

# MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

## ADJOURNED SESSION OF THE REGULAR MEETING OF AUGUST 14, 1998, HELD

### AUGUST 21, 1998

(Published August 25, 1998  
in Finance and Commerce)

Room 315 City Hall  
Minneapolis, Minnesota  
August 21, 1998 – 9:30 a.m.

President Cherryhomes in the Chair.

Present – Council Members Ostrow (In at 9:40), Campbell, Biernat, Niland (In at 9:40), Goodman, Colvin Roy (In at 9:40), Herron, Mead, Minn, McDonald, Johnson (In at 9:40), President Cherryhomes.

Absent – Thurber.

Also present were Mike Norton, Deputy City Attorney; Tim Skarda, Assistant City Attorney; Colleen Moriarty, Mayor's office; Steve Ristuben, Assistant City Clerk; Kent Robbins, Council Assistant; Nicole Moen, Goodman's office; and Jan Hrcir, City Clerk's office.

Campbell moved that the meeting be closed for the purpose of considering the Killebrew vs. Dilorla, et al. lawsuit. Seconded.

Adopted upon a voice vote.

The subject matter of the Killebrew vs. Dilorla, et al. lawsuit was discussed from 9:40 to 10:20 a.m.

Campbell moved that the meeting be opened and moved to Room 317 City Hall for the purpose of considering the remainder of the City Council agenda. Seconded.

Adopted upon a voice vote.

Council Chamber  
Minneapolis, Minnesota  
August 21, 1998 – 10:26 a.m.  
President Cherryhomes in the Chair.

Present – Council Members Ostrow, Campbell, Biernat, Niland, Goodman, Colvin Roy, Herron, Mead, Minn, McDonald, Johnson, President Cherryhomes.

Absent – Thurber.

Campbell moved referral of petitions and communications and reports of the City officers to proper Council committees and departments. Seconded.

Adopted upon a voice vote.

#### **PETITIONS AND COMMUNICATIONS**

##### **ELECTIONS (See Rep):**

ELECTIONS DEPARTMENT(264057)

1998 Elections: Election Judge list.

##### **TRANSPORTATION AND PUBLIC WORKS**

###### **(See Rep):**

PUBLIC WORKS AND ENGINEERING  
(264058)

Minnehaha Creek Watershed District:  
City's response to proposed Rule B changes.

##### **MOTIONS (See Rep):**

CITY CLERK/SPECIAL PERMITS  
(264058.1)

Girard Av N, 2700 (Victor Raymond)  
Construct foundation n/w/s noncompliance with setback.

##### **UNFINISHED BUSINESS (See Rep):**

COMMUNITY DEVELOPMENT AGENCY,  
MINNEAPOLIS (MCDA) (264059)

Shubert Theater: Terms of Agreement with  
Artspace; Letter from Executive Director with

status of the Shubert Theater; Attachment of Planning Commission findings and recommendation of denial.

**FILED:**

MAYOR (264060)

Veto action: Objections to Council action re location of the Shubert Theater.

**REPORTS OF  
STANDING COMMITTEES**

The **ELECTIONS** Committee submitted the following report:

**Elections** – Your Committee recommends approval of the appointment of Election Judges for elections in 1998 as set forth in Petn No 264057 on file in the office of the City Clerk, in accordance with Chapter 2, Section 6, of the Charter of the City of Minneapolis.

Adopted. Yeas, 11; Nays none.

Absent – Thurber, Goodman.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

The **TRANSPORTATION & PUBLIC WORKS** Committee submitted the following report:

**T&PW** – Your Committee, having under consideration proposed changes to Minnehaha Creek Watershed District (MCWD) Rule B, “Water Quality and Stormwater Runoff Standards for Land Development Projects”, now recommends that the following City comments be forwarded to the MCWD prior to their final public hearing on August 27, 1998:

1. Minneapolis is the last municipality that Minnehaha Creek flows through on its route to Minnehaha Falls and the Mississippi River. As the final downstream community, it experiences the cumulative effects of degraded water and fluctuating water levels within the Creek. Therefore, the City endorses a strong Rule B aimed at giving maximum protection to Minnehaha Creek.

2. Water quality improvements are important to Minneapolis and it is accepted that these standards are to be applied to construction projects within our City. However, Minneapolis is a fully developed city where little

room exists on individual sites to provide for stormwater ponds. Revisions to Rule B must allow alternative Best Management Practices in place of stormwater ponds.

