



**CITY COUNCIL MEETING**  
**City Hall—Council Chambers, 590 40th Ave NE**  
**Monday, December 13, 2021**  
**7:00 PM**

**Mayor**  
*Amáda Márquez Simula*  
**Councilmembers**  
*John Murzyn, Jr.*  
*Connie Buesgens*  
*Nick Novitsky*  
*Kt Jacobs*  
**City Manager**  
*Kelli Bourgeois*

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**MINUTES**

The following are the minutes for the Meeting of the City Council held at 7:00 pm on Monday, December 13, 2021 in the City Council Chambers, City Hall, 590 40<sup>th</sup> Avenue NE, Columbia Heights, Minnesota. Due to the COVID-19 pandemic, this hybrid meeting was held both virtually and in-person.

**CALL TO ORDER/ROLL CALL**

Council President Murzyn, Jr. called the meeting to order at 7:00 pm.

Present: Council President Murzyn; Jr.Councilmember Buesgens; Councilmember Jacobs; Councilmember Novitsky

Absent: Mayor Márquez Simula

Also Present: Lenny Austin, Police Chief; Aaron Chirpich, Community Development Director; Jim Hoeft, City Attorney; Khader Safi; Sara Ion, City Clerk; Rachel James; Joe Kloiber, Finance Director; Heather Lumley; Ross Lumley; Dan O'Brien, Assistant Fire Chief; Charlie Thompson, Fire Chief; Keith Windschitl; Community Development Director.

**CALL TO ORDER/ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**MISSION STATEMENT**

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

**APPROVAL OF AGENDA**

*Motion by Buesgens, seconded by Councilmember Jacobs, to approve the Agenda as presented. All Ayes, Motion Carried 4-0.*

**CONSENT AGENDA**

*Motion by Councilmember Novitsky, seconded by Councilmember Buesgens, to approve the Consent Agenda as presented. All Ayes, Motion Carried 4-0.*

- 1. Approve November 22, 2021 City Council Meeting Minutes**  
MOTION: Move to approve the City Council Meeting Minutes of November 22, 2021.
- 2. Accept November 3, 2021 Library Board Meeting Minutes**  
MOTION: Move to accept the Library Board Meeting Minutes of November 3, 2021.
- 3. Accept September 9, 2021 Park and Recreation Commission Meeting Minutes**  
MOTION: Move to accept the Parks and Recreation Meeting Minutes of September 9, 2021.
- 4. Accept October 19, 2021 Traffic Committee Meeting Minutes**  
MOTION: Move to accept the Traffic Commission Meeting Minutes of October 19, 2021.
- 5. Authorize School Resource Officer Contract with Columbia Heights School District**  
MOTION: Move to authorize the Mayor and Police Chief to enter into a Joint Powers agreement with Columbia Heights Public Schools for the provision of a Police School Resource Officer program as stipulated in the Joint Powers Agreement for the period of January 1 through December 31, 2022.
- 6. Approve Resolution 2021-96, a Resolution Approving State of Minnesota Joint Powers Agreement**  
MOTION: Move to waive the reading of Resolution 2021-96, there being ample copies available to the public.  
MOTION: Move to approve Resolution 2021-96, being a Resolution approving State of Minnesota Joint Powers Agreement with the City of Columbia Heights on behalf of its City Attorney and Police Department.
- 7. Approve Resolution 2021-98, a Resolution to Accept the Amended Original Allocation and Redistribution of Unrequested Coronavirus Local Fiscal Recovery Fund Established Under the American Rescue Plan Act**  
MOTION: Move to waive the reading of Resolution 2021-98, there being ample copies available to the public.  
MOTION: Move to adopt Resolution 2021-98, a Resolution to Accept the Amended Original Allocation and Redistribution of Unrequested Coronavirus Local Fiscal Recovery Fund Established Under the American Rescue Plan Act.
- 8. Anoka County HRA Levy Request for Reimbursement of Cell Tower Relocation Expenditures**  
MOTION: Move to waive the reading of Resolution 2021-99, there being ample copies available to the public.  
MOTION: Move to approve Resolution 2021-99, a Resolution requesting funds from the Anoka County Housing and Redevelopment Authority to support economic development activities in the City of Columbia Heights.

