



**REGULAR CITY COUNCIL MEETING
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS
OCTOBER 24, 2023
7:00 PM**

INTRODUCTORY PROCEEDINGS

Call to order

Pledge of Allegiance

Open forum

Call into the open forum by dialing 1-415-655-0001 Use webinar access code: 2633 133 9035 and password: 1234.

Please refer to the Council Agenda & Minutes web page for additional ways to submit comments.

Approval of the Minutes of the (1) City Council Work Session of October 10, 2023; and (2) City Council Meeting of October 10, 2023.

AGENDA APPROVAL

1. Approval of the Agenda

PRESENTATIONS

2. Arts Commission annual presentation given by co-chairs Aric Bieganeck and Larry Nelson.
3. Planning Commission annual presentation given by chair Eddie Holmwig-Johnson.
4. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**
 - A. Consider the first reading of proposed Franchise Ordinance and Agreement with CenterPoint Energy Minnesota Gas ("CenterPoint Energy") allowing and setting terms for CenterPoint Energy's use of the City right-of-way and setting the public hearing and second reading for November 28, 2023.

Staff Report No. 141

5. Consideration of items, if any, removed from Consent Calendar

PROPOSED ORDINANCES

6. Consider the approval of the second reading of an ordinance amending Chapter 9, Section 925 of the Richfield City Code to include managed natural landscapes, ornamental plants and rain gardens as new definitions, as well

as amending the maintenance standard of grass height from 6" to 8".

Staff Report No. 142

CITY MANAGER'S REPORT

7. City Manager's Report

CLAIMS AND PAYROLLS

8. Claims and Payroll

COUNCIL DISCUSSION

9. Hats Off to Hometown Hits

CLOSED EXECUTIVE SESSION

10. Closed session with the City Council for an attorney-client privileged discussion pursuant to Minn. Stat. 13D.05, subd. 3(b) to discuss the City's options to participate in multidistrict lawsuit and related class settlements entitled: *In RE: Aqueous Film Forming Foams Products Liability Litigation; United States District Court, District of South Carolina – Charleston Division; MDL No. 2:18-mn-2873-RMB; Case No. 2:23-cv-03147-RMG, Case No. 2:23-cv-03230-RMG.*

Staff Report No. 143

11. Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9739.



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

City Council Work Session

October 10, 2023

CALL TO ORDER

Mayor Supple called the work session to order at 5:45 p.m. in the Bartholomew Room.

Council Members Present: Mary Supple, Mayor; Sean Hayford O'leary; Ben Whalen; Simon Trautmann; and Sharon Christensen

Staff Present: Katie Rodriguez, City Manager; Dustin Leslie, City Clerk; Chris Swanson, Management Analyst; Karl Huemiller, Recreation Programming Manager; Amy Markle, Recreation Services Director; Mike Dobesh, Fire Chief; Alex Crofford, Fire Captain; Joey Krieter, Firefighter.

ITEM #1	RECREATION PROGRAMMING MANAGER, KARL HUEMILLER, AND RECREATION SERVICE DIRECTOR, AMY MARKLE, WILL PRESENT ON THE CURRENT RECREATION FEE ASSISTANCE PROGRAM AND PROVIDE SOME RECOMMENDED UPDATES TO THE PROGRAM.
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Recreation Director Markle introduced the topic as well as interim Recreation Director Karl Huemiller.

Director Markle and Recreation Programming Manager Huemiller gave the presentation covering Recreation Fee Assistance programs including passport program, Richfield READY, and the Emily Day Scholarship.

There was a general discussion between staff and Council regarding eligibility and plans if revenue runs out.

The presentation ended with interim Recreation Programming Manager Huemiller giving Council recommendations and asking for feedback.

Council Member Trautmann stated he knew of businesses who would likely be able to sponsor these programs. He stated the programs were great but wanted to see them go further with less cost burden for those who qualified for pool passes.

Council Member Hayford O'leary asked about potential revenue loss if there was more help with the pool passes. Recreation Programming Manager Huemiller stated it would be fine if they lowered the cost burden. Council Member Hayford O'leary then asked if more capacity due to pool passes would make it too crowded. Director Markle stated it should not be a problem with the added residents. Finally, there was a discussion about logistics and how residents would receive the passes.

There was a discussion between staff and Council Members about adding community garden plots to the eligibility program.

Director Markle stated staff would start the pool passes at 50% off for eligible recipients to see what happens as a pilot in 2024. There was also a discussion about how the city works with the School District on these types of programs.

ITEM #2	RECOGNITION OF FIRE PREVENTION WEEK AND TRAINING IN HANDS-ONLY CPR
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Fire Chief Dobesh gave the presentation covering calls for service, RFD value, importance of CPR, first aid, and common signs of heart attack and stroke. He also gave a firsthand demonstration of how to perform CPR. Dobesh finished the presentation with telling Council Members what to do in certain life or death instances.

Council thanked Chief Dobesh and the Fire Department for the important work they do.

ADJOURNMENT

Mayor Supple adjourned the work session at 6:40 pm.

Date Approved: October 10, 2023

Mary B. Supple
Mayor

Dustin Leslie
City Clerk

Katie Rodriguez
City Manager



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

Regular Council Meeting

October 10, 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; Sean Hayford Oleary; and Ben Whalen

Staff Present: Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; Amy Markle, Recreation Services Director; Jay Henthorne, Public Safety Director; Jennifer Anderson, Support Services Manager; Chris Link, Public Works Deputy Director; Rachel Lindholm, Sustainability Specialist; Chris Swanson, Management Analyst; and Dustin Leslie, City Clerk

Others Present: Katrina Devore, Advisory Board of Health Commission

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

Kathleen Balaban stated she had spoken earlier in the year about the need for updating the website for the Commissions. She noted not much had been done on this and requested the city add photographs of the Commission members and do a general update on the websites to encourage people to volunteer for a Commission and to give the Commissioners a sense of pride.

APPROVAL OF MINUTES

M/Whalen, S/Trautmann to approve the minutes of the: (1) City Council Work Session of September 26, 2023; (2) City Council Meeting of September 26, 2023.

