



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

Regular Council Meeting

October 25, 2022

CALL TO ORDER

Mayor Regan Gonzalez called the meeting to order at 7:00 p.m. in the Council Chambers.

Council Members Present: Maria Regan Gonzalez, Mayor; Simon Trautmann; Mary Supple; Ben Whalen; and Sean Hayford Oleary

Council Members Absent: None

Staff Present: Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; Jay Henthorne, Public Safety Director/Police Chief; Jennifer Anderson, Support Services Manager (via phone); Amy Markle, Recreation Services Director; Kristin Asher, Public Works Director; Rachel Lindholm, Sustainability Specialist; and Chris Swanson, Management Analyst

Others Present: Karin Wolverson, Arts Commission Co-Chair; Larry Nelson, Arts Commission Co-Chair; James Rudolph, Planning Commission Chair; Aric Bieganeck, Arts Commission Secretary

PLEDGE OF ALLEGIANCE

Mayor Regan Gonzalez led the Pledge of Allegiance.

OPEN FORUM

Mayor Regan Gonzalez 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

There were no participants.

APPROVAL OF MINUTES

M/Trautmann, S/Whalen to approve the Minutes of the: (1) City Council Work Session of October 11, 2022; and (2) Regular City Council Meeting of October 11, 2022.

Motion carried: 5-0

ITEM #1	17TH ANNUAL GREAT PUMPKIN GIVEAWAY COLORING CONTEST WINNERS
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Mayor Regan Gonzalez invited the sponsors of the program, Steve Schneeberger from The Schneeberger Realty Group and Lisa Hintermeister from Luminare Home Loans, to join her at the podium and then announced the winners of each category and explained the reasons why she chose their coloring pages. She thanked the sponsors for their leadership in business and creating this community-building event.

ITEM #2	ARTS COMMISSION YEARLY PRESENTATION GIVEN BY LARRY NELSON AND KARIN WOLVERTON
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Mayor Regan Gonzalez invited Co-Chair Commissioners Karin Wolverson and Larry Nelson to give the yearly presentation of the Richfield Arts Commission that overviewed the efforts of the Commission throughout the year. The Commissioners thanked all the members and liaisons of the Commission; especially thanked the essential work of MaryKaye Champa, staff liaison, who retired this past year.

Council Member Supple thanked the all the Commission members and how much they contribute to the community.

Council Member Whalen thanked the Commission and mentioned how involved the Arts Commission is with the community.

Council Member Hayford O'leary thanked the commission and appreciated the mix of bringing art to the everyday lives of the community. He shared a curiosity regarding the sculpture at the Chase Bank site. Commissioner Wolverson stated that there should be an installation on November 9th but it is unknown if the Richfield Arts Commission would have any involvement with the reveal of the sculpture. Commissioner Nelson shared that they saw some preliminary ideas but were unaware of the final decision.

Council Member Trautmann thanked the Commission for making the City better each year.

Mayor Regan Gonzalez thanked the entire Commission and challenged the Arts Commission to work with the other commissions engage more with the community they serve.

ITEM #3	PLANNING COMMISSION ANNUAL PRESENTATION GIVEN BY CHAIR JAMES RUDOLPH
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Mayor Regan Gonzalez invited Planning Commission Chair Rudolph to give an overview of the Planning Commission's efforts throughout the year.

Council Member Whalen appreciated the essential work that the Planning Commission does to help the Council to help make their decisions and answer questions that they might have.

Council Member Supple also appreciated the thoughtful and respectful deliberations that the Commission has even if they do not agree.

Council Member Hayford Oleary also agreed with the comments from Council Members Whalen and Supple on the discussions they have on staff recommendations before they come to Council.

Council Member Trautmann added that the Planning Commission requires time and leadership and appreciated Chair Rudolph for his service.

Mayor Regan Gonzalez also thanked Chair Rudolph for his leadership and his contributions to the Commission and how the Commission helps the community to connect and advocate for improvements to our City.