3. The City of Minneapolis supports the elimination of a cash contribution in lieu of stormwater ponds. If it is determined that this should remain as part of Rule B, a stricter definition of watershed is requested.

4. As the technology of stormwater management progresses there have been numerous products introduced that claim to remove more pollutants from stormwater than any other device. One weakness the City envisions with revised Rule B is that there is no guidance that outlines how a device is deemed acceptable, even on an experimental basis.

5. Minneapolis, as part of its 1998 Comprehensive Plan, is working on a stormwater ordinance that will duplicate many of the requirements contained in Rule B. Our goal for implementation of this ordinance is late 1998 or early 1999. Once this ordinance is in effect there will be little legal need to have duplicate requirements by watershed districts and watershed management organizations. However, the City welcomes the continuing involvement of the Minnehaha Creek Watershed District as a partner in the developing field of urban stormwater management and water quality improvements.

Adopted. Yeas, 12; Nays none.

Absent – Thurber.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

**MOTIONS**

Biernat moved to approve the application of Victor Raymond for a special temporary permit to allow for construction of a foundation for a house to be moved onto the site at 2700 Girard Avenue North, notwithstanding the Zoning Code, and pending approval of a corner side yard variance from 8’ to 5’. (1998 – 180)  
Seconded.

Adopted. Yeas, 12; Nays none.

Absent – Thurber.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

Campbell moved that the Killebrew vs. Diloría, et al. lawsuit be settled in the amount of \$32,500. Seconded.

Adopted. Yeas, 11; Nays none.

Absent – Thurber, Goodman.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

(Published August 26, 1998)

## RESOLUTION

### RESOLUTION 98R-307

**By Herron, Colvin Roy,  
Ostrow, Campbell, Biernat,  
Johnson, Cherryhomes,  
Niland, Goodman, McDonald,  
Mead and Minn**

#### **Supporting the Minneapolis Way to Grow school readiness program and assisting with their FATHER Project.**

Whereas, the City of Minneapolis is committed to promoting the school readiness of its young children; and

Whereas, to pursue this goal, the City has become a principal partner in the Minneapolis Way to Grow school readiness program, the City provides major funding for Way to Grow, and the Mayor and every City Council Member personally support Way to Grow by participating in its supervisory and management structure or in activities at neighborhood Way to Grow sites; and

Whereas, the active emotional and financial support of fathers greatly enhances the school readiness of their children; and

Whereas, the FATHER Project developed by Way to Grow along with other private and government partners is an effective means of addressing the barriers that make it difficult for young low income, non-custodial fathers to fully support their children emotionally and financially; and

Whereas, the FATHER Project is seeking funding from the Ford Foundation and other sources to initiate a demonstration project;

Now, Therefore, Be It Resolved by The City Council of the City of Minneapolis:

That the City of Minneapolis encourages the Ford Foundation to fund the proposal of the FATHER Project.

Be It Further Resolved that the City of Minneapolis is committed to playing an ongoing supervisory and financial role in Way to Grow and to assisting its efforts, such as FATHER Project, to help young fathers support their children emotionally and financially.

Adopted. Yeas, 12; Nays none.

Absent – Thurber.

Passed August 21, 1998. J. Cherryhomes, President of Council.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

## UNFINISHED BUSINESS

Niland moved that the Council resolve itself into a Committee of the Whole for the purpose of consideration of the Shubert Theater relocation and related land sale. Seconded.

Adopted upon a voice vote.

The Committee of the Whole convened at 10:30 a.m.

Vice President Biernat assumed the Chair.

Niland moved that the Committee of the Whole rise and report its findings to the Council relating to the land sale related to the Shubert Theater relocation. Seconded.

Adopted upon a voice vote.

The Council reconvened at 11:20 a.m.

President Cherryhomes resumed the Chair.

Present – Ostrow, Campbell, Biernat, Niland, Goodman, Colvin Roy, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Absent – Thurber.

## CONSIDERATION OF THE MAYOR'S VETO

Mayor Sayles Belton returning with her veto of the Ways & Means/Budget report passed by the Council August 14, 1998, relating to relocation of the Shubert Theater, and stating her objections thereto.

The question before the Council being "Shall the report pass notwithstanding the objections of the Mayor? There were:

Yeas – Campbell, Niland, Goodman, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Nays – Ostrow, Biernat, Colvin Roy.

Absent – Thurber.

The vote on the question being more than the two-thirds majority required by the Charter to pass the report over the objections of the Mayor, said veto was overridden.