Motion carried: 5-0

ITEM #1	APPROVAL OF THE AGENDA
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M/Trautmann, S/Hayford Oleary to move Item 11 after the Consent Agenda.

Motion carried: 5-0

ITEM #2	ADVISORY BOARD OF HEALTH COMMISSION ANNUAL PRESENTATION GIVEN BY KATRINA DEVORE
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Katrina Devore presented the annual Advisory Board of Health Commission report.

Council Member Whalen indicated he was excited to hear that conversations about mental health were happening. He believed this was a great use of the Board's time.

Mayor Supple thanked the Commission for all the work they have done.

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

- A. Consider approval of the first reading of an ordinance amending Chapter 9, Section 925 of the Richfield City Code to include managed natural landscapes, ornamental plants, and rain gardens as new definitions, as well as amending the maintenance standard of grass height from 6" to 8" (Staff Report No. 128)
- B. Consider the approval to renew the contract with Chief's Towing, Inc., for Public Safety towing services for December 1, 2023, through November 30, 2025 (Staff Report No. 129)
- C. Consider the approval of a settlement agreement with 256 Holdings, LLC, Wendy's Properties, LLC, and Haza Foods of Minnesota, LLC for purchase of temporary and permanent easements at 6500 Lyndale Ave S. (Staff Report No. 130)
- D. Consider the approval of the lease agreement between the City of Richfield and Fortis Academy, LLC for use of the training space at Richfield Ice Arena (Staff Report No. 131)
- E. Consider the approval of an agreement between the Richfield Department of Public Safety and The Axtell Group (Staff Report No.132)

M/Whalen, S/Hayford Oleary to approve the consent calendar.

Council Member Whalen stated for Item A he knew there were some residents who would be excited about this, and under Item B, he liked the big picture visioning approach.

Motion carried: 5-0

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

ITEM #11	CONSIDER THE APPROVAL OF THE SECOND READING OF AN ORDINANCE AMENDING CHAPTER 8, SUBSECTION 840.13 OF THE RICHFIELD CITY CODE TO PROHIBIT SMOKING IN PUBLIC PARKS AND DURING COMMUNITY EVENTS. THE PROPOSED ORDINANCE INCLUDES ESTABLISHING A PETTY MISDEMEANOR OFFENSE. (STAFF REPORT NO. 138)
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Council Member Trautmann presented Staff Report 138.

Council Member Whalen thanked staff for all of their research on this. He clarified that smoking in a car in a park was allowed, but smoking marijuana was prohibited.

Council Member Trautmann also thanked staff and also the Chief of Police for their work on this policy and explained the reasons for the policy.

Council Member Hayford Oleary also thanked staff for their help with this policy. He hoped everyone using the trails and streets would be respectful about this policy.

Mayor Supple expressed appreciation on how well researched this was and all of the questions that have come up have been covered by their ordinances.

M/Trautmann, S/Hayford Oleary to approve an Ordinance amending subsection 840.13 of the Richfield Code of Ordinances prohibiting smoking in public parks, on City-owned land, and during community events and establishing a petty misdemeanor offense, and Resolution approving summary publication of an Ordinance amending Chapter 8 of the City Code, and an Ordinance amending Chapter 8, Subsection 840.13 of the City Code.

BILL NO. 2023-12

AN ORDINANCE AMENDING SUBSECTION 840.13 OF THE RICHFIELD CODE OF ORDINANCES PROHIBITING SMOKING IN PUBLIC PARKS, ON CITY-OWNED LAND, AND DURING COMMUNITY EVENTS AND ESTABLISHING A PETTY MISDEMEANOR OFFENSE

RESOLUTION NO. 12137

RESOLUTION APPROVING SUMMARY PUBLICATION OF AN ORDINANCE AMENDING CHAPTER 8 OF THE CITY CODE

**SUMMARY PUBLICATION
BILL NO. 19-34**

AN ORDINANCE AMENDING CHAPTER 8, SUBSECTION 840.13 OF THE CITY CODE

Motion carried: 5-0

ITEM #5	
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	PUBLIC HEARING AND CONSIDERATION OF THE SECOND READING OF A PROPOSED ORDINANCE MODIFYING THE ELECTRIC AND GAS FRANCHISE FEE. (STAFF REPORT NO. 133)
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Whalen presented Staff Report 133 and opened the public hearing.

M/Whalen, S/Trautmann to close the public hearing.

Motion carried: 5-0

M/Whalen, S/Hayford Oleary to approve the second reading of an Ordinance modifying the electric franchise fee on Northern States Power d/b/a Excel Energy for providing electric service within the City of Richfield.

ORDINANCE NO. 2023-10

AN ORDINANCE MODIFYING THE ELECTRIC FRANCHISE FEE ON NORTHERN STATES POWER D/B/A EXCEL ENERGY FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF RICHFIELD

Motion carried: 5-0

M/Whalen, S/Hayford Oleary to approve an Ordinance modifying the gas franchise fee on Centerpoint Energy for providing gas service within the City of Richfield.

ORDINANCE NO. 2023-11

AN ORDINANCE MODIFYING THE GAS FRANCHISE FEE ON CENTERPOINT ENERGY FOR PROVIDING GAS SERVICE WITHIN THE CITY OF RICHFIELD

Motion carried: 5-0

M/Whalen, S/Hayford Oleary to approve a Resolution approving Summary Publication of an Ordinance updating franchise fee schedules amending Appendix E: Articles II and III of the City Code; and an Ordinance amending appendix E: Articles II and III of the City Code.

RESOLUTION NO. 12131

RESOLUTION APPROVING SUMMARY PUBLICATION OF AN ORDINANCE UPDATING FRANCHISE FEE SCHEDULES AMENDING APPENDIX E: ARTICLES II AND III OF THE CITY CODE

**SUMMARY PUBLICATION
BILL NO. 19-33**

AN ORDINANCE AMENDING APPENDIX E: ARTICLES II AND III OF THE CITY CODE

Whalen stated he was very supportive of this and excited to have a sustainability budget.

