

COON RAPIDS BOARD OF ADJUSTMENT AND APPEALS MEETING MINUTES OF MARCH 5, 2015

The regular meeting of the Coon Rapids Board of Adjustment and Appeals was called to order by Chairman Vande Linde at 6:30 p.m. on Thursday, March 5, 2015, in the Council Chambers.

Members Present: Chairman Aaron Vande Linde, Commissioners Ronald Bradley, Teri Spano-Madden, Trish Thorup, and Tracy Wigen

Members Absent: None

Staff Present: Housing and Zoning Coordinator Cheryl Bennett, Assistant City Attorney Melissa Westervelt, Community Development Director Grant Fernelius, Housing Inspector Leya Drabczak and Neighborhood Coordinator Kristin DeGrande

CALL TO ORDER

Chairman Vande Linde called the meeting to order at 6:32 p.m.

OATHS OF OFFICE FOR NEW BOARD MEMBERS

Chairman Vande Linde administered the Oaths of Office to Commissioner Ronald Bradley and to Commissioner Tracy Wigen.

Chairman Vande Linde noted for the record that all board members are present.

APPROVAL OF THE MARCH 5, 2015, AGENDA

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER WIGEN, TO APPROVE THE MARCH 5, 2015, AGENDA AS SUBMITTED. THE MOTION PASSED UNANIMOUSLY.

APPROVAL OF THE NOVEMBER 6, 2014, MEETING MINUTES

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, TO APPROVE THE NOVEMBER 6, 2014, MEETING MINUTES AS PRESENTED. THE MOTION PASSED. COMMISSIONERS BRADLEY AND WIGEN ABSTAINED.

NEW BUSINESS

1. CASE 15-03V – SUSAN FRABONI – 1246 107TH AVENUE NW – SPECIAL ASSESSMENT OBJECTION – 23-31-24-21-0084 (AGENDA ITEM 4)

Housing Inspector Drabczak reviewed the background information stating that when the property was re-inspected following the second Administrative Citation, the property was found to be in compliance. Staff recommended the special assessment be affirmed in its entirety.

Chairman Vande Linde opened the hearing at 6:43 p.m.

Susan Fraboni addressed the Board. She stated that the first citation was deserved. She also stated that when she purchased the property, the backyard landscaping needed to be completely redone and that landscaping materials have been purchased. The second citation was for long grass around the deck and pine trees which has since been made compliant. She stated that she did not want to have to cut perennial plantings to be in compliance.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 6:46 p.m.

Commissioner Spano-Madden stated that it looked as though there was grass between the perennials. Ms. Fraboni replied that there was indeed grass in between them.

Commissioner Bradley asked Ms. Fraboni what was done to seek compliance. Ms. Fraboni replied that she cut the weeds under the pine trees, adding that she removed all obstacles under the pine trees to rectify the situation since they were overgrown.

Housing and Zoning Coordinator Cheryl Bennett clarified this was an objection to the special assessment and that the opportunity to appeal the citation has expired. She noted that the penalty is charged if property owners do not rectify the violation.

Ms. Fraboni stated she was not aware of the expiration date.

Ms. Drabczak explained the process stating that tonight's hearing is to object to the assessment and not the original citation.

Staff provided Ms. Fraboni with payment instructions and answered questions from others in attendance regarding when the assessment needs to be paid to avoid the \$30 assessment fee.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER WIGEN, IN CASE 15-03V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

2. **CASE 15-08V – CURTIS D. BOTNER – 12816 VERDIN ST NW – SPECIAL ASSESSMENT OBJECTION – 03-31-24-32-0015 (AGENDA ITEM 9)**

Neighborhood Coordinator DeGrande reviewed the background information. Staff recommended the special assessments be affirmed in their entirety.

Chairman Vande Linde opened the hearing at 7:01 p.m.

Curtis Botner addressed the Board. He stated that he does not contest the process. He stated he has lived in Coon Rapids since 1988 and that this has not happened before and will not happen again. He believes he should be penalized to an extent but that the amount should be modified. He asked for leniency, noting that he takes responsibility and that it will not happen again.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 7:03 p.m.

Commissioner Bradley asked staff if, procedurally, an appeal of the citations could have been made and if the Board can reduce the citation penalty.