- 9. Adopt Resolution 2021-95, a Resolution Establishing Senior Citizens or Retired and Disabled Persons Hardship Special Assessment Deferral**  
MOTION: Move to waive the reading of Resolution 2021-95, there being ample copies available to the public.  
MOTION: Move to adopt Resolution 2021-95, being a Resolution establishing a new maximum income of \$41,800.00 for Senior or Retired and Disabled Persons to be eligible for special assessment deferral.
- 10. Adopt Resolution 2021-100, a Resolution Accepting the Feasibility Report for Zones 6 and 7 Street Rehabilitation and Ordering the Public Improvement Hearing, City Project No. 2202**  
MOTION: Move to waive the reading of Resolution 2021-100, there being ample copies available to the public.  
MOTION: Move to adopt Resolution 2021-100, being a Resolution accepting the Feasibility Report for 2022 Street Rehabilitation Improvements - Zones 6 and 7, City Project No. 2202, and ordering the Public Improvement Hearing beginning at 6:15 pm on February 7, 2022.
- 11. Adopt Resolution 2021-103, a Resolution Ordering Preparation of a Report for MSAS Overlay**  
MOTION: Move to waive the reading of Resolution 2021-103, there being ample copies available for the public.  
MOTION: Move to adopt Resolution 2021-103, being a Resolution ordering preparation of a feasibility report for MSAS Overlay, Project 2206.
- 12. Adopt Resolution 2021-101, a Resolution Accepting the Feasibility Report for State Aid Street Rehabilitation and Ordering the Public Improvement Hearing, City Project No. 2206**  
MOTION: Move to waive the reading of Resolution 2021-101, there being ample copies available to the public.  
MOTION: Move to adopt Resolution 2021-101, being a Resolution accepting the Feasibility Report for 2022 Street Rehabilitation Improvements – M.S.A. Street Overlay, City Project No. 2206, and ordering the Public Improvement Hearing beginning at 6:45 pm on February 7, 2022.
- 13. Approval of Construction Management Services Agreement for the New City Hall**  
MOTION: Move to approve the professional services agreement with Doran Special Projects, LLC in the amount of \$357,534.00 to provide Construction Manager at Risk Services for the buildout of the new City Hall located at 3989 Central Avenue.
- 14. Final Compensating Change Order and Payment for 2021 Miscellaneous Concrete, Project No. 2100**  
MOTION: Move to approve the final compensating change order and accept the work for 2021 Miscellaneous Concrete Repairs and Installations, City Project No. 2100, and authorize final payment of \$10,178.77.00 to Standard Sidewalk, Inc. of Blaine, Minnesota.

- 15. Final Payment for 2020 Columbia Heights Infrastructure Program, Project Numbers 1903, 1909, and 1802**  
MOTION: Move to accept the work for 2020 Columbia Heights Infrastructure Program, City Project Numbers 1903, 1909, and 1802, and authorize final payment of \$27,000.05 to Northdale Construction Company, Inc. of Albertville, Minnesota.
- 16. Final Payment for 2021 Sanitary Sewer Lining, City Project 2104**  
MOTION: Move accept the work for 2021 Sanitary Sewer Lining, City Project 2104, and authorize final payment of \$62,990.93 to Hydro-Klean, LLC of Des Moines, Iowa.
- 17. Capital Equipment Authorization to Purchase an Engineering Van Replacement**  
MOTION: Move to authorize the purchase of one (1) new 2022 Ford E-Transit-350 Fully Electric Cargo Van off the State of Minnesota Purchasing Contract from Boyer Trucks, Minneapolis, Minnesota, in the amount of \$55,586.00.
- 18. Adopt Resolution 2021-104, a Resolution Establishing the City of Columbia Heights Fee Schedule for 2022**  
MOTION: Move to waive the reading of Resolution No. 2021-104, there being ample copies available to the public.  
MOTION: Motion to adopt Resolution No. 2021-104, approving the 2022 City Wide Fee Schedule.
- 19. Adopt Resolution 2021-105, a Resolution Establishing Precinct and Polling Locations for 2022 Election Year**  
MOTION: Move to waive the reading of Resolution 2021-105, there being ample copies available to the public.  
MOTION: Move to adopt Resolution 2021-105, establishing Precinct and Polling Locations for the 2022 Election Year.
- 20. Approval of John P. Murzyn Hall Rental Policy Updates**  
MOTION: Move to approve the changes the John P. Murzyn Hall rental policies as listed.
- 21. License Agenda**  
MOTION: Move to approve the items as listed on the business license agenda for December 13, 2021 as presented.
- 22. Rental Occupancy Licenses for Approval**  
MOTION: Move to approve the items listed for rental housing license applications for December 13, 2021 in that they have met the requirements of the Property Maintenance Code.
- 23. Cancel December 27, 2021 Regular City Council Meeting**  
MOTION: Move to cancel the December 27, 2021 Regular City Council Meeting.

