



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Regular Council Meeting Virtual Meeting held via WebEx

**November 10, 2020**

### CALL TO ORDER

The meeting was called to order by Mayor Maria Regan Gonzalez at 7:00 p.m. via WebEx.

*Council Members Present:* Maria Regan Gonzalez, Mayor; Ben Whalen; Mary Supple; Edwina Garcia; and Simon Trautmann

*Staff Present:* Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; John Stark, Community Development Director; Melissa Poehlman, Assistant Community Development Director; Amy Markle, Recreation Service Director; Rachel Lindholm, Sustainability Specialist; Chris Regis, Finance Director; Jay Henthorne, Public Safety Director; Jane Skov, IT Manager; Blanca Martinez Gavina, Executive Analyst; and Kelly Wynn, Senior Office Assistant

*Others Present:* Kathryn Quam, Planning Commission Chair; and Lisa Rudolph, Community Services Commission Chair

### PLEDGE OF ALLEGIANCE

Mayor Regan Gonzalez led the Pledge of Allegiance

### OPEN FORUM

Senior Office Assistant Wynn reviewed the options to participate:

- Participate live by calling 612-861-0651 during the open forum portion
- Call prior to meeting 612-861-9711
- Email prior to meeting [kwynn@richfielmn.gov](mailto:kwynn@richfielmn.gov)

Senior Office Assistant Wynn stated there were no comments for the open forum.

### APPROVAL OF MINUTES

M/Trautmann, S/Garcia to approve the minutes of the (1) City Council Work Session of October 27, 2020; and City Council Meeting of October 27, 2020.

Executive Analyst Martinez Gavina took roll call vote:

- Regan Gonzalez: AYE
- Supple: AYE
- Trautmann: AYE
- Garcia: AYE
- Whalen: AYE

Motion carried 5-0

<b>Item #1</b>	<b>PRESENTATION OF THE COMMUNITY SERVICES COMMISSION ANNUAL REPORT</b>
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Lisa Rudolph spoke of adapting to virtual meetings for the Community Services Commission due to the pandemic but have been extremely productive this year. She listed things the commission accomplished this year such as: recommend approval for the capital improvement budget; advised replacement of playground equipment; provided guidance and feedback for the Round-up for Richfield; regular updates of the replacement of the floating boardwalk at Wood Lake Nature Center; discussed options and provided feedback about the off-leash dog park; appointed new and returning members to the FOWL board; and had regular updates regarding COVID mitigation efforts within the Recreation Department. She then spoke of the ongoing efforts such as: appoint liaisons for regular attendance to other commissions and boards; receive regular reports from staff; and looking forward to next year.

Council Member Trautmann thanked everyone involved in the commission. He spoke of the widely applauded off leash dog park completion and all-inclusive playground project. These projects continue to make the community of Richfield a better place.

Mayor Regan Gonzalez added in sharing accolades for all the great projects across the community and the commission’s involvement in COVID related issues and mitigations.

<b>Item #2</b>	<b>PRESENTATION OF THE PLANNING COMMISSION ANNUAL REPORT</b>
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Kathryn Quam explained who the Planning Commission is and what they do for the community. She then reviewed some of the items the Planning Commission assisted with this year including the Emi construction project and voting on a variety of variances within the city. She also shared ideas of how to improve the Planning Commission meetings. She expressed her gratitude for being able to serve on the commission and appreciates the Council’s support on their decisions.

Council Member Supple thanked all the commission members for their service and hard work. She expressed appreciation for the thoughtful ideas on how to improve the commission.

Council Member Garcia stated how impressed she was by the delivery and thoughtfulness of the presentation given by Kathryn Quam. She thanked all commission members for their work and service to the community.

Council Member Whalen thanked the commission members and stated it has been a pleasure being the liaison to the commission. He spoke of how it is a reactive commission but they are still able to plan ahead and do what is best for the community.

Council Member Trautmann expressed appreciation for the leadership Kathryn Quam as it is a difficult role.

Mayor Regan Gonzalez echoed thanks to Kathryn Quam and the commission for their efforts and spoke of how difficult the role can be in balancing what is right for both the community and its residents.

<b>Item #3</b>	<b>APPROVAL OF THE AGENDA</b>
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M/Garcia, S/Supple to approve the agenda

Executive Analyst Martinez Gavina took roll call vote:

- Regan Gonzalez: AYE
- Supple: AYE
- Trautmann: AYE
- Garcia: AYE
- Whalen: AYE

Motion carried 5-0

<b>Item #4</b>	<b>CONSENT CALENDAR</b>
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City Manager Rodriguez presented the consent calendar with the amendment of removing the American Legion in Item A as they have withdrawn their application.