ITEM #4	APPROVAL OF THE AGENDA
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M/Supple, S/Whalen to approve the agenda.

Motion carried: 5-0

ITEM #5	CONSENT CALENDAR
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City Manager Rodriguez presented the consent calendar.

- A. Consider the approval of the reclassification of the Friendship City Commission as a committee within the Community Services Commission starting January 1, 2023, by rescinding the resolution no. 8248. (Staff Report No. 154)

City Manager Rodriguez mentioned that this would offer more flexibility and not diminish the works of the Commission. She also thanked the members of the Commission.

- B. Consider the approval of the first reading of an ordinance amending Section 601 of the Richfield City Code to include new language clarifying the definition of "non-RDUs" and how properties approved for exemption from the contracted program dispose of solid waste. (Staff Report No. 155)
- C. Consider adoption of a resolution authorizing the purchase of one temporary construction easement and one permanent right-of-way easement at 7601 18th Avenue for the 77th St Underpass project. (Staff Report No. 156)

RESOLUTION NO. 12019

**RESOLUTION AUTHORIZING THE CITY OF RICHFIELD TO MAKE
 PAYMENTS FOR THE PURCHASE OF A TEMPORARY
 CONSTRUCTION AND A PERMANENT RIGHT-OF-WAY EASEMENT
 AT 7601 18th AVE (PID# 28-028-24-41-0039) AS PART OF THE 77TH
 ST UNDERPASS PROJECT**

- D. Consider the ratification of a contract with Meyer Contracting, Inc., in the amount of \$175,788.34 for the Taft Park Lift Station Improvements Project and authorize the City Manager to approve contract amendments not to exceed \$5,000.00. (Staff Report No. 157)

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

Council Member Supple thanked the members of Friendship City Commission over the years to provide the continual connection to Heredia, Costa Rica and that this change would streamline the process.

Motion carried: 5-0

ITEM #6	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM CONSENT CALENDAR
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None.

ITEM #7	CONDUCT AND CLOSE A PUBLIC HEARING AND BY MOTION: ADOPT A RESOLUTION FOR SPECIAL ASSESSMENTS FOR REMOVAL OF DISEASED TREES FROM PRIVATE PROPERTY FOR WORK ORDERED FROM JANUARY 1, 2021, THROUGH DECEMBER 31, 2021 (STAFF REPORT NO. 158)
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Council Member Trautmann presented Staff Report 158 and opened the public hearing.

Sean Murphy, 7140 Garfield Ave, stated that the City did not remove a tree from his property and that he could produce a receipt for the tree removal that he had done. Public Works Director Asher would follow up with the homeowner to clear up the issue.

Ruane Onesirosan, 2140 65th St W, asked where the wood from diseased trees or non-diseased trees is disposed. Director Asher stated that the diseased trees are disposed at a facility in Saint Paul and the non-diseased trees go through a wood chipper which the wood chips are available to residents.

Council Member Whalen mentioned the assessment timeline.

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

Motion carried: 5-0

M/Trautmann, S/Hayford Oleary to adopt a resolution for special assessments for removal of diseased trees from private property for work ordered from January 1, 2021, through December 31, 2021

RESOLUTION NO. 12020

RESOLUTION ADOPTING ASSESSMENT FOR THE REMOVAL OF DISEASED TREES FROM PRIVATE PROPERTY FOR WORK ORDERED FROM JANUARY 1, 2021 THROUGH DECEMBER 31, 2021

Motion carried: 5-0

ITEM #8	CONSIDER THE APPROVAL OF THE SECOND READING OF AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A ONE-YEAR MORATORIUM ON THE SALE OF CANNABIS PRODUCTS (STAFF REPORT NO. 159)
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Council Member Supple presented Staff Report 159.

Police Chief Henthorne mentioned the work to research the topic as it continues to evolve and a surge of illegal products that are sold in the City.

