

**City of West St. Paul
Open Council Work Session Minutes
April 12, 2021**

1. Call to Order

Mayor Napier called the meeting to order at 5:30 p.m.

2. Roll Call

Present: Mayor Dave Napier
Councilmembers Wendy Berry, Julie Eastman, Lisa Eng-Sarne,
Robyn Gulley, John Justen, and Dick Vitelli

Absent: None

Also Present: City Manager Ryan Schroeder
City Attorney Kori Land
Police Chief Brian Sturgeon
Finance Director Char Stark
Public Works & Parks Director/City Engineer Ross Beckwith
City Clerk Shirley Buecksler

3. Review and Approve the OCWS Agenda

Council reviewed and changed the order of the OCWS agenda:

- A. AT&T Resolution
- B. Discussion on Sign/Fence Ordinance Violation
- C. Wage Theft Steering Committee
- D. American Rescue Plan Act of 2021
- E. Discuss 2021-22 Strategic Initiatives Draft
- F. Discussion Regarding Diversity, Equity and Inclusion Committee

4. Review the Regular Meeting Consent Agenda

Council reviewed the Regular Meeting Consent Agenda and made no changes.

5. Agenda Item(s)

A. AT&T Resolution

City Attorney Land said Councilmember Gulley recently requested that a resolution be placed on a Council agenda for approval regarding the closing of AT&T Store in West St. Paul. Before the Council takes a position on a matter, it needs to understand the whole of the matter, because as the City Manager stated in his response to Councilmember Gulley: “Part of the role of the City Atty (sic) and City Manager is

to ensure that we do not step into something unintended that leads us into a legal matter...” Due to the late timing of the request to add it to the agenda, City Staff was unable to provide any detail for the Council packet. Therefore, it was not added to the agenda for the upcoming meeting on March 22.

At that March 22 meeting, a telecommunications union representative spoke during Citizen Comments and asserted many of the recitals from the resolution to the Council, emphasizing the loss of jobs and the public safety risk of harm to any employees without union support. It was a compelling plea to support union workers at this store.

Following the Council meeting, a representative of AT&T reached out to the City Manager by phone and by email to explain AT&T’s position. He confirmed that there are five union employees who will be impacted at the West St. Paul location when AT&T sells the business at this location. He detailed AT&T’s business perspective on the reasons for the corporate changes and also explained the employment opportunities that AT&T will provide to its union employees at this store, including the ability to keep a union job in a nearby store, work from home, or apply for other positions within the company. The representative also indicated he was a union member and takes pride in AT&T’s good corporate relationship with unions, as one of the largest union-represented companies.

Attorney Land said issues that Councilmembers are passionate about are generally brought to OCWS for discussion if any additional information is needed, etc. The resolution requested to be adopted was written exactly as in the Council report. If it’s something Council is going to implement, that is a different step.

Attorney Land said the City does not get into the business of regulating a business. However, you can state “we stand with” and we understand this is an important issue.

Councilmember Gulley said this is a resolution to stand with the workers, not an ordinance. The store is slated to open with new workers tomorrow, she said, and that she received a call from the president of AT&T. It will look like an AT&T store but it will not be an AT&T store.

Councilmember Justen supports the resolution, as worded in the Council report.

Councilmember Vitelli said I have been a union member since 1972 but, as a Councilmember, I don’t have a dog in this fight. I support unions 100% but it is wrong to support as a Councilmember. This is the union’s job to fight, not the City’s.

Mayor Napier said he does not support it. I did research on the role of Mayor and Councilmember. On a personal level, yes. But it puts us in a tough spot to be a governing body, and I will not support it.

Councilmember Gulley said this is supporting workers, not the business.

Councilmember Eastman said she supports the language, as written.

Councilmember Eng-Sarne said there are so many ways we can misstep here. She asked for clarification and guidance.

Mayor Napier said he is strongly against it.

Councilmember Justen said this is a resolution, not an ordinance, and it holds no power to change their business. It's important to support our community.