A. Consider approval of setting a public hearing to be held on December 8, 2020, for the consideration of the renewal of On-Sale Intoxicating and Sunday Liquor licenses for 2021 for El Tejaban Mexican Grill, LLC d/b/a El Tejaban Mexican Grill, Thompson's Fireside Pizza, Inc. d/b/a Fireside Foundry, Frenchman's Pub, Inc. d/b/a Frenchman's, VPC Richfield Pizza, LLC d/b/a Giordano's of Richfield, Wiltshire Restaurants, LLC d/b/a Houlihan's Restaurant & Bar, Los Sanchez Taqueria II, LLC d/b/a Los Sanchez Taqueria, Lyn 65, LLC d/b/a Lyn 65 Kitchen & Bar, Lyndale Smokehouse, LLC d/b/a Lyndale Smokehouse, Fred Babcock VFW Post 5555 and ~~American Legion 435 d/b/a Minneapolis Richfield American Legion Post 435~~. Staff Report No. 137

B. Consider the approval of setting a public hearing to be held on December 8, 2020, for the consideration of the renewal of Pawnbroker and Secondhand Goods Dealer licenses for 2021 for Metro Pawn and Gun, Inc. Staff Report No. 138

C. Consider approval of setting a public hearing to be held on December 8, 2020, for the consideration of the renewal of On-Sale Wine and On-Sale 3.2 Percent Malt Liquor licenses for 2021 for Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill, Davanni's, Inc. d/b/a Davanni's Pizza & Hot Hoagies, Joy's Pattaya Thai Restaurant, LLC d/b/a Joy's Pattaya Thai Restaurant, Paisan, Inc. d/b/a Khan's Mongolian Barbeque, LRFC, LLC d/b/a Local Roots Food & Coffee, Minnesota Junior Hockey Group, LLC d/b/a Minnesota Magicians (located in the Richfield Ice Arena), My Burger Operations, LLC d/b/a My Burger, Patrick's French Bakery, Inc. d/b/a Patrick's Bakery & Café, Henry Thou d/b/a Red Pepper Chinese Restaurant, and O'Reilly Custom 6, LLC d/b/a Sandy's Tavern. Staff Report No. 139

D. Consider the adoption of a resolution to accept a grant of \$10,601.55 from the Office of Justice Programs for bullet proof vests. Staff Report No. 140

#### **RESOLUTION NO. 11788**

#### **RESOLUTION APPROVING THE GRANT WITH THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS AND RICHFIELD POLICE FOR BULLETPROOF VESTS**

E. Consider approval of a request for a new Secondhand Goods Dealer license for Marquis Jewelers, Inc. d/b/a Wedding Day Diamonds, located at 700 West 78th Street. Staff Report No. 141

F. Consider approval of a contract renewal with Adesa Minneapolis for 2020-2021 for auctioning forfeited vehicles from Public Safety/Police. Staff Report No. 142

G. Consider a resolution authorizing a 90-day extension for recording the Lunds of Richfield plat. Staff Report No. 143

#### **RESOLUTION NO. 11789**

#### **RESOLUTION GRANTING AN EXTENSION OF PLATTING DEADLINE FOR THE LUNDS OF RICHFIELD PLAT**

H. Consider the renewal of the agreement for assessment services with Hennepin County. Staff Report No. 144

M/Garcia, S/Supple to approve the consent calendar with the amendment to remove the American Legion as they have withdrawn their application.

Executive Analyst Martinez Gavina took roll call vote:

Regan Gonzalez: AYE

Supple: AYE

Trautmann: AYE

Garcia: AYE

Whalen: AYE

Motion carried 5-0

Item #5	<b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM CONSENT CALENDAR</b>
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None

Item #6	<b>PUBLIC HEARING AND CONSIDER AN APPEAL TO THE BOARD OF ADJUSTMENTS AND APPEALS REGARDING THE PLANNING COMMISSION'S DENIAL OF A VARIANCE TO ALLOW A 25.5-FOOT DRIVEWAY AT 2015 FOREST DRIVE. STAFF REPORT NO. 145</b>
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Council Member Trautmann read staff report 145. He spoke of the difference of opinions that were shared at the Planning Commission regarding this item.