**RESOLUTION 98R-304  
By Campbell**

**Amending The 1998 Minneapolis  
Community Development Agency  
Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended as follows:

- a) Increasing the appropriation in Fund CBX - City Center by \$3,419,000 from available fund balance;
- b) Increasing the appropriation in Fund CPQ - Neiman Marcus by \$735,550 from available fund balance; and
- c) Increasing the appropriation in Fund CAD - Tax Increment Administration by \$42,581.

Adopted. Yeas, 7; Nays, 5 as follows:

Yeas - Campbell, Niland, Goodman, Herron, Mead, Minn, Cherryhomes.

Nays - Thurber, Ostrow, Biernat, Colvin Roy, Johnson.

Absent - McDonald.

Passed August 14, 1998. J. Cherryhomes, President of Council

Vetoed August 14, 1998. S. Sayles Belton, Mayor.

Attest: M. Keefe, City Clerk.

(Published September 3, 1998)

**CERTIFICATION**

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN) ss.  
CITY OF MINNEAPOLIS )

I, Merry Keefe, City Clerk of the City of Minneapolis, County of Hennepin, State of Minnesota, do hereby certify that the foregoing report and resolution were passed by the City Council of said City at regular meeting held August 14, 1998, and were returned by Mayor Sayles Belton with her veto, stating her objections thereto, at an adjourned session held August 21, 1998.

I do further certify that, at the adjourned session of the City Council, held August 21, 1998, said report and resolution were passed,

notwithstanding the objections of the Mayor, by a vote of two-thirds of all the members of the City Council; the vote being:

Yeas, 9; Nays, 3; (total number of Council Members in the City Council: 13).

Yeas – Campbell, Niland, Goodman, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Nays – Ostrow, Biernat, Colvin Roy.

Absent – Thurber.

Therefore, in accordance with the provisions of Chapter 3, Section 1, of the Charter of said City, said report and resolution have become and are valid, and I hereby certify that said report and resolution have the same force and effect as if approved by said Mayor.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of the City of Minneapolis, Minnesota, this 24th day of August, 1998.

MERRY KEEFE,  
City Clerk.

**Comm of the Whole** – Your Committee now rises and reports that it has had under consideration the accompanying resolution authorizing the sale of the property at 516 Hennepin Av (along with adjacent vacated alley) to Artspace Projects, Inc. to be used for relocation of the Shubert Theater, according to the terms fully described in Petn No 264034 and 264028, and approval of the following terms regarding the sale and relocation of the transit station currently on the property:

a) That the proper City officers be directed to prepare an option/sale agreement on the property to Artspace Projects, Inc. The option term would transfer fee title to the property only upon Artspace Projects, Inc. receiving or purchasing fee title to the adjacent Binger property, as outlined in the development proposal term sheet contained in Petn No 264059;

b) The option would convey the property at 516 Hennepin Av for the price of \$1.1 million plus relocation costs for the transit shelter (estimated at \$140,000). The option would provide that the purchase price of the property can be reduced in increments of \$300,000 for every \$2.5 million cash in hand raised by Artspace Projects, Inc. for the Shubert Theater project, up to the total purchase price and relocation costs. The contributions raised must be cash in hand, not pledges or commitments.

Further that the proper City officers be authorized to execute a contract with Metro Transit relative to conditions of the transit shelter move.

c) That the Public Works Transportation Division and the Minneapolis Community Development Agency (MCDA) be directed to investigate potential funding sources, other than the Public Works Transportation Division budget, to assist with the cost of relocating the transit station from 516 Hennepin to its new location. Artspace Projects, Inc. would not be obligated to repay these costs if they meet the fundraising goal;

now recommends passage of said resolution and approval of said terms, subject to agreement by Artspace and Mr. Binger no later than Thursday, August 27, 1998, to business terms as recommended by the Executive Director of the Minneapolis Community Development Agency including reasonable terms clarifying City/MCDA guarantees, and including terms related to notice to the City/MCDA of default by Artspace and the option of the City/MCDA to cure any such default.

The option provides that the purchase price of \$1.1 million plus relocation costs shall be reduced as follows:

All relocation costs, should funding from outside jurisdictions, Met Council, State, etc be made available for relocation of the transit stop.

The first \$2 million secured by Artspace in their capital campaign shall be used for pay for the Binger property and it shall be paid in full no later than January 1, 2000. That MCDA staff will give quarterly reports to the Community Development Committee on Artspace's fund raising campaign.