Assistant City Attorney Westervelt responded that there was opportunity to appeal the citation and stated that the Board can and has modified citation amounts.

Mr. Botner asked to speak again. Chairman Vande Linde re-opened the hearing at 7:05 p.m.

Mr. Botner stated that he felt he should have to pay something and be held responsible but he is asking that the penalty be reduced. He stated that if he had done this right, it would not have gotten to this point.

Commissioner Thorup confirmed that Mr. Botner waited until after the expiration of the notice to contact the City.

Botner replied that he did wait the first time.

Commissioner Thorup stated that the time to discuss an arrangement would have been before the time period expired and asked Mr. Botner why he waited.

Mr. Botner replied that he did not know and that he should have done it and did not. He is asking that the fine be reduced by \$300 because a \$450 fine really hurts. He stated that he has not come before the City before, that last year was a bad year and asked for compassion and understanding.

Chairman Vande Linde closed the hearing at 7:10 p.m.

Commissioner Spano-Madden stated that the established procedures were followed in this case.

Commissioner Thorup stated that if Mr. Botner had contacted the City, a different arrangement could have been reached.

Commissioner Bradley conveyed his empathy and stated that it was unfortunate that Mr. Botner did not reach out to the City to ask for time when he received the notice. He stated that Mr. Botner received adequate notice and that there was a violation. He stated that ideally he would like to reduce the assessment but does not see any factors that would allow him to do that.

Commissioner Wigen also conveyed her empathy but stated that procedures were followed.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-08V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$450 IN SPECIAL ASSESSMENTS IN THEIR ENTIRETY.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

3. CASE 15-09V – VALERIE GUSTAFSON – 11442 OSAGE STREET NW – SPECIAL ASSESSMENT OBJECTION – 15-31-24-24-0106 (AGENDA ITEM 10)

Neighborhood Coordinator DeGrande reviewed the background information on the case, noting the escalation of penalties for subsequent citations for the same or similar violations. Staff recommended the special assessments be affirmed in their entirety.

Chairman Vande Linde asked staff for breakdown of the charges. Ms. DeGrande responded.

Chairman Vande Linde noted that Valerie Gustafson was not present.

Chairman Vande Linde opened the hearing at 7:23 p.m.

Arnald Snyder approached the Board. Chairman Vande Linde asked if Mr. Snyder had an ownership interest in the property. Mr. Snyder responded yes.

Arnald Snyder stated that throughout this process he has been in contact with Adam Mitlyng. He stated that when he and his girlfriend moved in with each other, the house was in dire need of repair. His intention is to continue to repair the house and live there. At the end of the last year, they had water coming in through the roof. He had already started the process for building a shed and had turned in drawings for approval. The roof repair changed things completely. He spoke with the building code staff and got the information and pulled a roof permit to do the necessary work. He stated that he has been disabled for five years. He stated that he had made a point to get a hold of Mr. Mitlyng and to work with him. He stated that Mr. Mitlyng told him that as long as he was making advancements the City would work with him. He also stated that he needed to care for his terminally mother during this time. He stated he did not understand why he received notice to come before this board because Mr. Mitlyng had a file on this. Someone advised him to file an appeal. He stated that all the junk has been taken care of and there never have been junk vehicles on the property, stating that all vehicles have current tabs. He stated that he feels he is in complete compliance with the cars and that the roof has been completed but that the deck still needs to be taken care of. He stated that this fine would hurt him.

Chairman Vande Linde stated that he has read the material and appreciates Mr. Snyder's comments. He stated he understands the progress Mr. Snyder has made.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 7:31 p.m.

Commissioner Bradley stated that he was surprised at the penalties going up when Mr. Mitlyng said he would work with Mr. Snyder. He asked Mr. Snyder if he was presented the citations. Mr. Snyder answered yes. Mr. Snyder admitted he lapsed but that he had stayed in contact with Mr. Mitlyng. Mr. Bradley asked Mr. Snyder if he was aware that there were deadlines set. Mr. Snyder answered yes, but that he had talked to Mr. Mitlyng and stated he had received a number of extensions from him but could not remember what they were for. Commissioner Bradley asked if a lot of work was not accomplished by the deadlines. Mr. Snyder indicated that he was making progress and that he had secured a dumpster. Commissioner Bradley and Mr. Snyder

discussed items stored on the yard, referring to the photographs in the report. Mr. Snyder indicated what items had been removed and what was still being stored outside. Commissioner Bradley asked Mr. Snyder if Mr. Mitlyng had discussed with him the materials that may not be stored outside. Mr. Snyder explained which materials have been removed.