Motion carried: 5-0

	CONDUCT AND CLOSE A PUBLIC HEARING AND BY MOTION: ADOPT A RESOLUTION FOR SPECIAL ASSEMENTS FOR REMOVAL OF DISEASED TREES FROM PRIVATE PROPERTY FOR WORK ORDERED FROM JANUARY 1, 2022 THROUGH DECEMBER 31, 2022 (STAFF REPORT NO. 134)
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Council Member Hayford Oleary presented Staff Report 134 and opened the public hearing.

M/Hayford Oleary, S/Trautmann to close the public hearing.

Motion carried: 5-0

M/Hayford Oleary, S/Whalen to approve Resolution adopting assessment for the removal of diseased trees from private property for work ordered from January 1, 2022, through December 31, 2022.

RESOLUTION NO. 12132

RESOLUTION ADOPTING ASSESSMENT FOR THE REMOVAL OF DISEASED TREES FROM PRIVATE PROPERTY FOR WORK ORDERED FROM JANUARY 1, 2022, THROUGH DECEMBER 31, 2022

Motion carried: 5-0

ITEM #7	PUBLIC HEARING AND CONSIDER RESOLUTIONS ADOPTING THE ANNUAL INTERSTATE/LYNDALE/NICOLLET (ILN) PROJECT AREA ASSESSMENT AND PROPOSED WORK FOR 2024. (STAFF REPORT NO. 135)
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Council Member Trautmann presented Staff Report 135 and opened the public hearing.

M/Trautmann, S/Hayford Oleary to close the public hearing.

Motion carried: 5-0

M/Trautmann, S/Hayford Oleary to approve Resolution adopting assessment on Interstate-Lyndale-Nicollet (ILN) project area for costs incurred to maintain the area for 2024.

Council Member Whalen stated there were quite a few dead ash trees. He asked if the replantings would include taking down the trees. Staff responded that there were a lot of dead ash trees along this corridor and there was a plan to remove those this winter along with a discussion on a landscape plan for the corridor.

RESOLUTION NO. 12133

RESOLUTION ADOPTING ASSESSMENT ON INTERSTATE-LYNDALE-NICOLLET (ILN) PROJECT AREA MAINTENANCE FOR 2024

Motion carried: 5-0

M/Trautmann, S/Hayford Oleary to approve Resolution adopting assessment on Interstate-Lyndale-Nicollet (ILN) project area maintenance for 2024.

RESOLUTION NO. 12134

RESOLUTION ORDERING THE UNDERTAKING OF THE CURRENT SURFACE PROJECT WITHIN THE ILM PROJECT AREA FOR 2024

Motion carried: 5-0

ITEM #8	PUBLIC HEARING RELATED TO THE PROPOSED RESOLUTION MODIFYING THE STREET LIGHT USER FEES (STAFF REPORT NO. 136)
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Christensen presented Staff Report 136 and opened the public hearing.

M/Christensen, S/Whalen to close the public hearing.

Motion carried: 5-0

Council Member Hayford Oleary stated he was hopeful that they will hear more details about the LED upgrade program. He indicated he did not want to have a decrease in the level of light on the streets.

ITEM #9	PUBLIC HEARING AND CONSIDER A RESOLUTION ADOPTING THE PROPOSED ASSESSMENT FOR UNPAID GARBAGE COLLECTION SERVICES FROM PRIVATE PROPERTY WITHIN THE RESIDENTIAL ORGANIZED COLLECTION SYSTEM FROM AUGUST 1, 2022, TO JUNE 30, 2023. (STAFF REPORT NO. 137)
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Whalen presented Staff Report 137 and opened the public hearing.

An audience member stated they have not had garbage service because they take their garbage to their son's home, but they are still being charged for garbage service.

Joseph Buda, 6929 Park Avenue, stated he loved living in Richfield but the forced garbage service in his opinion was a mistake. He noted after he moved to Richfield, he spent a lot of time researching utility companies and chose the garbage service that was best for him and now the city was forcing him to change services and there was nothing he could do about it. He indicated he would be paying his overdue bill including late fees. He asked if the city could negotiate getting rid of some of the late fees. He stated he wanted to go with a different garbage service provider in the future.

M/Whalen, S/Trautmann to close the public hearing.

Motion carried: 5-0

M/Whalen, S/Christensen to adopt a resolution adopting assessment for unpaid garbage collection service from August 1, 2022, to June 30, 2023.

RESOLUTION NO. 12138

RESOLUTION ADOPTING ASSESSMENT FOR UNPAID GARBAGE COLLECTION SERVICE FROM AUGUST 1, 2022 TO JUNE 30, 2023

Council Member Whalen reminded residents they can reach out to the City's Sustainability Specialist if they ever experience sub-par services.

Mayor Supple stated if residents paid off their balance between now and November 10, it will not be sent to the County. Sustainability Specialist Lindholm stated if residents had any concerns, they can reach out to her and she can also check for up to date status of any assessments.

Council Member Hayford Oleary noted once the garbage collection contract was up, could they revisit late fee charges. Sustainability Specialist Lindholm responded that was correct.

Motion carried: 5-0

ITEM #10	PUBLIC HEARING AND CONSIDER A RESOLUTION ADOPTING THE PROPOSED ASSESSMENTS OF DELINQUENT UTILITY ACCOUNTS, FALSE ALARM CHARGES, PUBLIC HEALTH, OR SAFETY HAZARDS CHARGES, WEED ERADICATION CHARGES, AND VACANT PROPERTY REGISTRATION FEES TO BE CERTIFIED TO PUBLIC PROPERTY TAXES (STAFF REPORT NO. 140)
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Hayford Oleary presented Staff Report 140 and opened the public hearing.

Steve Klosinski, 6433 Bloomington Avenue South, stated he loved Richfield. He indicated in April he received a water bill for over \$2,000 in which 160,000 gallons of water had been used. He was told it was due to a leaky toilet, but he pressure tested all of the pipes in the house and there was no evidence of a leak and no water damage. He noted he had been doing maintenance and plumbing for years and had put in hundreds of toilet vales, and he was positive the toilet was not leaking. He stated the amount of water used was incorrect and this was unreasonable. He indicated he had reached out to the Council, staff, the Utilities Commission, and the Attorney General and received no compassion. He asked for a negotiation of the \$2,000 bill. He stated he disagreed with the amount. He indicated he was extremely disappointed, and this was not what he had come to expect from Richfield.