**24. Review of Bills**

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8 the City Council has reviewed the enclosed list to claims paid by check and by electronic funds transfer in the amount of \$1,277,460.40.

**PUBLIC HEARINGS**

**25. Resolution 2021-102, a Resolution Adopting a Budget for the Year 2022, Setting the City Levy, Approving the HRA Levy, and Approving a Tax Rate Increase**

Director Kloiber reported that, as required under the City Charter, the City Manager provided the City Council with a proposed 2022 budget at a regular City Council meeting in August. That document explained the proposed 2022 budget, with comparisons to 2021 and two prior years. This information was reviewed at three City Council work sessions.

One change to the initial August document was subsequently approved by the City Council. Due to new information in September about the share of property taxes to be collected in 2022 from properties outside the City under the Fiscal Disparities revenue-sharing agreement, the proposed increase in the gross property tax levy was revised to 8.5%. This change resulted in an average increase of 4.9% in the share of taxes collected from local property owners for 2022, which is approximately the increase originally planned in the preparation of the City Manager's proposed budget in August. The revised proposal was certified to Anoka County in September and the County, in turn, prepared and mailed individual notices of proposed 2022 property taxes to each property owner in the City in November. Included in that notice was the time and location of the December 13 meeting, at which the City Council would take its final action on the proposal. Under State Statute, the City Council cannot adopt a tax levy greater than the amount certified to Anoka County in September for the individual notices sent to each property owner.

The City Manager and staff recommend adopting the budget resolution.

Council President Murzyn, Jr. opened the meeting to public comment.

No one wished to speak.

*Motion by Councilmember Buesgens, seconded by Councilmember Novitsky, to waive the reading of Resolution 2021-102, there being ample copies available to the public. All Ayes, Motion Carried 4-0.*

*Motion by Councilmember Buesgens, seconded by Councilmember Novitsky, to close the public comment and adopt Resolution 2021-102, being a resolution adopting a budget for the year 2022, setting the city levy, approving the HRA levy, and approving a tax rate increase. All Ayes, Motion Carried 4-0.*

**26. Approve Suspension of Tobacco Product Shop License for Smoke and Vape Inc, located at 2311 37th Place NE**

Director Chirpich reported that the Columbia Heights Police Department conducted routine tobacco compliance checks on November 12, 2021 at all licensed tobacco retailers in the City of Columbia Heights. Smoke and Vape Inc., a licensed Tobacco Product Shop located at 2311 37th Place NE, failed their compliance check that day by selling cigarettes to a person under the age of 21. This is their third violation within a 36-month period. Previous violations occurred on November 5, 2019 and November 6, 2020, at which times an employee sold tobacco products to persons under the age of 21.

City Code Section 5.311 (B)(1) stipulates that the licensee shall be charged an administrative fee of \$1,000.00 for a third or subsequent offense at the same location within a 36-month period. In addition, after the third offense, the license shall be suspended for not less than seven days. Upon a fourth violation within a 36-month period, the license will be revoked.