Director Stark explained the variance criteria set forth by state statute is very specific and binding upon cities. The circumstances need to be unique to the property such as an existing tree where a driveway should go on a piece of property. Staff has been unable to find rationale where all three criteria set forth are to be met.

Assistant Director Poehlman added the landowner did apply for a variety of variances when going through the construction process but this was not one of them. There has been no evidence the landowner is unable to abide by the code of maximum driveway width.

Director Stark spoke of how this is the least favorite part of their job. Staff tried to find a way for this to meet criteria but was unable to do so.

Mayor Regan Gonzalez asked for a walk through of the process and scope of the Council for this matter.

City Attorney Tietjen explained the three factor practical difficulty test is the legal standard and all three need to be met to grant the variance. She spoke of how the Council will act in a quasi-judicial capacity to apply the legal standard to the facts that are presented. She stated if the Council can explain the rationale for meeting all three factors; the Council can overturn the Planning Commission's decision.

Council Member Trautmann asked for explanation if a judge were to grant deference versus not granting deference.

City Attorney Tietjen wanted to emphasize that if a resident is unsatisfied with Council's decision, they would have the right to take it to court. A legislative decision is much easier to defend where something like this is not. There are certain legal requirements that need to be met so there would not as much flexibility in being able to defend it.

Council Member Trautmann asked for clarification on the reference of 'impossible' or 'nearly impossible' to create a practical difficulty to get a variance. He also wondered about factor number two.

City Attorney Tietjen clarified that statute specifically states the landowner's situation must be due to the unique characteristics of the property that make it impossible for the landowner to comply.

Council Member Trautmann asked about the reference of 'nearly impossible' as a standard he was not aware of and also discussion of case law. He then asked if the Mayor had thoughts of tabling the discussion for a future date.

Mayor Regan Gonzalez asked about difficulty in complying and if it was discussed with the contractor and applicants and if there were options of how to come into compliance.

Assistant Director Poehlman explained there have been conversations between staff, contractor and applicants; however, it is not staff's role to design a compliant situation but have made suggestions that are in the staff report. Staff was never provided with a plan.

Mayor Regan Gonzalez asked about tabling this item until December 8<sup>th</sup> to better understand what compliance looks like and develop a plan to become compliant.

Director Stark explained the applicants will need to provide a plan or proposal to come into compliance rather than having staff design that for them.

Council Member Garcia spoke against tabling the item as it will set precedent. She believed the Planning Commission made the right decision and she stands by their vote as they are a group of people that have been appointed by Council.

Assistant Director Poehlman explained staff would like to work with the applicants to make the situation compliant. She then stated the matter before Council is whether the driveway is in compliance or not.

Council Member Whalen agreed and wondered about upholding the Planning Commission's decision if the 60 days to come into compliance could be extended. He then asked Council Member Trautmann to explain why he believes the decision should be overturned.

Council Member Garcia reiterated the matter before Council is if the driveway is in compliance or not.

Council Member Trautmann believes the statue can read differently to people and doesn't believe the homeowner should be penalized for something the contractor did without their knowledge. He stated he thinks staff believes the homeowners are not being forthright.

Council Member Garcia strongly disagreed with Council Member Trautmann in his comments about staff.

Council Member Trautmann stated he is repeating information he specifically heard.

Council Member Garcia stated again that this decision should be based on the facts presented.

Director Stark clarified that his staff never said they don't believe the applicants. He believes the contractor made a mistake and believes the contractor should remedy the situation.

Council Member Supple believes Council has a fiduciary responsibility to look at the facts and make a decision. She would also like information on the possibility of extending the plan for compliance due to weather.

Director Stark stated staff needs a plan from the homeowners and then a timeline can be developed, if the Council decides to uphold the Planning Commission's decision.

Council Member Trautmann opened the public hearing.

Renato Krsnik, 2015 Forest Drive, variance granted for garage 25 ft wide and considers it a practical difficulty as the plans included a driveway to fit the garage doors. He stated they have followed the steps have not received a remedy from the city on how to move forward. He said he spoke with an employee of an option to alter the driveway. He would like for the Planning Commission to consider those details. He believes there have not been significant discussions with city staff on how to remedy the situation.

Christine Krsnik, 2015 Forest Drive, stated they would like to work with the city in finding a solution that does not compromise anyone or anything. She spoke of how thankful they are for the opportunity to be heard and becoming educated on this process.

Renato Krsnik added that he believes the definition of practical difficulty needs to be looked at again and reassessed when incorporating the garage doors.