In no event, shall the price of land be reduced to Artspace, if funds for the guarantee of Artspace's land lease and building removal obligations to Binger (Butler Properties, LLC) have been advanced by the City/MCDA, but not recovered. Artspace must raise additional funds to reimburse the City/MCDA for these costs. That advanced MCDA guaranty amounts not recovered from Artspace will raise the land sale price a like amount.

Adopted. Yeas, 9; Nays, 3 as follows:

Yeas – Campbell, Niland, Goodman, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Nays – Ostrow, Biernat, Colvin Roy.

Absent – Thurber.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

**RESOLUTION 98R-308  
By Cherryhomes**

**Authorizing the sale of certain City-owned property located at 516 Hennepin Avenue (along with adjacent vacated alley), Minneapolis, Minnesota.**

Whereas, the City of Minneapolis owns the property at 516 Hennepin Avenue (along with adjacent vacated alley) collectively the "Property"; and

Whereas, the Property is currently used as a bus shelter and it has been determined by the Director of Transportation in his memorandum of July 23, 1998, that the 516 Hennepin Avenue location will not be a viable site for a light rail transit (LRT) station, nor will it be an effective location for bus transit with respect to routes that will be altered to coordinate with LRT service in Downtown Minneapolis; and

Whereas, the City Engineer has determined in his letter of July 29, 1998, to the Transportation and Public Works Committee that because the 516 Hennepin Avenue location does not appear to be consistent with future downtown transit plans, and because it does not appear that this location is needed for other public purposes, he can now declare the Property to be surplus; and

Whereas, the City Assessor has reported the valuation of the property at 516 Hennepin Avenue; and

Whereas, the Chief Appraiser of the Minneapolis Community Development Agency has provided his opinion of value of the Property as \$1.1 million dollars; and

Whereas, Artspace Projects, Inc. has proposed the purchase and acquisition of the Property as the future site of the relocated Shubert Theater for \$1.1 million dollars; and

Whereas, the City Planning Commission approved the vacation of the alley portion of the Property on July 13, 1998; and

Whereas, the City Planning Department, by report of August 18, 1998, has found that the

sale of the Property for the intended purpose is in conformance with the Comprehensive Plan; and

Whereas, the City Planning Commission reviewed and recommended on the disposition of the Property on August 20, 1998, in accordance with the City Charter; and

Whereas, a public hearing on the sale of the Property, notice of which was published in a newspaper of general circulation in Hennepin County at least ten days in advance of the hearing, was held by the Transportation and Public Works Committee on July 9, 1998, continued to July 23 and continued further to August 6, 1998; and

Whereas, said sale will: dispose of surplus City-owned land, generate future tax revenues, provide for the preservation of a building listed on the National Register of Historic Places and enhance the City Downtown Entertainment District as outlined in the Minneapolis 2010 Plan;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That it is determined that it is in the public interest for the City to sell and convey the Property to Artspace Projects, Inc. for a price of \$1.1 million dollars, per terms fully described in Petn. No. 264059 on file in the office of the City Clerk, for the purposes specified.

Be It Further Resolved that the proper City Officers be authorized and directed to execute an option and sales agreement, ground lease, quit claim deed and all necessary related documents for sale of the Property to Artspace Projects, Inc. (the Property being legally described as the northeasterly 62 feet of Lots 1 and 2, and the southeasterly 33 feet of the northeasterly 62 feet of Lot 3, Block 1, Hoags Addition, together with adjacent vacated alley), PID #22-029-24-43-0024.

Adopted. Yeas, 9; Nays, 3 as follows:

Yeas – Campbell, Niland, Goodman, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Nays – Ostrow, Biernat, Colvin Roy.

Absent – Thurber.

Passed August 21, 1998. J. Cherryhomes, President of Council.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

(Republished September 3, 1998)

Campbell moved to accept the low bid of International Chimney Corporation, in the amount of \$3,897,000, for relocation of the Shubert Theater from Block E to Block D.

Campbell further moved that staff be directed to implement all necessary actions relating to acceptance of the bid. Seconded.

Adopted. Yeas, 9; Nays, 3 as follows:

Yeas – Campbell, Niland, Goodman, Herron, Mead, Minn, McDonald, Johnson, Cherryhomes.

Nays – Ostrow, Biernat, Colvin Roy.

Absent – Thurber.

Passed August 21, 1998.

Approved August 21, 1998. J. Cherryhomes, Acting Mayor.

Attest: M. Keefe, City Clerk.

Campbell moved to adjourn. Seconded.

Adopted. Yeas, 12; Nays none.

Absent – Thurber.

Adjourned.

MERRY KEEFE,  
City Clerk.  
98-7563