Council Member Whalen asked Chief Henthorne to explain process they would have to do when a business sells an illegal product. Chief Henthorne shared the process that would submit a four-page complaint form to the Board of Pharmacy, which the Board of Pharmacy would work with law enforcement to determine the law enforcement action. Council Member Whalen asked if this would slow the process of law enforcement action. Chief Henthorne mentioned that the Board of Pharmacy has limited staff and raised concerns that the issues would not be addressed quickly. Mayor Regan Gonzalez asked about the role of law enforcement in that situation and wondered if the law enforcement was to report the illegal products to the State. Chief Henthorne stated that law enforcement would report and would work collaboratively with them to enforce it under State Statute.

Council Member Hayford Oleary asked, if the moratorium were to pass, what would the enforcement mechanism look like and how would that differ from the current process. Chief Henthorne explained that the moratorium would allow the City to create a more robust licensing and enforcement structure than simply mirroring the alcohol/tobacco ordinances. City Attorney Tietjen stated Article 7 that would classify a violation of the moratorium as a misdemeanor and other possible civil options. Council Member Hayford Oleary asked why we could not enforce that now for what is illegal instead of affecting what is legal with a moratorium of all products. City Attorney Tietjen stated that is a policy decision if Council would like to include that in the moratorium but it may impede on the goal of what Chief Henthorne is trying to accomplish with the moratorium. Council Member Hayford Oleary asked if we have submitted complaints. Chief Henthorne shared that there has not been any complaints submitted due to the inability to do those types of checks and the moratorium would help.

Council Member Trautmann asked about the prosecution being held at the State level instead of at the City level. Chief Henthorne said that is how the State statute is written and since we do not have anything in place locally, it reverts to the statute.

Council Member Supple asked what happens in the interim while the complaint is being processed. Chief Henthorne stated that law enforcement would work with the Board of Pharmacy to determine the action to take and the state statute does not give the authority to pull the products.

Council Member Hayford Oleary asked a few questions before the Council meeting via email and wanted them to be a part of the public record. He read aloud the questions below (in italics) and Chief Henthorne answered during the meeting.

Would the moratorium ban sales of Delta-8 THC products? Chief Henthorne stated that it would ban the products unless they contain less than .1% THC.

Instead of a misdemeanor, would there be an option for civil penalties only if the language were changed? Chief Henthorne stated that staff advises that there be a penalty to allow the ordinance to be enforced and include a consequence for violating the moratorium. If the Council did not want to enforce violations as a misdemeanor, the moratorium could be revised to provide that the city "may charge violators with a misdemeanor." The City could choose to use its administrative enforcement powers to enforce the moratorium, however, that process is not used very frequently in the City anymore. As a matter of practice, the City could also choose to provide educational materials on the moratorium for a business's first violation, and then use either the administrative enforcement powers or charge the violator with a misdemeanor.

Why is there a need for a moratorium now, when no action was taken in the preceding four years on Delta-8? Chief Henthorne said the 2018 Farm bill did not gather as much attention as the amendments that happened this year to clean up the statute's gray areas.

If we did not pass a moratorium, how would not having the moratorium in place prevent staff from doing an effective licensing structure? Chief Henthorne stated that we would have to act fast and raised concerns that the current alcohol/tobacco licensing structures would not be robust enough which could leave holes. He also raised concerns of staff capacity, future legislative changes, and consistency of how we work with our businesses.

Council Member Trautmann clarified that the moratorium would be for the sale of the products and not for the use. Chief Henthorne said that is correct.

Council Member Whalen stated that given the current difficulty to enforce, he was starting to lean more to supporting the moratorium to give more clarity. He mentioned the need to be clear upon what the moratorium does not do and that this is not a judgement of the long-term legalization of marijuana. He supported education of businesses and the public to ensure safety that the products are not yet regulated.