Chuck Strauch, 66th and Emerson, stated for the past couple of years he had been receiving notices about the boulevard in front of his home. He stated he refused to mow the boulevard due to safety concerns as it was just a few inches from moving cars going down the street, and that it was not unilaterally enforced. He believed it was wrong for the city to expect him to risk his life trying to mow the lawn.

M/Hayford Oleary, S/Whalen to close the public hearing.

Motion carried: 5-0

Hayford Oleary requested staff describe Mr. Klosinski situation. City Manager Rodriguez noted leaking toilets could go through a lot of water. She encouraged residents to sign up for the Water Smart Program which would let them know of any suspected leak. She noted Mr. Klosinski had received at least two notices from the Water Smart Program that there might be a leak two billing quarters before the \$2,000 bill. She stated staff had gone out to the home and found that the toilet chain wasn't adjusted properly, and the water level was set to close to the overflow. She indicated the water meter had also been tested by an independent testing company which showed it was within the standards for a meter. She stated the same meter was reinstalled and it was showing normal usage now.

M/Hayford Oleary, S/Whalen to adopt a resolution authorizing certification of unpaid water, sanitary sewer, storm water, and street light charges, false alarm charges, weed eradication charges, public health or safety hazard charges, and vacant property registration fees to the County Auditor to be collected with other taxes on said properties.

RESOLUTION NO. 12136

RESOLUTION AUTHORIZING CERTIFICATION OF UNPAID WATER, SANITARY SEWER, STORM WATER, AND STREET LIGHT CHARGES, FALSE ALARM CHARGES, WEED ERADICATION CHARGES, PUBLIC HEALTH OR SAFETY HAZARD CHARGES, AND VACANT PROPERTY REGISTRATION FEES TO THE COUNTY AUDITOR TO BE COLLECTED WITH OTHER TAXES ON SAID PROPERTIES

Motion carried: 5-0

ITEM #12	CONSIDER THE APPOINTMENT OF A YOUTH MEMBER TO THE SUSTAINABILITY COMMISSION (STAFF REPORT NO. 139)
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Council Member Christensen presented Staff Report 139.

M/Christensen, S/Trautmann to approve the appointment of Patrick Skamser to the Sustainability Commission as a youth commissioner.

Motion carried: 5-0

ITEM #13	CITY MANAGER’S REPORT
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City Manager Rodriguez shared information regarding an email she had received from Alicia Waters inviting the Council, family, friends, and neighbors to Veterans Park on October 15 at 11 a.m. for a workday to complete the soft landing, laying down carboard and covering them with mulch. She also indicated they would be doing another buckthorn pull on October 21 from 10 a.m. to 1 p.m.

City Manager Rodriguez wished Director Markle well in her new position. She summarized Director Markle’s accomplishments.

Mayor Supple thanked Director Markle for everything she has done for the city.

Council Member Whalen echoed Mayor Supple’s comments.

Council Member Hayford Oleary also thanked Director Markle for her work for the city.

Council Member Trautmann thanked Director Markle and noted she has been an incredible leader.

ITEM #14	CLAIMS AND PAYROLL
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M/Whalen, S/Trautmann that the following claims and payrolls be approved:

<u>U.S. BANK</u>	<u>10/10/2023</u>
A/P Checks: 324094 - 324418	\$1,443,858.45
Payroll: 182375 – 182677; 43663	<u>\$795,194.00</u>
TOTAL	\$2,239,052.45

Motion carried: 5-0

ITEM #15	HATS OFF TO HOMETOWN HITS
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Council Member Trautmann gave hats off to Director Markle. He indicated there was a fall fundraiser dinner on November 3 and encouraged everyone to get their tickets.

Council Member Hayford Oleary stated he was going to be at the bike park opening tomorrow at Taft Park on the west side on the corner of 62nd in Bloomington.

City Manager Rodriguez read a comment by a resident at the previous meeting’s open forum had been made regarding a new resident information packet, which staff was planning to update. She noted staff’s workload is heavy right now, but it will get updated in the future.

Council Member Christensen stated she had attended the Richfield Renovation Home Tour, and it was an enjoyable way to spend an afternoon. She noted on Saturday there is going to be Bark in the Park.

Council Member Whalen stated he would also be at the bike park opening. He reminded residents there was an election this year.

Mayor Supple stated on Saturday there would be the great pumpkin giveaway along with face painting and other activities for kids at Fairwood Park from 10 a.m. to noon. She indicated the Chamber of Commerce is hosting trunk or treat at Morris Nielsen Funeral Home on Saturday from 3 to 6 p.m. She noted applications were being taken for City Commissions also.

ITEM #16	ADJOURNMENT
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M/Trautmann, S/Whalen to adjourn the meeting at 8:18 p.m.

Motion carried: 5-0

Date Approved: October 24, 2023

Mary Supple
Mayor

Dustin Leslie
City Clerk

Katie Rodriguez
City Manager

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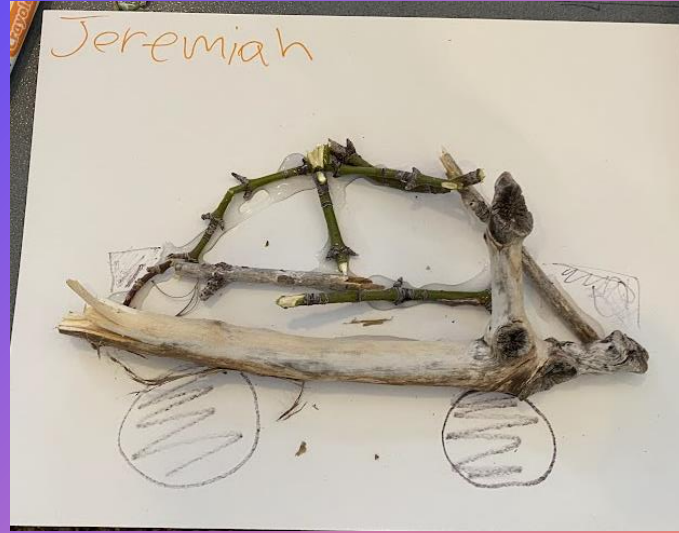
2023 ACTIVITIES