Mayor Napier said it's a clear message from the 21,000 people we represent. I don't think it is our role as elected officials.

Councilmember Gulley moved to add the resolution to the Regular Council agenda. Motion failed for lack of a second.

Attorney Land said, given the time we do not have tonight, it requires a roll call vote and cannot be put on the Consent Agenda. It's time sensitive but not a good idea.

Mayor Napier said the Emergency Declaration takes precedence.

Councilmember Justen asked if this is a situation that the resolution could be put on the Consent Agenda but bulled for a roll call vote?

Attorney Land said given tonight's time constraint and things that have unfolded this afternoon with the Governor's declaration, we have an emergency curfew for Dakota County. We have to get people out of this building and off of the street. We have an obligation to do that. Adding anything additional to the agenda, just delays that. I urge you not to add anything to the agenda.

Mayor Napier moved this item to the April 26 meeting for a vote.

B. Discussion on Sign/Fence Ordinance Violation

In regards to the fence issue at Butler and Smith, Councilmember Justen said this is an issue that is important to residents. They want us to look at the ordinance. Can we stay the fine until we have an additional meeting where we can have public input?

Schroeder said currently, the fence is not in compliance with the law that exists. Towards the end of November 2020, the owner was notified. Typically, they get 10 days to comply, 20 days, 30 days. Given the lateness of the year, I told Staff to give them until April 15, 2021 to paint the fence in warmer weather. We would go out on April 15th to see if they are in compliance or not. It appears Councilmember Justen wants to not fine until April 26th if they are out of compliance. If that's the direction, Staff is fine with that.

Councilmember Justen said he is good with that. Councilmember Gulley agreed and said this is an issue we need to spend more time talking about with the community. I think the fence ordinance is something we should be talking about more in-depth and bringing to an OCWS where we can spend a fair amount of time thinking about if there are possibilities for changing it.

Councilmember Berry said I don't think now is the time to do anything with that fence and agreed to talking at the next meeting and taking public comment and stay the fines.

Councilmember Eng-Sarne agreed with Councilmember Justen. It's important to state that the discussion around this topic has gone back significantly longer than the media portrayed this week. It's important to recognize that we talked about this matter two or three times as a body and not a lot came up from the public. You can go on the record from January 11, 2021 and see that I disagreed but thought that we should expand the ordinance. I just want to repeat that and repeat that we have talked about this. I think the first notice the homeowner was given was 192 days ago. This is a constituent of mine that I have worked very closely with that I care deeply about and I do want to give them their time. But like everyone said, another person was murdered yesterday and we are in the middle of a really big trial. As much as we want to say this is about the City Code, and historically as we have been talking about it, is has been about the Code, but the public perception is now about something bigger. This fence represents a movement, a time, a feeling, and gives people a space to feel that feeling in this town. So I do think we have to give it it's time. I do support Councilmember Justen's recommendation.

Councilmember Vitelli said he would not support this and wants to see it corrected by Friday or down. We have an ordinance that is content neutral, and we need to follow that ordinance. There was outrage about the sign at Oakdale and Butler but now there is no more outrage. If the sign said 'Black Lives Don't Matter,' would you want to leave it up? I have a black grandson. Every time a black man is stopped in a car and shot, I think about my grandson. Every time he leaves the house, I worry about him because of the color of his skin. We have an ordinance, and we don't care about the content. I am not in favor of extending this.

As part of our Initiatives on Diversity, Equity and Inclusion, Councilmember Eastman said we should look at all Codes to make sure they're modernized. We have talked about public art, and there may be opportunity there. Regarding this particular instance and in this particular time, I agree with Councilmember Justen that we need to hear from the homeowner and from citizens. Murals in other cities were meant to be temporary in nature but something happened closer to it and they granted an extension. Perhaps, we could get a 60 day extension to get through this trial and some of the other pain that our community is going through.

Councilmember Vitelli questioned the difference between this sign and others in town that people didn't agree with.

Councilmember Eastman said it's what is going on in the world right now. We are asking for leniency in this unique time in our communities today.