Council Member Hayford Oleary raised concerns on banning products that are already legal instead of a moratorium that specifically addresses high-dose products; Delta-8 products being banned means that businesses can no longer sell products that they have sold for four years. He mentioned neighboring cities already have a licensing structure in place or no moratorium, which does not offer a clear public safety benefit and would take business away from Richfield forcing new and existing customers to shop elsewhere. He shared concerns that this conveys a message of opposition of THC legalization. He appreciated the thought staff put into the moratorium however, a full twelve-month moratorium should not be necessary to implement a licensing structure. He urged the Council to vote no on this moratorium; voting no does not diminish the concerns Council has but means that this is not the right way to address the concerns.

Council Member Whalen stated that a moratorium that repeats state statute but gives the City the authority to enforce it does not solve the problem of what is legal or not. Council Member Hayford Oleary was not aware of any licensing in other cities that includes lab testing and asked if staff knew of any. Chief Henthorne stated that there are no testing procedures in place; businesses are supposed to have the products tested which is very convoluted and confusing.

Council Member Supple asked how long it would take to develop a licensing structure. Chief Henthorne deferred the question to Support Services Manager Anderson who explained that a draft ordinance and licensing structure could be available in early 2023 based upon the current staff capacity.

Council Member Hayford Oleary stated that he would support a moratorium that would address high-dose products. Council Member Whalen asked City Attorney Tietjen if the moratorium could specifically address products that are more highly concentrated than what is allowable by state statute. City Attorney Tietjen stated that it is already illegal for a business to sell products over the state legal limit set by statute. Council Member Whalen asked if there is a tool to give the City the local authority to enforce the statute without going through the Board of Pharmacy or if licensing is ultimately the only option. Council Member Hayford Oleary clarified Council Member Whalen's question by stating if a moratorium that would ban all products higher than the allowed concentration and give us the power to enforce could be done. City Attorney Tietjen stated that a moratorium puts a pause on products that are now legal under the law so that there is time to implement local regulation. Council Member Trautmann reframed the question. Council Member Hayford Oleary commented that we are justifying the moratorium because we do not like the enforcement process the state has provided. Chief Henthorne mentioned there are many other violations aside from the concentration of the product that could be difficult to enforce such as the packaging.

Council Member Trautmann expressed that his biggest concern is for access of the products to young people and supported the moratorium.

Council Member Whalen asked about the conversations with other cities and the tools they are using. Chief Henthorne stated that the state statute is ambiguous and the moratoriums are for clarity; cities that have put licensing quickly into place have solved some issues but not all. Manager Anderson shared that staff is continually learning from other cities that have put licensing in place as each community has reacted differently.

Council Member Hayford Oleary shared his belief that the moratorium is not the correct tool to address the public health concerns, as the products are readily available to Richfielders in the neighboring cities.

Council Member Supple expressed support of the moratorium, as the best solution is a licensing structure. She urged staff not to use the entire year to implement a licensing structure because public health concerns such as youth access and counterfeit products need to be addressed.

Mayor Regan Gonzalez mentioned that when the due diligence is not done at state level it is handed down to the city level, which causes difficult decisions to be made. She expressed her support for the moratorium, as it is a short-term impact for long-term gain. She echoed the comments of Council Member Whalen to communicate and educate residents and businesses through this process. She also echoed the support of Council Member Supple for a short-term moratorium. She reiterated that she is not against the legalization of THC and that this is vote is really around how vague the state statute is.

Council Member Supple asked when the moratorium would go into effect. City Attorney Tietjen stated that the moratorium would go into effect 30 days after publication, which would be on December 3.

M/Supple, S/Trautmann to approve the second reading of an interim ordinance authorizing a study and imposing a one-year moratorium on cannabis products.

Council Member Whalen mentioned that the original ordinance given was not allowable and the ordinance was changed to the 30-day effective date. City Attorney Tietjen stated that Council was provided with an amended ordinance and it would be a good practice to state that in the motion.

M/Supple, S/Trautmann to amend the motion to change the effective date to 30 days from publication.

**BILL NO. 2022-17
TRANSITORY ORDINANCE 19.26**

**AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING
A MORATORIUM ON THE SALE OF CANNABIS PRODUCTS**

Motion carried: 4-1; Hayford Oleary

M/Supple, S/Whalen to approve a resolution authorizing summary publication of said ordinance.

