



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

Regular Council Meeting

May 23, 2023

CALL TO ORDER

The meeting was called to order by Mayor Supple at 7:00 p.m. in the Council Chambers.

Council Members Present: Mary Supple, Mayor; Sharon Christensen; Simon Trautmann; and Ben Whalen

Council Members Absent: Sean Hayford Oleary

Staff Present: Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; Melissa Poehlman, Community Development Director; Chris Swanson, Management Analyst; Dustin Leslie, City Clerk; Julie Eddington; HRA Attorney; and Jennifer Anderson; Health Administrator

PLEDGE OF ALLEGIANCE

Mayor Supple led the Pledge of Allegiance.

OPEN FORUM

Mayor Supple reviewed the options to participate:

- Participate live by calling 1-415-655-0001 during the open forum portion
- Call prior to meeting 612-861-9711
- Email prior to meeting kwynn@richfieldmn.gov

Randy Olson, 1210 Urbandale Lane in Plymouth, spoke about the upcoming June concert.

Kathleen Balaban, 6526 Stevens Avenue South, spoke about the level of detail in Commission minutes and training for Commissioners. The resident also spoke about legal notices in the Sun Current and the need for more community feedback. The resident finally spoke about HR policies and how terminations occur at the city.

Ruane Onesirosan 2421 West 65th Street, spoke about Council salary and remarked about the relationship between staff and Council regarding voting practices.

APPROVAL OF MINUTES

M/Whalen, S/Christensen to approve the minutes of the: (1) City Council Work Session of May 9, 2023; (2) City Council Meeting of May 9, 2023.

Motion carried: 4-0

ITEM #1	FOOD SAFETY AWARDS
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Jennifer Anderson stated the Richfield Advisory of Health had acknowledged excellence in food safety by giving out awards in two different categories since 2006. The categories were for the full-service restaurant, and the fast food, pizza, and carry-out. She noted due to the pandemic the awards have not been given out since 2019.

Ms. Anderson stated the nominees in the full-service restaurant category were: Davanni's and Giordano's with Giordano's winning the award. She presented Mr. Holland with the award.

Eric Holland, Giordano's, 3000 West 66th Street, stated the Richfield food service industry was one of the best in the cities.

Ms. Anderson stated the nominees in the fast food, pizza, and carry-out category were Five Guys and Panda Express with Panda Express winning the award.

ITEM #2	APPROVAL OF THE AGENDA
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M/Whalen, S/Trautmann to approve the agenda.

Motion carried: 4-0

ITEM #3	CONSENT CALENDAR
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City Manager Rodriguez presented the consent calendar.

- A. Consider approval of a Temporary On Sale Intoxicating Liquor license for an event scheduled to take place June 10, 2023, at Fred Babcock VFW #5555, located at 6715 Lakeshore Drive (Staff Report No.61)
- B. Consider the approval of a Temporary On Sale Intoxicating Liquor license for events scheduled to take place July 3rd and 4th, 2023 at Fred Babcock VFW #5555, located at 6715 Lakeshore Drive (Staff Report No. 62)
- C. Consider the approval of a Temporary On Sale intoxicating Liquor license for the Academy of Holy Angels, located at 6600 Nicollet Avenue S., for their annual Rock The Lawn event scheduled to take place June 24, 2023 (Staff Report No. 63)

M/Christensen, S/Whalen to approve the consent calendar.

Motion carried: 4-0

ITEM #4	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM CONSENT CALENDAR
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None.

ITEM #5	CONSIDER CONFIRMATION OF THE APPOINTMENT OF KUMUD VERMA TO BE FINANCIAL DIRECTOR FOR THE CITY OF RICHFIELD (STAFF REPORT NO. 65)
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Council Member Whalen presented Staff Report 65.

City Manager Rodriguez stated she was impressed with Ms. Verma’s first year and she was excited to see what Ms. Verma could do once she had a full staff.

M/Whalen, S/Trautmann to approve the appointment of Kumud Verma to be the Financial Director for the City of Richfield.

Council Member Trautmann congratulated Ms. Verma on her new position.

Mayor Supple also congratulated Ms. Verma.

Motion carried: 4-0

ITEM #6	CONSIDER A REQUEST TO MODIFY (2024) AND THEN TERMINATE (2025) BEST BUY’S MINIMUM ASSESSMENT AGREEMENT (STAFF REPORT NO. 66)
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Council Member Trautmann presented Staff Report 66.

Director Poehlman reiterated that HRA staff and City staff felt that Best Buy had been an important member of the community for the past 23 years. She noted due to the pandemic the landscape of office developments had changed and everyone would like to find a beneficial solution for Best Buy, without harming the HRA. She indicated there were representatives from Best Buy as well as the HRA attorney and Jean Vogt from Ehlers were in attendance to answer any questions.