City Council Meeting

Richfield, MN

10/24/2023





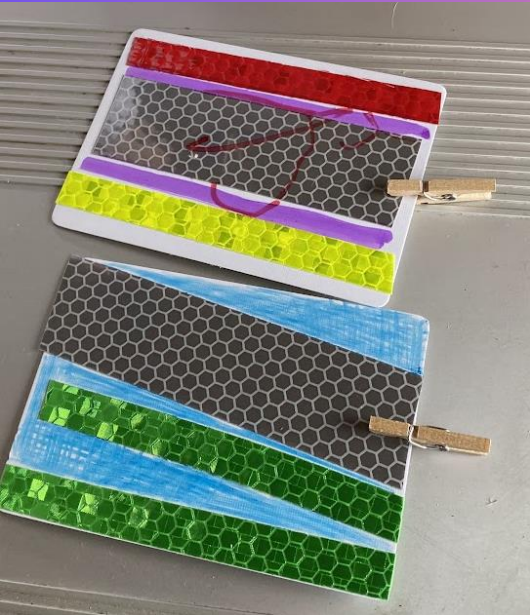
WOOD LAKE EARTH DAY EVENT

- Event: April 23
- Art project featuring natural materials from the nature center



ART IN THE PARK AT THE FARMER'S MARKET

- June 10: Decorate Your Bike!
- Art project: Make-your-own bike cards/reflectors
- Farmer's Market Initiative: Bike to market
- People of all ages enjoyed the activity!



ART IN THE PARK AT THE FARMER'S MARKET

- July 16: Seed Art in the Park
- Art Project: Seed Art on canvas
- Back by popular demand!
- Centralized location in market



ART IN THE PARK AT THE FARMER'S MARKET

- Aug 12: Food Art
- Art Project: Vegetable Stamping
- Added a third event in 2023!





GALAXY BLOCK PARTY AND RICHFIELD LAKE POETRY WALK

MIXTO Mural
at Galaxy Foods

SEPTEMBER 23RD, 2022

This mural was created by Ricardo Perez and Sebastian Rivera Cintron of the Mixto Art Collective, and in collaboration with the residents of the surrounding community, GoFundMe donors, and the following sponsors:



- Aug. 19
- **Galaxy Block Party:** RAC Members were invited to attend the celebration as collaborators
- **Poetry Event:** Poems were replaced around Richfield Lake in collaboration with Mississippi Valley Poets and Writers

PENN FEST

- Sept. 17
- Tabled with Parks and Rec and other Richfield groups
- More bike decorating!
- Provided information about RAC's activities to the public



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BARK IN THE PARK

- Oct. 14
- Halloween costume event at Dog Park in collaboration with Parks and Rec
- Treats provided: for dogs and their humans! Plus, other freebies!
- Photo ops with a Polaroid camera!



OTHER RAC ACTIVITES

- Richfield HS Senior Art Show
 - Little Free Library
 - City Photo Contest voting
- Volunteered at Juneteenth event
 - Reviewing new public art
- Assisting with art displays in public spaces
 - Decorating planter boxes for winter in Veterans Park
- Upcoming New Event: Author Event in Nov.

THANK YOU

Richfield Arts Commission

Larry Nelson (Co-Chair), Aric Bieganek (Co-Chair), Karin Wolverton (Secretary), Janie Mork, Joyce Marrie, Stephanie Jacobson, Stephanie Kopp

BJ Skoog (Community Services Liaison), Karl Huemiller (Staff Liaison), Sharon Christensen (City Council Liaison)





STAFF REPORT NO. 141
CITY COUNCIL MEETING
10/24/2023

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst
DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director
10/17/2023
OTHER DEPARTMENT REVIEW:
CITYMANAGER REVIEW: Katie Rodriguez, City Manager
10/18/2023

ITEM FOR COUNCIL CONSIDERATION:

Consider the first reading of proposed Franchise Ordinance and Agreement with CenterPoint Energy Minnesota Gas ("CenterPoint Energy") allowing and setting terms for CenterPoint Energy's use of the City right-of-way and setting the public hearing and second reading for November 28, 2023.

EXECUTIVE SUMMARY:

- The current Franchise Ordinance and Agreement with CenterPoint Energy expired on May 27, 2023 but remains in effect until a new agreement is adopted or the Franchise is formally terminated.
- The City and CenterPoint Energy wish to continue the Franchise and have negotiated a revised Franchise Ordinance and Agreement which is attached to this staff report.
- The revised Franchise Ordinance and Agreement will be effective for 10 years with the option to renew for a second 10-year term.
- The Franchise Ordinance and Agreement:
 1. Grants CenterPoint Energy the right to use City controlled right-of-way for the installation, maintenance and repair of gas distribution facilities;
 2. Spells out the rights and responsibilities of each party to the agreement; and
 3. Allows the City to impose franchise fees.

RECOMMENDED ACTION:

By Motion: Approve the first reading of the proposed Franchise Ordinance and Agreement with CenterPoint Energy and set the public hearing and second reading for November 28, 2023.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

See Executive Summary

B. EQUITABLE OR STRATEGIC CONSIDERATIONS OR IMPACTS

N/A

C. POLICIES (resolutions, ordinances, regulations, statutes, exc):

- It is necessary that the City work with the privately-owned utility companies like CenterPoint Energy to provide necessary services to Richfield residents.
- Federal and State law requires the City to allow private utility infrastructure to be placed, operated and maintained in City right-of-way.
- City Staff and CenterPoint Energy negotiated the Franchise Ordinance and Agreement and CenterPoint Energy staff have indicated that the company will accept the current

language and will execute the agreement as is.

D. CRITICAL TIMING ISSUES:

The previous Franchise Ordinance and Agreement expired in late May 2023 and the updated version should be approved as soon as possible.