RESOLUTION NO. 12021

**RESOLUTION APPROVING SUMMARY PUBLICATION OF AN
INTERIM ORDINANCE AMENDING THE RICHFIELD CITY CODE,
AUTHORIZING A STUDY AND IMPOSING A ONE-YEAR
MORATORIUM ON THE SALE OF CANNABIS PRODUCTS**

Motion carried: 4-1; Hayford Oleary

Mayor Regan Gonzalez thanked Council for the discussion and Manager Anderson and Chief Henthorne for answering their questions.

ITEM #9	CONSIDER THE APPROVAL OF THE SECOND READING OF AN ORDINANCE AMENDING SECTION 925 OF THE RICHFIELD CITY CODE TO INCLUDE NEW LANGUAGE ADDRESSING WHAT REFUSE IS AND THE ACCUMULATION OF IT RELATED TO PUBLIC NUISANCES (STAFF REPORT NO. 160)
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Council Member Whalen presented Staff Report 160.

M/Whalen, S/Hayford Oleary to approve the second reading of an ordinance amending Section 925 of the Richfield City Code and adopt a resolution approving summary publication of said ordinance.

BILL NO. 2022-16

AN ORDINANCE AMENDING SECTION 925 OF THE RICHFIELD CITY CODE PERTAINING TO PUBLIC NUISANCES AND REFUSE

RESOLUTION NO. 12022

RESOLUTION APPROVING SUMMARY PUBLICATION OF AN ORDINANCE UPDATING SECTION 925 – NUISANCES

Motion carried: 5-0

ITEM #10	CITY MANAGER’S REPORT
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City Manager Rodriguez had nothing to report.

ITEM #11	CLAIMS AND PAYROLL
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M/Hayford Oleary, S/Supple that the following claims and payrolls be approved:

<u>U.S. BANK</u>	<u>10/25/2022</u>
A/P Checks: 310099 – 310346	\$4,040,361.15
Payroll: 173865 – 174149	<u>\$744,781.14</u>
TOTAL	\$2,317,232.43

Motion carried: 5-0

ITEM #12	HATS OFF TO HOMETOWN HITS
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Council Member Whalen mentioned the work of Attorney General Keith Ellison to address illegal gun sales, wage theft, and labor trafficking. He urged residents to research the candidates and make a plan to vote. He asked City Clerk Sinning to mention the hours for early voting at City Hall.

City Clerk Sinning shared the dates and times for in-person voting at City Hall and gave more information to answer questions regarding voting.

Council Member Supple gave a shout out to all commissions and mentioned that applications for the commissions are being accepted through the end of October. She especially mentioned several youth vacancies to be filled on commissions. She also mentioned two community events happening on October 29: 1) the Hennepin County Sheriff’s participation in National Prescription Drug Take Back Day at the Walgreen’s at the HUB and 2) the Annual Fall Boutique at the Community Center.

Council Member Hayford Oleary added that Congresswoman Ilhan Omar would be at the Community Center for a town hall forum on Thursday and the Friends of Wood Lake dinner is on Friday with tickets still available for purchase.


Council Member Trautmann also mentioned the Friends of Wood Lake (FOWL) dinner and appreciated the mentioning of early voting and urged residents to vote as Minnesota leads in voter turnout.

Mayor Regan Gonzalez reminded residents to get their covid boosters and flu shots. She gave a shout out to Police Department Community Liaison Patricia Eibon, PMAC, the Richfield Police Department and advocates that attended the online Domestic Violence Resource fair to show case the different resources that are available for victims of domestic violence.

ITEM #13	ADJOURNMENT
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The meeting was adjourned by unanimous consent at 8:40 p.m.

Date Approved: November 9, 2022



 Maria Regan Gonzalez
 Mayor



 Kai
 City Clerk



 Katie Rodriguez
 City Manager