M/Trautmann, S/Whalen to deny a request to modify (2024) and/or terminate (2025) Best Buy’s Minimum Assessment Agreement for Best Buy at 7601 Penn Avenue South.

Council Member Whalen stated he was open to some level of negotiating in good faith, but this did not feel like a meeting halfway offer. He indicated for the City to put in the extra effort to do a big audit and find out they are owed \$851,000, but to be offered in return a 20% of an unknown figure felt as if this wasn’t a mutually beneficial offer. He hoped they could continue the conversation though. He did not doubt Best Buy’s analysis that their property was not worth the minimum value that it was legally kept at due to the pandemic, but to find a path forward would have to be something that came closer to addressing what the original agreement would say the City was receiving. He indicated his views had not changed since the Council Work Session and he was open to removing the minimum assessment agreement, but any deal would need to address the overpayment as well.

Council Member Trautmann stated what he meant by global settlement during the Work Session was that he was persuaded by the City’s analysis that they are owed \$851,000. However, he was also delighted to learn there was the opportunity for the City to recoup that money, particularly since

Best Buy had the opportunity to receive some tax savings. He stated anything less than that was not a proposal that he received in good faith. He believed they had an opportunity to get this done, but this was not it and it was not hard to deny this proposal.

Mayor Supple stated she appreciated that Best Buy had done many things for the community in which she was grateful for, but her first priority was to her fiduciary duty to the residents. She indicated the Council had made it clear at the March Work Session that there should be no financial loss to the HRA through any agreement. She noted the current proposal did not meet that criterion to do no harm, so she could not support this request at this point as she believed it would be doing harm and this was something she had to do as a fiduciary to the HRA and to the City. She stated she would be in favor of denying the request at this point. She noted if the Council was voting yes to this motion, they would be voting to deny the request.

Tracy Smith, BestBuy, reminded the Council that from the start of the development and construction of the Best Buy campus, Best Buy and the City have partnered for their mutual benefit. She noted Best Buy had built a vibrant corporate campus which served Best Buy, its vendors, and the Richfield community well for over two decades. She noted Best Buy wanted to highlight the public benefit from the Best Buy portion of the TIF district, which included almost 12 million in the payment of bonds issued to finance public improvements, and almost 11 million to the HRA to fund its housing initiatives. She indicated Best Buy had made significant charitable contributions to the City, nonprofits, schools, and community activities.

Ms. Smith indicated today the unprecedented reordering of the Twin Cities office market demanded swift action to keep the City's largest commercial office building competitive. She believed the City and the Best Buy office building needed to attract new business tenants. She stated they needed to make changes now to the agreement to reflect market competitive property taxes, instead of the arbitrary value that was set over two decades ago, which far exceeded today's market value. She noted that by waiting 2.5 years from now until the end of the TIF district to pay property taxes on a fair market value base, they would have missed their opportunity to attract tenants looking for space right now.

Ms. Smith noted she was in attendance at the Council Work Meeting in which it appeared the Council agreed the benefits of Best Buy's request to modify and ultimately terminate the Agreement was a benefit as long as the HRA was made whole. She indicated Best Buy agreed to make the HRA whole with respect to the consequences of the agreement and she believed Director Poehlman also acknowledged that, so there was no dispute about making the City whole. She stated since the Council Work Meeting, Best Buy had made two offers to resolve all issues globally. She noted in each of those offers Best Buy had compromised its position by offering to accept significantly less than it believed it was entitled to. However, she indicated the HRA had made no offers and stands firm that it was entitled to 100 percent of its assertions. She stated the parties had been unable to reach a global resolution of all legal issues.

Ms. Smith addressed the concept of overpayment in which the HRA had asserted there was an \$851,000 overpayment arising from errors and calculations from 10 years ago, but Best Buy did not agree the overpayment was made. She stated the HRA currently had withheld 29 percent of the tax increment (which was not disputed). She indicated at the end of the 2.5 years, the HRA was allowed to use/spend 25 percent of the tax increment. She noted withholding additional funds now (\$851,000) would only increase the 29 percent currently withheld. She indicated the solution was not for the HRA to withhold additional money increasing the withholdings that were already in excess of what they were able to spend in the next 2.5 years. She stated the solution was to make additional payments pursuant to the note to reduce the HRA's withholding to the 25 percent by the end of the district. She asked the Council to question if they end up with a 29 percent, and they can only spend 25 percent, 75 percent was required to be paid on the bonds and to the Best Buy note. She noted they would have a problem in 2.5 years and they were worsening that problem by claiming there is an overpayment right now.