Staff recommends that the City Council work with the licensee, Khader Safi, to select a consecutive seven-day suspension period to put into effect.

Councilmember Buesgens asked what days would be considered “not convenient,” as her thought would be to just set a date, whether or not it would be convenient for the licensee, as part of the consequence. Director Chirpich said staff had looked at what had been done in the past for similar offenses, because this was the first revocation he had been a part of.

Councilmember Novitsky asked how many compliance checks are done in a year. Director Chirpich said City Ordinance requires a minimum of one but has been best practices to do two annually, with most occurring in November, whether it be a coincidence or not.

Council President Murzyn, Jr. opened the public hearing.

Khader Safi, owner of Smoke and Vape, apologized to the City Council for the offense and said, though he was not the person who sold the product to the under-aged customer, he was ultimately responsible. He reported that the violations in 2019 and 2020 were both by same employee, who no longer works there. Following the second violation, Mr. Safi said he made sure that every employee completed the State of Minnesota Compliance Training and sent copies to the City Clerk at that time last year. When the law changed from 18 to 21 and during the pandemic when people wore masks, it was more of a challenge to determine ages. After the last violation, he has now upped the age to 50 to check identification. He then presented the City Council with the training certificates for 2020 and 2021. As the owner, Mr. Safi said he has a rule that no employee can be at the register until after completing the training.

The last violation was observed on the second day of work of a new employee who was not scheduled to be at the cash register; the employee looked at the military identification (which does not have “under 21” on it) but couldn’t “do the math.’ That employee has since completed the training. To eliminate the problem with the math, Mr. Safi purchased a new machine, which cost \$1,000.00, that scans the identification and tells staff whether the person’s age is old enough to make a purchase tobacco. Mr. Safi has also placed signage on the front, at the cash register, notes for all employees to check customers who look under the age of 50 and is not allowing any minors to enter the store even if they are with adults. He also created a new reward program for employees who complete the Compliance test, where they receive \$100.00. Mr. Safi said he takes the violations very seriously, that the license is worth more than making sales to a minor, citing reasons of bad luck or poor training where mistakes happen.

Regarding the last convenient days for the one-week suspension would be during the holidays because staff are hourly and need the work – and then asked if the fine could be reduced to less than seven days if there is a possibility.

Councilmember Jacobs applauded Mr. Safi for taking the steps that he had taken, though would have preferred to have seen them after the first incident. Considering that all of the infractions have been in November, she said he could likely anticipate the checks in November. She does not support reducing the seven-day suspension and would, in fact, prefer to increase it to 15 days.

Councilmember Buesgens also approved of Mr. Safi making all of his cited changes but supports the seven-day suspension and the \$1,000.00 fine. Her concerns are that employees should not rely on trying to identify ages by looking at customers’ masked faces and should always card them; and, secondly, that she suspects how many times during the year there are other offenses that are unseen by the Police Department. Regarding the suspension date, she prefers getting it completed as soon as possible.

Councilmember Novitsky said he is fine with the seven-day suspension and also appreciative of what the owner has done to help resolve the issue, but he prefers getting the suspension completed as soon as possible as well. If there is discussion about a longer suspension, he would prefer that to be done in a Council work session.

Mr. Safi added that his business in Columbia Heights has other inspections by the FDA during the summers and they have passed and he owns three other smoke shops and has not received a ticket at any of them.

Director Chirpich said it would be preferable to have a day to consult with the Police Department in scheduling the suspension; a seven-day suspension would run December 15-21, 2021; a 15-day suspension would run December 15-28, 2021. He then cited a similar violation with Hot Market in 2010 that received a 30-day suspension for two violations within a 24-month period.

He said one significant change to the Ordinance was the recalibration of the penalty scale for increasing the fines and expanding the duration of how consecutive fines are determined, i.e., the increase to 36 months from 24, which applies more pressure in the graduated scale that gains momentum.

Councilmember Jacobs said she thinks if the business had cited violations three times in three years, there are likely additionally unnoticed violations that are occurring, and feels strongly in a ten-day suspension rather than seven.