Councilmember Justen said, with respect to everyone's opinions and without citizen comments, I am asking that we cannot get a fair discussion tonight. I am only asking for an extension or stay of the fine.

Mayor Napier said we had the meeting where we flushed this out and gave it time. Other signs in violation have been removed and he said the fine should remain. The ordinance can be discussed later, but it's been five months and there is no surprise here.

Councilmember Gulley said we have national coverage on this issue right now. I agree with Councilmember Justen to stay these fines so we can hear from the community.

Mayor Napier said this is a violation of our sign ordinance and fence ordinance.

Attorney Land said, technically, it's a sign on a fence, and we do not allow signs on fences.

Mayor Napier encouraged Council to stay on the path we are on. We have already extended this five months. We all talked and agreed to stay with an ordinance we were going to stand behind, so we need to move forward. We all agreed to give them until April 15th.

Councilmember Justen said I specifically stated on January 11, 2021, that I was not saying whether the answer was all or none, it simply could not be down the middle. That does not sound to me like I decided that it should stay or it should go. We didn't come to a conclusion. And the problem is we are having this discussion that we shouldn't be having, and all I want to do is stay the fine.

Councilmember Vitelli asked for clarification. Councilmember Justen said the fence will be judged to be in non-compliance, the fine will simply not be assessed until we have the opportunity to have public input on this discussion.

Councilmember Vitelli asked what size sign they can have. Attorney Land said six square feet without a permit. It can be larger than that with a permit.

Councilmember Vitelli read a prewritten statement and said he will not vote for moving this on.

Attorney Land said Council cannot take official actions at a work session. The homeowner can choose to comply by the 15th. If the homeowner chooses not to comply, I am hearing there are five people in support of not imposing a fine immediately. That's the direction that the City Manager will take back to his Staff.

C. Wage Theft Steering Committee

City Manager Schroeder said Councilmember Eastman has been asked to be a part of a Steering Committee regarding the wage theft law. While referred to as a “Steering Committee,” this is an informal group of City Councilmembers who are interested in learning more about Minnesota’s wage theft law and related policies.

It has been Council policy and practice that, in cases where a member of Council is requested to participate in an effort within which the member may be asked to represent the City position on an issue, the member receive affirmation from the Council of the whole to represent the City. Councilmember Eastman believes this Steering Committee to be more of a discussion group and an education opportunity. However, it could morph into something more and, therefore, we wish to bring Council up to speed and afford Council the opportunity to consider if this effort is one which can benefit the organization.

The first meeting of the group was on March 20 and includes about a dozen City Councilmembers from the broader metro area (Richfield, Golden Valley, Coon Rapids, Minnetonka, Bloomington, Edina, Brooklyn Park, West St. Paul) and Rochester. The initial meeting, facilitated by the North Central States Regional Council of Carpenters (NCSRCC), included background presentations on Minnesota wage theft law that included labor organizations from the construction field. Councilmember Eastman anticipates that the group will meet three or four times during the year and that future meetings will include state level folks from Department of Labor & Industry who handle investigations/enforcement. Councilmember Eastman reports that, at the March meeting, the following information was provided:

- Minnesota's 2019 wage theft legislation is considered the toughest in the nation. Colorado and others are using the Minnesota law as a model for enacting similar legislation in their states.
- The 3 top industries where wage theft occurs in Minnesota include: hospitality, home healthcare/ senior healthcare facilities, construction industry. Disproportionate wage theft issues fall on communities of color, LGBTQ+ communities and immigrant communities.
- Red flags of bad actors include: cash payment of wages, misclassification of labor as independent contractor or consultant classifications (when labor should actually be classified as employees per state law), non-payment of overtime, withholding wages, child labor violations.

Input from participants included the following:

- Passing Prevailing Wage Ordinances (Rochester is about to pass). Rochester needs 23,000 affordable housing units to be developed in next 15 years. 30% of their residents fall below the Area Median Income (AMI) for their county (which is inflated due to Mayo level income workers).