Assistant City Attorney Westervelt pointed out that the report does indicate communications with the property owner.

Ms. DeGrande indicated that the City tracks the majority of communications, time extension requests and approvals. She stated that since 2014, there have been two deadline extensions requested for this property.

Chairman Vande Linde asked if the City was required to abate the material. Housing Inspector Drabzcak replied that no abatement has been performed because of the value of the items noting the City does not have a process in place to safeguard such items.

Commissioner Thorup asked if there were extensions granted that were missed.

Mr. Snyder replied that before the extensions were not met, he talked to Mr. Mitlyng.

Commissioner Wigen asked staff about the taking of a break in enforcement action due to winter weather.

Ms. DeGrande stated that it depends on the severity and amount of snowfall. She noted that City staff generally ceases writing citations for junk and debris between Thanksgiving and when the snow melts.

Ms. Drabzcak pointed out that this is a twin home, elevating the enforcement process.

Chairman Vande Linde asked if Mr. Snyder had sought a permit for the shed. Mr. Snyder replied yes, but that he had to complete the roof first.

Mr. Snyder stated that his neighbors have police responding over there all the time and that he can't understand the assessment because he did keep in contact with staff and that there is only so much he can do.

Commissioner Spano-Madden indicated that she is troubled by the communication with City staff.

Ms. DeGrande stated that any promises should have been logged into their system.

Commissioner Bradley asked about the current status of the property. Ms. Drabzcak replied that the City has not been to the property recently and it would be difficult to inspect because of the snow cover.

Mr. Snyder listed the items currently on the property. He stated that everything is licensed and cleaned up.

Commissioner Thorup stated that before she submits a motion she would like Mr. Snyder to know that she has much compassion for the situation. She stated that the property owner making an arrangement for an extension but then missing completion is all the Board has to go on. She stated that City staff followed the process and that is what Board has to work with.

Mr. Snyder asked if the Board would not take into consideration his testimony.

Commissioner Thorup stated she is looking at whether the City followed regulations. The property owner has attempted to do the work but has missed deadlines and did not get additional extensions.

Ms. Drabzcak stated that she did not believe this was being misinterpreted by Commissioner Thorup.

Commissioner Bradley noted that it took a lot of City resources to get the property into compliance but he is troubled by the amount of the assessment. He believes the function of the assessment is to ensure compliance and that the assessment amount is egregious and that he cannot justify it. He stated that the property owner did miss deadlines and he would like to modify the assessment to half the recommended amount citing compassion for the property owner and the fact that he is making effort to comply. He stated that he hoped the property would not be back before the Board and that half the recommended amount is still a considerable amount of money.

Commissioner Spano-Madden indicated that she is also troubled by the communication issues and the large fine amount.

Chairman Vande Linde questioned staff on the details of the fines and also commented that he felt the amount was onerous.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-09V, TO RECOMMEND THE CITY COUNCIL MODIFY THE \$10,200 IN SPECIAL ASSESSMENTS TO \$5,100.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

Assistant City Attorney Westervelt clarified that the Commissioners had issue with the amount and questions regarding communications between the City and the property owner.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER BRADLEY, TO RECESS THE MEETING AT 7:53 P.M.

THE MOTION PASSED UNANIMOUSLY.

Chairman Vande Linde reconvened the meeting at 7:59 p.m.

4. CASE 15-10V – DOUGLAS AND JOANN LAWRENCE – VERDIN STREET AND 129TH LANE NW – SPECIAL ASSESSMENT OBJECTION – 04-31-24-14-0030 (AGENDA ITEM 11)

Neighborhood Coordinator DeGrande reviewed the background information on the case. Staff recommended the Board affirm the special assessment in its entirety.