Councilmember Novitsky said he would be fine with a ten-day suspension.

Councilmember Buesgens prefers the seven-day suspension; because if another violation occurs, the business will lose its license.

Council President Murzyn, Jr. said he preferred a ten-day suspension.

It was Council consensus that the ten-day suspension would occur December 15-24, 2021.

*Motion by Councilmember Jacobs, seconded by Councilmember Novitsky, to close the public hearing and waive the reading of the suspension of Tobacco Product Shop License for Smoke and Vape, Inc., there being ample copies available to the public. All Ayes, Motion Carried 4-0.*

*Motion by Councilmember Jacobs, seconded by Councilmember Novitsky, to suspend the Tobacco Product Shop license issued to Khader Safi, on behalf of Smoke and Vape Inc. located at 2311 37<sup>th</sup> Place NE. The ten-day suspension shall be effective December 15-24, 2021, as determined by the City Council. All Ayes, Motion Carried 4-0.*

## **CITY COUNCIL AND ADMINISTRATIVE REPORTS**

### **Report of the Acting City Manager**

Director Chirpich reported that, in coordination with the Communications Coordinator, City calendars are available for pickup at City Hall as well as ordering on the City's website. With the recently approved Youth Commission, applications are being accepted for that group through January 5, 2022, as well as on the City's website.

### **Report of the City Attorney**

Attorney Hoeft had no update.

### **Report of the City Council**

Councilmember Buesgens said she is very excited that the Public Works Department is purchasing the City's first all-electric vehicle (item 17 on the Consent Agenda). She attended the presentation of State Senator Mary Kunesh-Podein on "Missing and Murdered Indigenous Women"; stopped by for lunch at the Public Safety Building last week; was unable to attend the farewell party for Steve Silverdahl in the IT Department but stopped by beforehand to wish him well and thank him for the many years he dedicated to the City.



She attended the Columbia Heights Academy's "Willie Wonka" play, which was very cute and the kids, costumes, and music were great; attended the pinning ceremony for seven new volunteer firefighters, which now brings the total close to the 29 needed, and is very excited that they were willing to join the City in working with the Fire Department.

Councilmember Jacobs attended the Metro Cities meeting, where the 2022 Legislative Policies were adopted and a guest speaker gave a presentation on the demographics based on the new 2020 Census; attended Steve Silverdahl's retirement; "under great weather" last week, rang the Salvation Army bell at the Har-Mar Mall and is grateful to everyone who supported the bell ringers, which allows so many ways for the Salvation Army to give back to Community members; was unable to attend the firefighter's badge pinning but gave her good wishes to the Captain and asked him to pass them along; continues to serve weekly at SACA and is saddened that, again, the Thrift Store is closed and the Food Shelf is doing curb service only until further notice – also noted that SACA will be closed Christmas Day and New Year's Day, which is something that has not been done in the past, so all the volunteers and staff may have sometime off after a very long period of the pandemic to be with their loved ones; facilitated six resident reach-outs. She then said, "I wish everyone peace and happiness, the prosperity of spirit and a healthy new year. Remember to laugh often, eat lots, drink less, and love more. Merry Christmas and Happy New Year. See everyone in January."

Councilmember Novitsky said the "Willy Wonka" play was very good, the second play he has watched in the Performing Arts, and said the upgrades were well worth it and allows more kids to do different things to have more fun; thanked Public Works for doing a great job keeping the roads clear. He then wished everyone "Happy Holidays" and to be safe.

Acting Mayor Murzyn, Jr. attended the swearing-in of the seven new firefighters, and he reminded everyone that the VFW is having "Breakfast with Santa" on Sunday, December 19, 9:00 am to 1 pm. He wished everyone "Happy Holidays," drive safe, and expressed thanked to Public Works in how fast they cleared the streets after the snowstorm.