Ms. Smith indicated they had invested over 10 months in discussions on how to make the orderly wind down of this TIF district. She was not sure they appeared closer to a global resolution and they might ultimately agree to disagree on some of those things, but the question was whether or not they can get a done within the time necessitated to meet the deadlines so they could all benefit from the reduction in property taxes.

Ms. Smith stated right now they had a corporate campus with an assessed value that might be as much as twice its fair market value, which was a significant impediment to attracting new businesses to the Best Buy's corporate campus and to Richfield.

Ms. Smith explained they had one proposal for the City which was that 20 percent was set because they were talking about mutual benefits, and the fact that they should share in some of this benefit. She noted the 20 percent was somewhere in between and that was where they were saying there was a compromise.

Ms. Smith also stated litigation hazards are always set at 20 percent also and that was another generic boundary and in this case it worked for both. She indicated even though they do not agree there was an overpayment, it gave them more than that and that there was a middle ground. She indicated that was where they were trying in good faith to negotiate. She indicated if both parties stand their ground at 100 percent, they will never find the middle.

Ms. Smith requested the Council approve their request to modify the agreement, either on a 20 percent basis or on a standalone basis. She noted on the standalone basis, Best Buy would reconfirm that they would make the HRA whole by ensuring no loss of revenue to the HRA, or affordable housing as a result of any assessed valuation changes. She indicated there was no downside to the HRA to approving the standalone request. She stated there was also a substantial upside to the City by helping to make the cost structure competitive for businesses they hope to attract to Richfield and the Best Buy campus.

Council Member Whalen asked staff if Council were to approve the eventual removal of the minimum assessment agreement and this overpayment, it was his understanding that if they were to approve the eventual removal of the minimum assessment agreement and the make it whole provision, that they are offering that they would lose their ability to recoup the overpayment amount if they were to resolve just the MIAA portion.

Director Poehlman stated as discussed in the memo, the HRA believed they had the ability to recoup the money regardless they are actually obligated by law to do so because it is an improper use of TIF funds. She noted the Council and HRA could consider discussing the minimum assessment on their own and then go ahead and move to recoup through the outstanding TIF payments over the next couple of years. She indicated the idea behind a global solution was that they would like everyone to acknowledge that this had happened, so they can take care of everything and not try to recoup that money and have the parties end up in possible litigation.

Council Member Trautmann expressed appreciation for the comments. He appreciated Best Buy's participation in the community and if they were to mention all of them, they would be in the meeting for a while. He believed the Best Buy building stood as a strategic error by isolating itself from the Richfield community in very concrete structural ways. He noted it had been a vision to hermetically seal the corporate campus away from the community and now that had revealed itself to be an strategic move, both financially and communally. He believed they had an opportunity to turn the page, which he recognized, but noted it was not as significant as how they show up as neighbors in the next generation or two. He indicated they had asked for a forensic audit and there was nothing in the audit where he believed they should move and he did not feel he would be voting in a good corporate consciousness if they did move. He acknowledged Best Buy was offering the 20 percent to the City to mitigate their litigation risk and he hoped in the next several weeks, they could come to an agreement. However, it did nothing at this time to change his analysis.

Mayor Supple asked HRA attorney Eddington about why it was not fair to say the City had paid 29 percent to Best Buy. Attorney Eddington stated she had reviewed all of the contract changes and amendments and indicated the contract changed the way TIF was paid to Best Buy and the HRA, which was four times over the life of the contract. She noted in the early years the HRA received a lot of TIF that they saved and kept as they were guessing what the TIF would be like. She indicated there were numerous changes in the way TIF was paid overtime in the contract, and that was how the HRA had funds in their possession. TIF funds that were legally theirs under the contract for many years. She stated it would be helpful to know if Best Buy looked closely at the original contract and amendments, which clearly showed how TIF was parsed out between the two parties over the last 23 years. She noted the contract they had followed exactly what the contract provided each time the division of TIF was changed and that was rock solid.

Mayor Supple stated the Best Buy representative had stated the City had taken in over 29 percent, but it was her understanding that the 29 percent referred to all three parts of the TIF district and not just to the Best Buy portion and that has a bearing on the matters. Attorney Eddington responded in development contracts, they could split out the TIF anyway they wanted. She noted the contract provided the path as to who gets TIF, when, and in what amount. She indicated the 25 percent was a rule where the HRA could only expand 25 percent, but it did not mean they cannot collect more than that. She stated the HRA could collect as much as they wanted. She indicated some of the money they received in the early days was used to put into the Affordable Housing Trust Fund through some legislation. She indicated that was completely legal and it was their money pursuant to the contract and that money went to the Affordable Housing Trust Fund. She stated the 25 percent currently for the entire district had been met and the HRA had not expended more than 25 percent of their TIF, unless it was pursuant to the legislation that they received.