E. FINANCIAL IMPACT:

None

F. LEGAL CONSIDERATION:

The City Attorney's office prepared the Franchise Ordinance and Agreement and will be available to answer questions.

ALTERNATIVE RECOMMENDATION(S):

None

PRINCIPAL PARTIES EXPECTED AT MEETING:

None

ATTACHMENTS:

Description	Type
☐ CenterPoint Franchise Ordinance and Agreement	Ordinance

BILL NO. 2023-

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP. d/b/a CENTERPOINT ENERGY MINNESOTA GAS (“CENTERPOINT ENERGY”), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF RICHFIELD, COUNTY OF HENNEPIN, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

THE CITY OF RICHFIELD DOES ORDAIN:

SECTION 1. DEFINITIONS

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Richfield, County of Hennepin, State of Minnesota.

City Utility System. Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

Company. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

Gas Energy. Gas Energy includes both retail and wholesale natural, manufactured or mixed gas.

Gas Facilities. Gas transmission and distribution pipes, lines, ducts, fixtures and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

Notice. A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicollet Mall, Minneapolis, Minnesota, 55402. Notice to the City shall be mailed to City of Richfield, C/O Finance Director, 6700 Portland Ave S, Richfield, Minnesota, 55423. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

Ordinance. This gas franchise ordinance, also referred to as the Franchise.

Public Way. Any highway, street, alley or other public right-of-way within the City.

Public Ground. Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space or other public property, which is held for use in common by the public or for public benefit.

SECTION 2. ADOPTION OF FRANCHISE

2.1 **Grant of Franchise.** City hereby grants Company, for a period of ten (10) years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits, provided that the City may extend this Franchise for an additional ten (10) years upon Notice to the Company prior to expiration hereof. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant with state law.

2.2 **Effective Date; Written Acceptance.** This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance in writing by Company.

2.3. **Service and Gas Rates.** Except as otherwise expressly provided herein, the terms and conditions of service and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** Company shall pay the expense of publication of this Ordinance.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain

in effect until a new franchise is agreed upon, or until ninety (90) days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire.

SECTION 3. LOCATION, OTHER REGULATIONS

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds in a location to be mutually agreed in writing by the City and the Company. The location and relocation of Gas Facilities shall be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise.

3.2. **Street Openings.** Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee, unless the City is receiving a franchise fee pursuant to this Ordinance, in which case all permit fees will be waived. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two (2) business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.3. **Restoration.** After undertaking any work requiring the opening of any Public Way, the Company shall restore the Public Way in accordance with Minnesota Rules, part 7819.1100 and applicable City ordinances consistent with law. The Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six months thereafter. All work shall be completed as promptly as weather permits, and if the Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to the Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Ground at the expense of the Company. The Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.3. The Company shall also post a construction performance bond consistent with the provisions of Minnesota Rules, parts 7819.3000 and 7819.0100, subpart 6.

3.4. **Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property or the elements. Per Minnesota

Statute § 216D.05, the City must take protective measures when it performs work near the Gas Facilities.

3.5. **Notice of Improvements to Streets.** The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature, extent and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the time when the City anticipates work will start, and (iv) if more than one Public Way or Public Grounds is involved, the order in which the work is expected to proceed. The Notice will be given to Company a minimum of eight (8) weeks time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities Company deems necessary.

3.6 **Mapping Information.** If requested by City, Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100.

3.7. **Emergency Response.** As emergency first responders, when a public safety concern exists both the City and Company shall respond to gas emergencies within the City without additional direct fee or expense to either City or Company.

SECTION 4. RELOCATIONS

4.1. **Relocation in Public Ways.** The Company and City shall comply with the provisions of Minnesota Rules 7819.3100 with respect to requests for the Company to relocate Gas Facilities located in Public Ways.

4.2 **Relocation in Public Grounds.** City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Grounds upon a finding by City that the Gas Facilities have become or will become an substantial impairment to the existing or proposed public use of the Public Grounds. Nothing in this Section 4.2 shall be construed so as to invalidate or impair any existing company easements in Public Grounds.

4.3. **Projects with Federal Funding.** Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes §§ 161.45 and 161.46.

SECTION 5. INDEMNIFICATION

5.1. **Indemnity of City.** Company shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS

The City shall give Company such written Notice of a proposed vacation of a Public Ways or Public Grounds as is required by law. The City and the Company shall comply with Minnesota Rules 7819.3100 and 7819.3200 with respect to any request for vacation.

SECTION 7. CHANGE IN FORM OF GOVERNMENT

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 8. FRANCHISE FEE

8.1. **Form.** During the term of the franchise hereby granted, the City may charge the Company a franchise fee. The franchise fee will be collected on a flat fee basis, or by some other method that is mutually acceptable to both City and Company for each retail customer account within the corporate limits of the City. The amount of the fee collected may differ for each customer class. The City will use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with the Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company will provide a formula that will produce a substantially similar fee amount to the City. If the City and Company are unable to agree, the disagreement shall be subject to the Dispute Resolution provisions of this Ordinance.

8.2. **Separate Ordinance.** The franchise fee shall be imposed by separate ordinance duly adopted by the City Council. The effective date of the franchise fee ordinance shall be no less than ninety (90) days after written Notice enclosing a copy of the duly adopted and approved ordinance has been served upon the Company by Certified mail. The Company is not required to collect a franchise fee if the terms of the fee agreement

are inconsistent with this franchise or state law, provided the Company notifies the City Council of the same within the ninety (90) day period.

8.3. **Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of Gas Energy within the City by any other supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

8.4. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same Notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. Company agrees to make available for inspection by City at reasonable times all records necessary to audit Company's determination of the franchise fee payments.

8.5. **Continuation of Franchise Fee.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one (1) year after the franchise expires as stated in Section 2.6 of this Franchise. If for any reason the franchise terminates, the franchise fee will terminate at the same time.

SECTION 9. ABANDONED FACILITIES

The Company shall comply with Minnesota Rules, Part 7819.3300, as it may be amended from time to time with respect to abandoned facilities in Public Ways. The Company shall maintain records describing the location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request and comply with the location requirements of Minnesota Statutes § 216D.04 with respect to all Gas Facilities located in Public Ways and Public Grounds.