- Temporary moratorium on development to discuss where they are going (Richfield). They also recently discussed and are adding a clawback option to their Tax Incremental Financings (TIFs).
- Golden Valley just set up a Housing & Redevelopment Authority (HRA). They also have a new Housing & Equity Director.
- There was discussion on a couple of metro cities pursuing joint efforts related to development topics. There was also brief discussion of smaller cities partnering on enforcement measures (staffing) for wage theft, safety, etc. for larger development projects, especially affordable housing.
- Roseville has added Diversity/Equity/Inclusivity (DEI) components to their recent recycling Request for Proposal (RFP). Edina says that equity is front and center on everything they are doing.
- It is possible that presentations, white papers, etc. may be shared with the League of Minnesota Cities, in case they would like to use the content as educational materials. The NCSRCC has offered to help the committee Councilmembers put this together, if the committee deems that necessary.

Council agreed and supported Councilmember Eastman joining the Wage Theft Steering Committee.

D. American Rescue Plan Act of 2021

On March 11, 2021, City Manager Schroeder said the Federal American Rescue Plan Act of 2021 was signed into law. This \$1.9 trillion stimulus is intended to assist in returning to normalcy as the country, hopefully, recovers from the COVID-19 pandemic. Included in the Plan is a transfer of funds to local governments. Under the Plan, these funds can be used for the following purposes:

1. To respond to the coronavirus health impacts or economic impacts including assistance to households, small businesses, nonprofits, and impacted industries including hospitality, travel, and tourism.
2. By providing premium pay for essential workers up to \$13 an hour with an annual cap of \$25,000.
3. To cover for lost revenue in providing services (Revenue Replacement covers the period from 3/3/21 through 12/31/24 with the calculation of lost revenue based on our 2019 fiscal year. So, at present, we cannot offset losses at the Arena, Dome, Recreation programming, or other city functions for 2020).
4. To make investments in water, sewer or broadband infrastructure.

It appears the direct allocation to West St. Paul will be \$2.27 million. These funds are anticipated to be received on May 10, 2021 (first half) and May 10, 2022 (second half). These funds must be spent by December 31, 2024. Formal guidance on the City's expected distribution of American Rescue Plan funds is still forthcoming. However, in preparation for this funding, we believe it is most appropriate to allocate funds to the highest priority project category currently within our planning documents, which is investments in sanitary sewer (#4 above).

As Council is aware, we are upgrading Lift Station 1 (LS1), Lift Station 2 (LS2), and Force Main 2 (FM2) in 2021. Council awarded the construction bid to Minger Construction Company in the amount of \$3,898,014.90 and also issued debt in the amount of \$2,275,000 to pay contract costs on January 25, 2021. Council approved a contract with the Public Facilities Authority on March 8, 2021 to access \$2.2 million in State Bond funds to provide the balance of construction costs.

With the 2021 project proceeding, the City has been working toward a 2022 project to complete the rehabilitation of our sanitary sewer lift station infrastructure. This project lays out as follows:

<u>2022 Project</u>		<u>Construction Estimate</u>
LS 4	3/22/21 B&M Design \$59,000	\$1,100,000
FM 3	3/8/21 SEH Design \$22,000	\$ 475,000
FM 4	9/10/18 TKDA Design \$89,900	\$ 950,000 Design Complete
FM 6	3/22/21 B&M Design \$67,000	\$ 475,000
		Subtotal \$3,000,000
		Design: <u>\$ 237,900</u>
		Total 2022 \$3,237,900

The City is currently seeking State Bond funds for the 2022 project (Councilmember Eng-Sarne recently testified on the Bill at the request of Representative Hansen). However, even with receipt of a State allocation, there will be local costs to complete the project. Absent a state allocation or assignment of Rescue Plan, funds the City would need to issue debt to accomplish the above projects.