Council Member Trautmann stated he was hesitant to have too many legal conversations, even though nothing they were saying was privileged. He stated he was comfortable with Attorney Eddington’s analysis and he appreciated it and he hoped they still had an opportunity to keep the conversation going and reach a resolution with Best Buy.

Mayor Supple stated her point in asking the question was that both sides of the argument were in the staff packet, but only one side was presented to Council and she wanted to make sure both sides were presented. Director Poehlman stated the 29 percent that was being referenced in terms of statute was actually irrelevant. She noted the 29 percent being referred to was strictly related to the Best Buy portion of this district. She noted this was a scattered site district with three projects and that 25 percent applies to the entirety of the District and the 29 percent related to Best Buy was irrelevant.

Council Member Whalen asked if the projected potential tax savings if the minimum assessment agreement removed and they were successful by the June deadline, would Best Buy stand to save up to \$2 million in tax savings. Director Poehlman responded there was a range of values provided, but at the maximum where the anticipated value would drop by nearly 50%, the two-year tax savings to Best Buy was estimated to be about 2.4 million.

Council Member Whalen stated he did not disagree with Best Buy’s claim that they were currently valued at higher than market value because of this agreement and that everything they said about bringing people to the office space made sense. He believed this came down to the dispute over an overpayment, but Best Buy would still have potentially up to \$1.4 million in 2 years. He indicated to him this felt like a negotiation.

Motion carried: 4-0

ITEM #7	CITY MANAGER’S REPORT
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City Manager Rodriguez shared information regarding the new AV equipment in the Council Chambers starting tomorrow.

City Manager Rodriguez responded to an Open Forum comment by Ms. Balaban who wanted Commissioner contract information and pictures to be put on the City’s website. She noted they were putting on the website a fillable form, which should be out later this week for the Chairs of the Commissions. She indicated the names of the Commissions were already out there and they would provide further contract information if asked. She stated this was similar to other cities. She indicated they would also add pictures, group photos of the Commissions as staff had time to upgrade the website.

City Manager Rodriguez thanked staff and Council for their advocacy on their legislative platform items for the top three legislative asks. She indicated they had received full funding for Wood Lake Nature Center’s new building at \$12 million. She stated they also had the ability to bring a local sales tax ask to the voters, and they made progress on local flexibility or EMS. He thanked Representative Howard and Senator Wicklund.

Council Member Whalen asked for staff to make a summary of the legislative bills that had been passed. City Manager Rodriguez responded they were collecting reports from various entities and staff would start summarizing those and also putting together some estimates for some of the other bills that would impact the City.

ITEM #8	CLAIMS AND PAYROLL
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M/Trautmann, S/Whalen that the following claims and payrolls be approved:

<u>U.S. BANK</u>	<u>05/23/2023</u>
A/P Checks: 314285 - 314568	\$1,672,123.72
Payroll: 178425 – 178725 43644	<u>\$760,871.28</u>
TOTAL	\$2,432,995.00

Motion carried: 4-0

ITEM #9	HATS OFF TO HOMETOWN HITS
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Council Member Whalen lifted up the strong legislative work and the Work Session that focused on prioritizing actions within the climate action plan. He highlighted some wins on the sustainability front including after years of the transit system operating at very low funding and there was a new plan to raise revenue. He also indicated there was a billion dollars of climate investment across a variety of things.

Council Member Christensen gave hats off to the Richfield Leadership Network. She indicated there was an event this past week at the Community Center that brought together a wide variety of community members, leaders, and business owners who all got together.

Council Member Trautmann gave hats off to Team Richfield and all of the City volunteers and community members that showed up. He lifted up Senator Wicklund and Representative Howard as well as City staff and the Mayor who had spent a lot of time advocating and getting the Richfield story

out to the Legislature. He stated he appreciated Congress member Omar, who visited on multiple occasions to Wood Lake.

Mayor Supple echoed Council Member Trautmann’s comments and gave kudos to Chief Henthorn for representing the City at the Legislative session. She also thanked the staff. She thanked the legislators, Representative Howard, and Senator Wicklund. She highlighted some of the things coming up including the City participating in the flags for Fort Snelling; the honoring of all veterans on Memorial Day at the Veterans’ Memorial.

ITEM #10	ADJOURNMENT
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M/Trautmann, S/Whalen to adjourn the meeting at 8:17 p.m.

Motion carried: 4-0

Date Approved: June 13, 2023



Dustin Leslie
City Clerk



Mary Supple
Mayor



Katie Rodriguez
City Manager