Chairman Vande Linde noted that the property owner was in attendance but has left the meeting. Chairman Vande Linde open and closed the hearing at 8:02 p.m.

Commissioner Spano-Madden stated that this was a straightforward case and the City had followed the guidelines.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, IN CASE 15-10V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

5. CASE 15-11V – DAVID THELEN – 1121 109TH AVENUE NW – SPECIAL ASSESSMENT OBJECTION – 14-31-24-43-0009

Neighborhood Coordinator DeGrande reviewed the background information on the case. Staff recommended the Board affirm the special assessment in its entirety.

Chairman Vande Linde opened the hearing at 8:05 p.m.

Jane Thelen and David Thelen addressed the Board. Mr. Thelen stated he had been in communication with City employee Andrew Langholz throughout the process. Mr. Thelen stated that he does not contest the citation and that he had requested an extension. He stated that he asked Mr. Langholz if the extension needed to be in writing and signed and was told that it did not need to be. Mr. Thelen stated he called the City on July 7, 2014, and said they couldn't get the vehicle moved and requested an extension. He explained further that the vehicle was owned by their tenant who was a single mother who had recently had back surgery and that could move the vehicle. He noted that this conversation was not noted in the City's record. Jane Thelen and David Thelen stated they both thought the next citation they received was an extension granted on the first citation and ordered the renter to take care of the vehicle. Mr. Thelen stated he does not think any fees should be assessed.

Commissioner Bradley asked what the new extension date was. Mr. Thelen thought they were given until July 25, 2014.

Chairman Vande Linde asked staff about the normal length of extensions.

Ms. DeGrande replied that this was a two-week time extension.

Commissioner Bradley asked staff if the record note on June 26th indicated that the extension was being granted.

Ms. DeGrande replied yes.

Mr. Thelen asked if extensions could be done verbally. Jane Thelen asked if they should have asked for a written extension.

Commissioner Spano-Madden questioned if it may not have been logged in.

Ms. DeGrande stated that the employee no longer works with the City as this was seasonal position.

Commissioner Bradley stated that it seems plausible that they did request an extension but it is not reflected in City notes and the property owner was not given anything in writing and that he would give the property owners the benefit of doubt.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 8:12 p.m.

Commissioner Bradley questioned how the Board would know if a communication was missed.

Housing Inspector Drabzcak explained to the Board her process for handling and recording calls from property owners regarding enforcement matters.

Commissioner Bradley stated that the seasonal employee cannot provide feedback and the communication is not noted in the system.

Ms. Drabzcak stated that the City's standard procedure for dealing with a time extension that could result in a fine is to document it.

Commissioner Bradley stated that the property owners have a specific extension noted and there is a possibility the seasonal employee may not have been as skilled.

Chairman Vande Linde confirmed that this is a rental home and the renter did not have the ability to take care of the issue.

Ms. Thelen replied that the renter had a health issue.

Commissioner Bradley stated his desire to rescind the assessment because there is the possibility of an extension being granted.

Commissioner Spano-Madden stated she is also leaning toward rescinding because the employee could not be questioned and because of the time period between the extensions.

Commissioner Thorup stated that it is documented that they did what they were supposed to do, and that she would be more inclined to cut the assessment in half.

Commissioner Bradley asked if the vehicle could have been towed.

Commissioner Thorup asked if the occupant could have had the car moved.

Commissioner Spano-Madden stated that it is the property owner's responsibility to rectify the problem.

Chairman Vande Linde stated that he does see extenuating circumstances and the vehicle seems too far back from the road to determine the tab expiration in the photograph provided.

Ms. DeGrande clarified that the citation was for a flat tire and not expired tabs.

Chairman Vande Linde questioned if a landlord can move a tenant's property.

Commissioner Thorup stated that if the tenant would have given approval, the tire could have been fixed.

Ms. DeGrande stated that she had misspoke. The citation was for parking on pavement.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER WIGEN, IN CASE 15-11V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$600 IN SPECIAL ASSESSMENTS IN THEIR ENTIRETY.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

6. CASE 15-12V – JACOB SARTWELL – 11517 YUKON STREET – SPECIAL ASSESSMENT OBJECTION – 16-31-24-11-0082 (AGENDA ITEM 13)

Neighborhood Coordinator DeGrande reviewed the background information on the case. Staff recommended the special assessment be affirmed in its entirety.