SECTION 10. PROVISIONS OF ORDINANCE

10.1. **Severability.** Every section, provision or part of this Ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other City ordinance is inconsistent with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2. **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between City and Company as the only parties. No provisions herein shall in

any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third-party beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT-PROCEDURE

Either party may propose at any time that this Franchise Ordinance be amended. Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within ninety (90) days after the effective date of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERCEDED

This franchise supersedes and replaces previous franchises granted to the Company or its predecessors. Upon Company acceptance of this franchise under Section 2.2, the previous franchise shall terminate.

SECTION 13. EFFECTIVE DATE

This Ordinance is effective as provided herein.

Read by the City Council of the City of Richfield, Minnesota this 24th day of October, 2023.

Passed by the City Council of the City of Richfield, Minnesota this 28th Day of November, 2023.

Mary Supple, Mayor

ATTEST:

Dustin Leslie, City Clerk

AGENDA SECTION:	PROPOSED ORDINANCES
AGENDA ITEM #	6.



STAFF REPORT NO. 142
CITY COUNCIL MEETING
10/24/2023

REPORT PREPARED BY:	Jennifer Anderson, Support Services Manager
DEPARTMENT DIRECTOR REVIEW:	Jay Henthorne, Director of Public Safety/Chief of Police 10/11/2023
OTHER DEPARTMENT REVIEW:	
CITYMANAGER REVIEW:	Katie Rodriguez, City Manager 10/18/2023

ITEM FOR COUNCIL CONSIDERATION:

Consider the approval of the second reading of an ordinance amending Chapter 9, Section 925 of the Richfield City Code to include managed natural landscapes, ornamental plants and rain gardens as new definitions, as well as amending the maintenance standard of grass height from 6" to 8".

EXECUTIVE SUMMARY:

Effective July 1, 2023, municipalities are required to allow property owners and occupants to install and maintain managed natural landscapes.

Chapter 62 (HF 1830*/SF 1426) is the omnibus state government finance bill that was signed into law on May 24, 2023. Article 3, section 9 creates a new provision of law as Minnesota Statutes, section 412.925:

- Subpoint (a) requires all statutory cities or home rule charter cities to allow an owner, authorized agent, or authorized occupant of any privately owned lands or premises to install and maintain a managed natural landscape and defines a number of associated terms.
- Subpoint (b) states that managed natural landscapes may exceed 8 inches in height and be allowed to go to seed, but must be maintained and cannot include noxious weeds.
- Subpoint (c) states that weeds and grasses that are not part of a managed natural landscape cannot exceed 8 inches in height or be allowed to go to seed.

Managed natural landscapes does not include turf-grass lawns left unattended for the purpose of returning to a natural state.

The first reading of this proposed ordinance was heard by the City Council on October 10, 2023.

RECOMMENDED ACTION:

By Motion: Approve the second reading of an ordinance amending Chapter 9, Section 925 of the Richfield City Code to allow for managed natural landscapes and a turf-grass lawn not to exceed 8", and approve a resolution authorizing summary publication of said ordinance.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

Minnesota is not the first state to pass legislation loosening local requirements with respect to residential lawns. In 2009, the Florida Legislature passed Florida Statutes 373.185, establishing a definition for "Florida-Friendly Landscaping" in the interest of preserving water and protecting local wetlands and waterfronts from lawn care

runoff.

This legislation encouraged, but did not require, local government authorities to consider permitting Florida-friendly landscaping, including the use of more native plants and grasses in residential yards. Similarly, in 2021, Maryland passed House Bill 322, which prohibited homeowners' associations from imposing unreasonable limitations on low-impact landscaping.

The Minnesota bill follows the nationwide trend, but expands its authority significantly by not merely encouraging the use of native plants and grasses, or limiting only homeowners' associations from restricting such landscaping choices, but requiring cities to allow them and setting height requirements for turf-grass surfaces.

B. EQUITABLE OR STRATEGIC CONSIDERATIONS OR IMPACTS

The City of Richfield will need to amend current code to be in compliance with the new state law.

C. POLICIES (resolutions, ordinances, regulations, statutes, exc):

Chapter 9, Section 925.06 of the Richfield City Code addresses public nuisances and lawn maintenance provisions and expectations.

D. CRITICAL TIMING ISSUES:

The City of Richfield will need to amend current code to be in compliance with the new state law which took effect July 1, 2023.

E. FINANCIAL IMPACT:

NA

F. LEGAL CONSIDERATION:

The City Attorney has reviewed the proposed ordinance and approves of its contents.

ALTERNATIVE RECOMMENDATION(S):

The City of Richfield will need to amend current city code to be in compliance with the new state law which took effect July 1, 2023.

PRINCIPAL PARTIES EXPECTED AT MEETING:

ATTACHMENTS:

	Description	Type
□	Landscape ordinance amendment	Cover Memo
□	Sum Publication	Cover Memo

AN ORDINANCE AMENDING SUBSECTION 925.06 OF THE RICHFIELD CODE OF ORDINANCES RELATING TO PUBLIC NUISANCES AND LAWN MAINTENANCE AND ALLOWING MANAGED NATURAL LANDSCAPES PURSUANT TO STATE LAW

THE CITY OF RICHFIELD DOES ORDAIN:

Section. 1. Subsection 925.06 of the Richfield City Code is amended as follows:

925.06. - Public nuisance special provision: Lawn maintenance.

Subdivision 1. Preamble. The City Council finds that there are a variety of landscapes in the City that add diversity and a richness to the quality of life. There are community expectations, however, that an area that has been disturbed, landscaped, or otherwise maintained, will continue to be maintained in a consistent manner. When vegetation in that area is not continually maintained, it becomes aesthetically unpleasing and violates community standards. Property that appears neglected may decrease the value of adjacent properties. In addition, if vegetation is not properly maintained, there may be the following adverse impacts on public health, safety, and welfare:

- a. Undesirable vegetation such as common buckthorn, quackgrass, and other weeds may invade and threaten to supplant other more desirable vegetation;
- b. Vegetation that causes allergic reactions, such as ragweed, may develop; and
- c. Tall vegetation along driveways and public roads may impair visibility when entering or exiting public roads.