As identified at the March 6 Council Strategic Planning meeting, the City also has about \$2.3 million in pipe lining yet to accomplish. The goal was established at this meeting and verified at the March 22, 2021 Council meeting (with adoption of a financial policies amendment) to accomplish this lining within the next ten years. Doing so will reduce costs to operate the sewer system from what would otherwise occur, by reducing I&I into the trunk system which then flows to the Treatment Plant (resulting in a bill to treat surface water). To the extent that American Rescue Plan funds are available, beyond what might be required to accomplish the above, we would propose funding be allocated toward pipe lining to occur within the spending deadline (12/31/2024). Salient pipe lining/I&I facts are:

1. I&I program started in 2008.
2. In an average year, we line 2,500 to 3,500 of publicly owned trunk sewers at \$100K to \$150K/year.
3. Currently have identified 55,979 lineal feet of lining yet to accomplish.
4. At current pricing of \$41/lineal foot, this equates to \$2.3M backlog.

While the City could also allocate funds in additional directions, reporting on the American Rescue Plan funding would appear to include alternative allocations (outside of what West St. Paul is receiving directly) to eligible spending in category “1” above, and we do not anticipate spending in categories “2” or “3” to be as significant as our needs in category “4.” Further, upon completion of our critical sanitary sewer infrastructure repairs, our ratepayers, which are every owner/occupant of every parcel in the community connected to the system, will realize a financial benefit.

Council added this item to the April 26, 2021 meeting for further discussion.

E. Discuss 2021-22 Strategic Initiatives Draft

On March 22, 2021, City Manager Schroeder said Council accepted receipt of the March 6, 2021 Strategic Planning Report. Included within the report was a list of proposed Council Initiatives for the next two year period. The purpose of this agenda item is to review the draft Initiatives to consider any alterations that might receive a consensus of Council.

In the Council’s packet is the document that had been included within the March 6 agenda to provide background, opportunities and Staff priorities for each initiative area from 2019. This document has been altered in order to include the Planning Report proposed Initiatives created after the March 6 meeting. Staff had initially proposed splitting out the 2019 Inclusivity and Diversity Initiative and the Facilities and Infrastructure Initiative; however, Council discussion did not appear to support this. Hence, this document has again consolidated each of these initiative areas, but not all of the background narrative has been combined in case Council sees this differently.

Schroeder said we are looking for clarity that the nine statements are close enough to provide Staff with direction to what Council’s initiatives are.

Councilmember Justen requested more time to look at this item.

Mayor Napier said it is a great starting point.

Schroeder said it will be brought back for Council on April 26.

F. Discussion Regarding Diversity, Equity and Inclusion Committee

Schroeder said there was a brief mention at the March 6 Strategic Planning meeting regarding possible creation of a Diversity, Equity and Inclusion (DEI) Committee. At the same time, on March 4, 2021, Council received a proposal from resident Ken Paulman regarding the same. According to Mr. Paulman, many companies and organizations have DEI committees “to facilitate conversation and promote best practices.” The intent of this agenda item is to explore whether or not such a

committee makes sense for West St. Paul and, if so, what might be a mission for the committee.

In viewing the proposal as submitted by Mr. Paulman, it is contemplated that there be a site plan review component. Due to the strict adherence to the Comprehensive Plan, Zoning Ordinance and Subdivision Regulations, a site plan review may not be the best use for this committee. Instead, the committee could recommend more global policy and/or ordinance changes to accomplish its goals for development.

If Council moves forward with this or any other committee/commission initiative (Arts Commission has been mentioned recently), Schroeder said Council should be aware that a staffing and budget allocation should be explored. It is estimated that either of these efforts could be a 10 to 15 hour per month commitment, plus some initial legal expense with ongoing marketing/communication and meeting expenses.

Mayor Napier said the biggest concern we need to look at is staff resources.

Councilmember Berry suggested finding out who is interested in an Arts Committee and asked if this could be added to incoming City Manager Burkett's list.

Mayor Napier directed Staff to move this forward to the next level. Schroeder said it could be a May or June OCWS discussion.

6. Adjourn

Motion was made by Councilmember Berry and seconded by Councilmember Gulley to adjourn the meeting at 6:18 p.m.

All members present voted aye. Motion carried.

David J. Napier
Mayor
City of West St. Paul