Chairman Vande Linde opened the hearing at 8:26 p.m.

Jacob Sartwell addressed the Board. He stated that he had talked to Andrew Langholz prior to the first inspection date and had talked to him multiple times but that the City's report only notes one conversation. He stated that the vehicle needed a new title and that he had to apply to the state for this. He stated that title was ordered for the wrong vehicle so he was required to apply again, which delayed the process. He stated planned to donate the car to "Kars4Kids" but in order to do that he needed title to the vehicle. He stated again that he was in constant contact with Andrew but that only one conversation is noted. He also noted that when he got the notice to file for appeal, he filed the appeal on the same date. He stated that he thought the matter was resolved and that he was surprised to receive the assessment.

Chairman Vande Linde asked Mr. Sartwell if he owned the vehicle.

Mr. Sartwell replied that he did.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 8:30 p.m.

Chairman Vande Linde and Commissioner Spano-Madden both commented on the lack of documentation.

Commissioner Thorup stated the petitioner thought he was doing what was required of him.

Chairman Vande Linde stated that if Mr. Sartwell's sister had ordered the correct title, the vehicle may have been removed on time.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER BRADLEY, IN CASE 15-12V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

ON A ROLL CALL VOTE, THE MOTION PASSED UNANIMOUSLY.

7. CASE 15-20V – NEIL FLEAHMAN – 2137 109TH AVENUE NW – SPECIAL ASSESSMENT OBJECTION – 15-31-24-34-0104 (AGENDA ITEM 21)

Neighborhood Coordinator DeGrande reviewed the background information on the case. Staff recommended the special assessments be affirmed in their entirety.

Chairman Vande Linde asked staff to clarify the calculation of the penalties. Ms. DeGrande responded.

Chairman Vande Linde opened the hearing at 8:42 p.m.

Neil Fleahman addressed the Board. He clarified that the yellow vehicle is an electric utility cart and not a road worthy vehicle. He stated that at the time of the July citation, the tabs on his RV were expired but that no citation for that vehicle was issued. He stated that he was on vacation and did not get the citation until he returned. He stated that, in fact, he was driving the vehicle on his vacation. He stated that he forgot to put tabs on his classic car and showed the Board the license tabs from the previous year. He stated that he does not believe assessment is fair and that the fine should have started at \$300. He stated that he took care of everything else and asked why he wouldn't have taken care of the RV as well.

Commissioner Bradley asked Mr. Fleahman if he was aware that it was a violation because he was cited before.

Chairman Vande Linde asked staff if the property owner is made aware of the specific car being cited.

Ms. DeGrande answered yes.

Chairman Vande Linde stated that it appeared that Mr. Langholz failed to catch all of the violations when he cited the property owner.

Ms. DeGrande stated that the City cannot issue a citation if they can't see the license plate.

Chairman Vande Linde stated that if the City would have caught everything in September, two of three violations could have been abated. He noted that, theoretically, Mr. Fleahman could have taken care of all of them.

Mr. Fleahman stated that he would have taken care of it in July if it had been brought to his attention.

As no one further wished to speak, Chairman Vande Linde closed the hearing at 8:55 p.m.

Commissioner Thorup asked that if it would have been found to be compliant, would there still be some penalty imposed.

Commissioner Wigen stated that if a resident received a violation for expired tabs, common sense would imply that it applies to all vehicles.

Chairman Vande Linde clarified his understanding of the case that if all of the tabs were taken care of in July, there would have been only one citation in September.

Commissioner Spano-Madden stated she was struggling with the issue since the citations did not start on the same day although the violations may all have existed from the beginning, noting the fine would still exist but it would be a lower penalty.

Chairman Vande Linde stated that the citation puts one on notice but if not all unregistered vehicles are listed from the start, the fines seem punitive. Commissioner Spano-Madden agreed.

Commissioner Wigen asked staff if it is ever noted in any citation or other notes that a plate cannot be read. Ms. DeGrande replied no, that the City only cites what they know to be true.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER THORUP, IN CASE 15-20V, TO RECOMMEND THE CITY COUNCIL MODIFY THE \$1,800 IN SPECIAL ASSESSMENTS TO \$1,200.