The City Council also finds that it is in the public interest to allow citizens to choose the type of landscaping on their properties and to make changes in that vegetation. As a protection for the larger community, however, this change in vegetation must be properly managed and maintained and the length of the transition period must be minimized.

The Council finds that the establishment of prairie and meadow plant communities is an acceptable landscape treatment in the City. This requires special consideration, however, because weeds will grow during the first few years of transition before the new vegetation predominates, resulting in an appearance of neglect. Therefore, the Council finds that this type of vegetation is acceptable if it is properly maintained to shorten the transition period and if notice is given of the intended result.

In contrast, the transition to trees and other woody species does not require special consideration because untended grass or weeds are not a necessary part of that

transition period. Rather, the transition period is shortened by eliminating competition around the seedlings through such techniques as organic mulch.

The City Council enacts this subsection to balance the public interest in a variety of vegetation with the public need to ensure proper maintenance of that vegetation. The Council finds that establishing a height limitation for certain vegetation is in the best interest of the public health, safety, and welfare as outlined above and is a reasonable maintenance standard.

Subd. 2. Definitions. For purposes of this subsection, the following words have the meanings specified below.

a. "Managed natural landscape" means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscape does not include turf-grass lawns left unattended for the purpose of returning to a natural state. Managed natural landscapes may include plants and grasses that are in excess of eight inches in height and have gone to seed, but may not include any noxious weeds and must be maintained;

a. b. "Meadow vegetation" means grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds.

~~b.~~ c. "Noxious weeds" are those plants so designated by the State of Minnesota under Minn. Stat. § 18.77, subd. 8.

~~e.~~ d. "Regularly cut" means mowing or otherwise cutting the vegetation so that it does not exceed ~~six (6)~~ eight (8) inches in height.

e. "Ornamental plants" means grasses, perennials, annuals, and groundcovers purposely planted for aesthetic reasons;

f. "Rain garden" means a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of stormwater and accompanying pollutants from entering streams, lakes, and rivers;

~~d.~~ g. "Turf grasses" are grasses commonly used in regularly cut lawn areas, such as bluegrass, fescue and rye grass blends, and non-woody vegetation interspersed with them, intended to be maintained at a height of no more than eight (8) inches; and

~~e.~~ h. "Weeds" include all noxious weeds, buffalobur, burdock, common cocklebur, crabgrass, dandelions, jimsonweed, quackgrass, common and giant ragweed, field sandbur, velvetleaf, and wild sunflower. Weeds also include anything that is horticulturally out of place. For example, a tree seedling is a weed in a vegetable garden, in a gutter or near the foundation of a house or garage. A property owner may establish that a plant or plants are not horticulturally out of place by providing a written landscape plan for the area in question, complete with a listing and locations of plant

species. The plants specifically listed above may not be included within the landscape plan. Vegetation that does not comply with this plan are weeds.

Subd. 3. Maintenance standard. The maintenance standard in this subsection applies to property that has been developed with a building as defined in the building code, including vacant property combined with developed property for tax purposes, and a parcel of property that has been completely or partially disturbed by demolition, grading or other means in preparation for development or redevelopment.

a. All turf grasses and weeds, including weeds within a meadow vegetation area, must not exceed a height of ~~six (6)~~ eight (8) inches, measured from the base at ground level to the tip of each stalk, stem, blade, or leaf.

b. This requirement does not apply to the following:

(1) A wetland or floodplain designated in the zoning ordinance and required wetland buffers or those voluntarily created by a landowner when compatible with the character of the neighborhood and the intent of the Wetland Protection Ordinance, Section 427 of this Code;

(2) A drainage pond or ditch that stores or conveys stormwater;

(3) The Woodlake Nature Center;

(4) An area in which the land and vegetation appears not to have been graded, landscaped, mowed, or otherwise disturbed by human or mechanical means at any time. Determination of what constitutes this type of area will be based on a reasonable judgment of the present appearance of the area. The recent history of the area may be relevant to this determination; and

(5) An area established with meadow vegetation if:

(a) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means; and

(b) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign is required only if the meadow vegetation is in an area likely to be seen by the public. This sign must be in addition to any sign permitted by the sign ordinance but must be no smaller than ten (10) inches square, no larger than one (1) square foot, and no higher than three (3) feet tall.

(6) A managed natural landscape as defined in this subsection.

Subd. 4. Declaration of public nuisance. The following are public nuisances subject to abatement under this section:

- a. Noxious weeds;
- b. Vegetation that does not meet the maintenance standard specified in subdivision 3 above; and
- c. Vegetation that violates the sight-distance standards in subsection 925.01, subdivision 4(a) of this Code.

Sec. 2. This Ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Adopted by the City Council of the City of Richfield on this ____ day of _____ 2023.

Mary Supple, Mayor

ATTEST:

Dustin Leslie, City Clerk

RESOLUTION NO. _____

**RESOLUTION APPROVING SUMMARY PUBLICATION
OF AN ORDINANCE AMENDING CHAPTER 9 OF THE CITY CODE**

WHEREAS, the City has adopted the above-referenced amendment of the Richfield City Code; and

WHEREAS, the verbatim text of the amendment is cumbersome, and the expense of publication of the complete text is not justified.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Richfield that the following summary is hereby approved for official publication:

**SUMMARY PUBLICATION
BILL NO. _____**

AN ORDINANCE AMENDING CHAPTER 9, SECTION 925 OF THE CITY CODE

This summary of the ordinance is published pursuant to Section 3.12 of the Richfield City Charter.

This ordinance amends City Code Chapter 9 relating to managed natural landscapes and amending the maintenance standard of grass height from 6" to 8".

Copies of the ordinance are available for public inspection in the City Clerk's office during normal business hours or upon request by calling the Support Services Manager at 612-861-9881.

Adopted by the City Council of the City of Richfield, Minnesota this 24th day of October, 2023.

Mary Supple, Mayor

ATTEST:

Dustin Leslie, City Clerk