## COMMUNITY FORUM

Heather Lumley, offsite property manager for 4628 - 4634 Tyler Street NE, said the properties were purchased on August 26, 2021 and she mistakenly submitted the rental license for them to Minneapolis instead of Columbia Heights. She was not notified of the mistake until December 2, when the tenants said there was a posting on the building for unlawful occupancy, and immediately called and emailed the notarized rental license to Columbia Heights. Ms. Lumley received a response call the next day from Jeri and Dan O'Brien, who were not open to "just a clerical error" and not interested in doing a license transfer because it was beyond 30 days and said she would need to start with building inspections. She then called Ryan Smith, who contacted Aaron Chirpich, and said it seems pretty straightforward, did not understand why it was becoming "such a thing," and said he would talk with them and see what could be done. The next week she received an email from Ryan, which said they could not overturn the decision, that they are "sticking to their guns on that" and she would need to start with them. Ms. Lumley said she is attending the evening's meeting to see if there is anything the City Council can do, that she is not trying to skirt the system.

She said that when she spoke with Jeri, she asked if she had reached out to the property managers; rather, Jeri had reached out to the previous owner. Yet, when the Fire Department came to post the next day, Ms. Lumley at her office had received a letter of the violation, which was obvious to her that the City had her pertinent contact information in hand regarding any concerns. She added that there have been no new tenants since the purchase, they were inherited with the sale.

Councilmember Buesgens asked for the date of the closing on the property. Ms. Lumley said it was August 26, 2021. Councilmember Buesgens said the City usually sends out three notices over a three- or four-month period. She asked Assistant Chief O'Brien if the notice is mailed in addition to posting. He reported that the license was valid on the date of the sale and City Code cites a new owner has 30 days to contact the City to transfer that license, which was not done in that timeframe, so the license automatically expired and there is no license to continue. Because it is no longer a rental, the owner has to start over and become a rental property again.

Councilmember Jacobs asked for clarification that the process is, as a new rental, application, inspections of the property, and the license would be executed. She said she is, therefore, confused as to what the problem is. Assistant Chief O'Brien stated further that the City licenses the individual, not a property.

Council President Murzyn, Jr. said a new license application should be made under the new owner's name to begin the process and then, after satisfactory inspection, a valid license would be issued. Councilmember Jacobs added that the cost of the license would also have to be paid.

Ross Lumley, offsite property manager for 4628 - 4634 Tyler Street NE, said it was his understanding that the problem is not paying the transfer, rather the problem of paying the fee that is associated with relicensing all 14 units.

Director Chirpich clarified that there would be one fee for the facility, not per unit. He went on to say that the fee schedule was not clear as to whether it would be dissecting per unit or a flat fee and said, in all fairness, he would refer to the less restrictive path of \$160.00 in this case. The discrepancy has been cleared up in the amended fee schedule that was just passed by the Council; it will be \$160.00 for one dwelling, \$320.00 two-unit dwellings, and multi-units would steadily decrease towards \$25.00 per additional unit. He said the process starts with the Building Department doing the basic inspection and handing over to the Fire Department for the second half of the licensing, where they come in for inspection more on the fire code aspects of a property.

Mr. Lumley reiterated that a clerical error had been made and now there seems to be the layers getting compounded because of that, hoping that he could ask for forgiveness and see if there would be a workaround that.

Councilmember Jacobs said the City Council is not able to decide on an item like this at a public forum. She said by the time it could be addressed at a work session, which would not happen until the first week of January, there would be a whole month in between that he could get the licensing process at least halfway done, if not "tied up" by the time the Council would have that work session; and the work session may not even yield a different answer.

Councilmember Buesgens said comes down to basically a costly mistake, unfortunately,

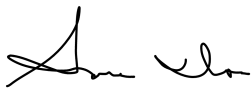
Rachel James, City resident, said she was very thankful when she got her property tax statement from Anoka County and saw that it was 4.9%, a reasonable amount. She said the City website had videos explaining the budget, which was very helpful, and the City newsletter had a “beautiful” pie chart that was easy to understand what is happening with the money and how responsible the Council is. She then thanked the Council and City staff who worked on that communication, which is very inclusive.

**ADJOURNMENT**

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

Meeting adjourned at 7:49 pm.

Respectfully Submitted,



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Sara Ion, City Clerk