Chairman Vande Linde asked Commissioner Bradley for his rationale.

Commissioner Bradley stated that it seems punitive when the City goes after a resident with vehicle citations on a piecemeal basis. He stated that he believes the property owner was not compliant and believes a penalty is appropriate. He stated that it appears to him the City should have been able to see the tabs on the RV in July and that if it was cited at that time, it would have been a lower fine.

Commissioner Spano-Madden stated that she is still struggling with the number. She agrees that the modification should not be zero. She stated that if the Board assumes he took care of all of the vehicles and he still had the unpaved surface, the fine would have been \$600. If all of the vehicles had been cited originally and they all had been brought compliant, it would have had

been zero if it was the first violation. The second violation, if brought to compliance, would have been a \$300 fine.

Chairperson Vande Linde asked Commissioner Bradley if he agreed with Commissioner Spano-Madden's line of reasoning. He stated that it is common sense to put a property owner on notice for all violations that exist and that he is inclined to believe \$1,200 is too high a penalty but that \$300 may send a wrong message as well.

Commissioner Bradley agreed that the resident had some apparent notice of the requirement with the citation issued on the other vehicles.

COMMISSIONER BRADLEY AMENDED HIS MOTION IN CASE 15-20V, TO RECOMMEND THE CITY COUNCIL MODIFY THE \$1,800 IN SPECIAL ASSESSMENTS TO \$600 GIVEN THAT THE PROPERTY OWNER HAD SOME APPARENT NOTICE OF THE VIOLATION BASED ON CITATIONS CONCERNING OTHER VEHICLES AND THE ESCALATING PENALTIES ASSOCIATED WITH PIECEMEAL ENFORCEMENT; THE AMENDMENT WAS ACCEPTED BY COMMISSIONER THORUP, SECONDER TO THE ORIGINAL MOTION.

ON A ROLL CALL VOTE, THE AMENDED MOTION PASSED UNANIMOUSLY.

Mr. Fleahman stated that he finds the citation and the appeal process confusing.

8. CASE 15-01V - ROGER AND LEOTHA WOMBLE, 11901 ROUND LAKE BOULEVARD NW – SPECIAL ASSESSMENT OBJECTION - 08-31-24-31-0042 (AGENDA ITEM 2)

No one appeared.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER BRADLEY, IN CASE 15-01V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$999 IN SPECIAL ASSESSMENTS IN THEIR ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

9. CASE 15-02V – REGAL CAR WASH/EVA SPERBER-PORTER – 1521 COON RAPIDS BOULEVARD NW – SPECIAL ASSESSMENT OBJECTION – 23-31-24-33-0002 (AGENDA ITEM 3)

No one appeared.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-02V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

10. CASE 15-04V – KRISTY HANSEN – 2006 104TH AVENUE NW – SPECIAL ASSESSMENT OBJECTION – 22-31-24-31-0148 (AGENDA ITEM 5)

No one appeared.

Commissioner Spano-Madden commented that rental license renewal communications from City staff being sent to a different mailing address is a common theme expressed by petitioners.

Commissioner Bradley stated that it is the duty of rental property owners to keep the City apprised of their correct addresses.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER BRADLEY, IN CASE 15-04V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

11. CASE 15-05V – ROBERT EDSTROM – 11731 KUMQUAT STREET NW – SPECIAL ASSESSMENT OBJECTION – 12-31-24-34-0004 (AGENDA ITEM 6)

Commissioner Bradley stated that it appears from the property report that this has taken a fair amount of City staff involvement.

Housing Inspector Leya Drabczak responded affirmatively.

Commissioner Bradley referred to Mr. Edstrom's letter of appeal in which he reports that the renewal notice was sent to his wife who, for personal reasons noted in the letter, did not respond to the communication. He questioned potential issues with notice and stated that Mr. Engstrom was not present.

Neighborhood Coordinator DeGrande stated that Mr. Edstrom called staff to say that he was unable to attend.

Commissioner Spano-Madden commented on Mr. Edstrom's letter stating that he was not getting notices because they were going to his wife.

