community and want to be part of this Community and use this facility, which was built with Community taxpayer dollars.”

Ms. Jacobs asked whether the Library’s Facility Policy in discussion does not also require anybody using the public spaces to, on any promotional material, state that it is not sponsored by or affiliated with the Library. Manager Bourgeois confirmed the requirement. Ms. Jacobs then asked, if that were part of the issue, would that not mitigate some of the impact with which the City may have a concern if that was followed through. Council President Novitsky stated that it is in the current policy but encouraged anyone interested in the issue to please email the City with their input so that it could be addressed when the Council meets at the next work session. Ms. Jacobs suggested that any policy change be delayed until after the next election cycle so that it would be on “fair footing.”

Mr. Rehlander said appreciated Ms. Jacobs’ comments and addressed comments made by Attorney Hoeft. “Going back to case law,” he referenced “From Concerned Women for America, Inc. versus Lafayette County,” in which the decision was made to uphold the rights of the group. He said he hoped it would be considered at the Council’s work session and hoped his group could use the Library space until after the next election to allow for consideration of the matter.

Amada Marquez-Simula, City resident, said that residents may not know that the Library it is not a County library and that the Fridley library on Mississippi is entirely different and has different policies from the City library. She said people look at the Library as a place to learn and, though the wording says that residents and nonprofits can use it, the exact topic of the meeting room reservation in question was specifically for the DFL caucus; and the whole point of a caucus training is educational and is about how our government works, and the space cancellation was a denial for residents. Ms. Marquez-Simula suggested that Library Board members be included in the Council work session.

Sandra Feist, New Brighton resident, said that the Library's written Facility Policy should be enforced and does not differentiate between political and nonpolitical nonprofits and yet the Senate DFL 41 group was told that the reason their group's meeting was cancelled because it was political. The issue is that if the written policy does not say that political organizations, regardless of their affiliations, cannot schedule meeting room space, then the policy is not being followed and is not constitutional to differentiate in that way, even if it is a limited public forum. She said her group does not understand how the policy is updated and how it is being enforced.

12. ADJOURNMENT

Motion by Councilmember Buesgens, seconded by Councilmember Williams, to adjourn. All Ayes, Motion Carried 4-0.

Meeting adjourned at 8:20 pm.

Respectfully Submitted,



Nicole Tingley, City Clerk/Council Secretary