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

Executive Analyst Martinez Gavina took roll call vote:

Regan Gonzalez: AYE

Supple: AYE

Trautmann: AYE

Garcia: AYE

Whalen: AYE

Motion carried 5-0

Council Member Whalen stated the issue continues to come down to the second point and the facts are clear to him and the Council needs to vote on the issue. He believes there has been some unfortunate miscommunication between the contractor and the homeowner and has to hear evidence of how the situation meets the second requirement.

Council Member Trautmann believes this issue meets the practical difficulty requirement in that the homeowner was granted to build a specific size garage and would like a driveway to fit the garage. He also stated he is not casting any defect on anyone's character.

Council Member Whalen asked staff if the code is written in that the garage door would land on dirt or if a flare can be created to meet the garage door.

Director Stark stated there are options to make this driveway work including having the driveway become wider after the sidewalk to the house and continue to the garage.

Assistant Director Poehlman stated the plan approved by the Planning Commission had a 20 foot wide driveway and the width of the garage doors was unknown. She reiterated the option of making the driveway 20 feet wide up to the sidewalk and becoming wider to the garage and be considered an extended walkway.

Council Member Supple stated the miscommunication with the contractor has created an unfortunate situation. She believes it does not meet the second requirement.

M/Garcia, S/Supple to adopt a resolution denying an appeal from the decision of the Planning Commission and affirming the Planning Commission's decision to deny a variance for a driveway wider than the allowed maximum at 2015 Forest Drive.

**RESOLUTION NO. 11790**

**RESOLUTION DENYING AN APPEAL FROM THE DECISION OF THE PLANNING COMMISSION AND AFFIRMING THE PLANNING COMMISSION'S DECISION DENYING A VARIANCE AT 2015 FOREST DRIVE**

Director Stark recommended the addition of the homeowner provide a plan to come into compliance within 45 days of today.

M/Garcia, S/Supple to adopt a resolution denying an appeal from the decision of the Planning Commission and affirming the Planning Commission's decision to deny a variance for a driveway wider than the allowed maximum at 2015 Forest Drive with the addition of the homeowners to provide a plan to Director Stark within 45 days of November 10, 2020.

Executive Analyst Martinez Gavina took roll call vote:

- Regan Gonzalez: AYE
- Supple: AYE
- Trautmann: NAY
- Garcia: AYE
- Whalen: AYE

Motion carried 4-1

<b>Item #7</b>	<b>APPROVAL RESOLUTION APPROVING THE COMMENCEMENT OF ORGANIZING SOLID WASTE COLLECTION BETWEEN THE CITY OF RICHFIELD AND LICENSED RESIDENTIAL COLLECTORS AS PER MINNESOTA STATUTE 115A.94. STAFF REPORT NO. 146</b>
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Council Member Whalen presented staff report 146. He also encouraged residents to view the work session from tonight when it becomes available.

Sustainability Specialist Lindholm reviewed how Richfield has had a number of waste related efforts over the years including providing an organics drop-off program. Staff then began to look at next steps in waste reduction including organized collection to be able to offer a variety of services at affordable rates for residents. Moving forward with organized hauling will be beneficial for residents



along with helping maintain city streets. There is now a web page dedicated to the efforts where residents can go and see where the process is currently at and where it will be going.

Director Markle added organized hauling is a part of the Climate Action Plan (CAP). Organized hauling will hopefully help the city to reach its environmental efforts moving forward along with state, county and local sustainability goals.

Council Member Supple spoke of how this topic has been under discussion for many years. She spoke of how many trucks are on the roads doing pick and it has a negative effect on the maintenance of the roads along with jeopardizing the safety of residents and their children.

Council Member Trautmann thanked staff for the great work session and developing a plan to save residents money, improve public safety and helps the environment.

Council Member Whalen spoke of how many community members have spoken to him about organized waste collection. He encouraged residents to go to the web page to find answers to questions along with reaching out to Sustainability Specialist Lindholm. He also clarified the decision today is to put the process in motion but there will be plenty of opportunities to provide feedback and engage in public events.

Sustainability Specialist spoke of how this topic has been in discussion for quite some time and has not come to fruition hastily. She encouraged residents to reach out if they have questions or would like to provide feedback. She understands how important it is to so many residents and staff is available to answer any questions or concerns.

Mayor Regan Gonzalez spoke of how staff has provided so much information and examples in the process. She stated how Richfield is in the bottom two cities in Hennepin County regarding recycling and organics. She spoke of how community members will be and have been a part of this process from the beginning and will continue to assist to see it through. Advancing equity and focusing on sustainability have been two areas the city has done tremendous work on over the years and she is excited to see where this will be able to take the community.

M/Whalen, S/Trautmann to adopt a resolution approving the commencement of organizing solid waste collection between the City of Richfield and licensed residential collectors as per Minnesota Statute 115A.94

**RESOLUTION NO. 11791  
RESOLUTION APPROVING THE COMMENCEMENT OF ORGANIZING SOLID  
WASTE COLLECTION BETWEEN THE CITY OF RICHFIELD AND LICENSED  
RESIDENTIAL COLLECTORS AS PER MINNESOTA STATUTE 115A.94**

Executive Analyst Martinez Gavina stated Council Member Garcia messaged her as her microphone is not working and will be voting yes on this item.

Executive Analyst Martinez Gavina took roll call vote:

Regan Gonzalez: AYE  
Supple: AYE  
Trautmann: AYE  
Garcia: AYE  
Whalen: AYE

Motion carried 5-0

<b>Item #8</b>	<b>CITY MANAGER REPORT</b>
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City Manager Rodriguez provided a COVID update in that cases continue to rise in not only Minnesota but in Richfield as well. A number of staff has been out due testing positive or risk of exposure. The following mitigations have been put into place until further notice:

- All in person recreational activities are cancelled;
- Motor vehicle in-person services except passport by appointment are closed; drop box is still available;
- Asking staff to work from home if possible;
- Directors will be submitting plans to define mitigation ideas;
- Swab tests for essential staff at City Hall;
- Meeting with Bloomington and Edina to develop more ideas of how to keep the community safe;

She spoke of how most exposures are not happening at work and is asking staff to be cautious in what they are doing outside of work as it will affect not only them but their coworkers as well.

Council Member Whalen asked about any new advice to community members regarding COVID mitigations.

City Manager Rodriguez stated the guidance is still the same and how social gatherings are being noted as the cause of spreading.

Council Member Supple commented the Richfield Public Schools sent out notification at 7:30pm with a distance learning plan moving forward.

Council Member Trautmann thanked City Manager Rodriguez for her guidance during this unprecedented time. He encouraged residents to be careful and cautious as this disease has so many effects on different people.

<b>Item #9</b>	<b>CLAIMS AND PAYROLL</b>
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M/Supple, S/Trautmann that the following claims and payrolls be approved:

<b>U.S. Bank</b>	<b>11/10/2020</b>
A/P Checks 291996 - 292317	\$ 1,343,967.17
Payroll: 157468 - 157770	<u>674,225.34</u>
TOTAL	\$ 2,018,192.51

Executive Analyst Martinez Gavina took roll call vote:

- Regan Gonzalez: AYE
- Supple: AYE
- Trautmann: AYE

Garcia: AYE  
Whalen: AYE

Motion carried 5-0

<b>Item #10</b>	<b>HATS OFF TO HOMETOWN HITS</b>
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Council Member Trautmann stated the trial has begun regarding the 2017 bombing of the Dar al-Farooq Islamic Center in Bloomington. He supports the community that is suffering through the constant harassment while trying to worship. He hopes this trial will give them an opportunity to be heard and get some justice for the heinous acts committed against the Muslim community.

Council Member Supple thanked everyone who helped with the Census including Executive Analyst Martinez Gavina. The City of Richfield did a wonderful job in filling out their Census forms. She also reminded residents the Truth in Taxation mailings will be going out soon so they should watch their mailbox. She then thanked all Veterans for their service and everyone assisting with the Honoring all Veterans Memorial. She also thanked everyone who has served on commissions this year and reminded residents applications will open for commissions in December.

Council Member Whalen spoke of the tremendous work City Clerk VanHoose did around the election. She continues to do an amazing job year after year and giving everyone the chance to have their voices be heard. He then thanked staff, commissioners and residents who had a hand in the opening of the off-leash dog park.

Mayor Regan Gonzalez spoke of how wonderful it has been to see the community pulling together around COVID, elections, Census among other things. She reiterated that COVID is not going anywhere anytime soon so the community will need to continue to pull together. She then spoke of Give to the Max beginning next week which will give residents the opportunity to donate to support local groups within the community.

<b>Item #11</b>	<b>ADJOURNMENT</b>
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The meeting was adjourned by unanimous consent at 9:04 p.m.

Date Approved: November 24, 2020

  
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 Kelly Wynn  
 Senior Office Assistant

  
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 Maria Regan Gonzalez  
 Mayor

  
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 Katie Rodriguez  
 City Manager