Commissioner Bradley asked if staff has current contact information for Mr. Edstrom.

Housing Inspector Drabczak responded that the City does and that Mr. Edstrom has submitted payment. She stated she stresses the issue of current contact information in her trainings regarding the licensing of rental dwellings..

Chairman Vande Linde stated that the three months of inaction

Chairman Vande Linde he was inclined to affirm because of the three months of inaction and on the basis that Mr. Edstrom was not present to plead his case. Commissioners Thorup and

Bradley agreed. Chairman Vande Linde stated that Mr. Edstrom would still have a chance to go before the City Council.

Assistant City Attorney Westervelt advised that the City Council generally does not take additional testimony on these matters, but it is at their discretion.

Commissioner Bradley suggested that if Mr. Edstrom appears at the City Council meeting, they allow him to testify. Commissioner Thorup disagreed, stating if she were a license holder she would know when a license needs to be renewed.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-05V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$900 IN SPECIAL ASSESSMENTS IN THEIR ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

12. CASE 15-06V – GABRIEL ENRIQUE BORRERA – 10575 MARTIN STREET NW – SPECIAL ASSESSMENT OBJECTION – 22-31-24-13-0076 (AGENDA ITEM 7)

Chairman Vande Linde noted that this special assessment regarded administrative citations for long grass.

No one appeared.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-06V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

13. CASE 15-07V – JARA LINVILLE – 11862 TULIP STREET NW – SPECIAL ASSESSMENT OBJECTION – 08-31-24-43-0015 (AGENDA ITEM 8)

Chairman Vande Linde noted that this special assessment regarded an administrative citation for long grass.

No one appeared.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER WIGEN, IN CASE 15-07V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

14. CASE 15-13V – PAUL THOMAS – 490 104TH LANE NW – SPECIAL ASSESSMENT OBJECTION – 24-31-24-31-0062 (AGENDA ITEM 14)

Chair Vande Linde stated this case concerned a rental dwelling license. Commissioner Bradley asked how City staff knows when rentals are discontinued.

Housing Inspector Drabczak responded that staff checks Anoka County property records for homestead status, utility billing address records and other avenues available to them. If the addresses do not coincide, a citation is sent to the property owner.

Chairman Vande Linde asked staff if was considered a rental dwelling if a family resided with the property owner. Ms. Drabczak advised that it was not but they had received no correspondence with the property owner until the end of this process. He was advised of relative homestead option in October.

Commissioner Bradley asked if staff it had been in contact with the property owner since he filed his appeal. Neighborhood Coordinator DeGrande stated they had not.

Ms. Drabczak indicated that the property owner has been advised to update the homestead status of the property.

Commissioner Bradley stated it appears that the property owner is now claiming he resides on the premises and he understands the limitations of City staff in checking on the status of rentals. He stated that it may have been converted to a non-rental and asked if City Code requires the property owner to change a property tax status.

Ms. Drabczak responded that the City Code provides for an exemption from the licensing requirement if a qualifying relative of the property owner resides at a property. She noted that in that case, staff recommends that a relative homestead status be registered but that the City cannot require it.

Commissioner Bradley stated that the measures used by the City do not necessarily prove it is still a rental property and, therefore, cannot force a rental license. He stated he believes this is a problem. He stated he is uncomfortable charging for failure to obtain a rental license when the City is unable to prove he had renters in the dwelling.

Chairman Vande Linde stated that after reading the staff report he originally did not think this was a rental property. He requested confirmation of the property owner's address.

Commissioner Thorup observed that the gas bill was registered in his name and recognizes him as the owner. Ms. Drabczak responded that water utility bills would always show in the owner's name.

Commissioner Thorup stated that the property owner should have gotten additional letters from other utilities to make a stronger case.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER BRADLEY, IN CASE 15-13V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$4,000 IN SPECIAL ASSESSMENTS IN THEIR ENTIRETY.

THE MOTION PASSED 4-1 (CHAIRMAN VANDE LINDE VOTED NAY).

Chairman Vande Linde stated he voted against the motion because he was not convinced that it was not a rental nor was he convinced that it was. He stated he felt the property owner had some obligation to take care of the property while he was gone. He stated he would have supported a modification to the amount of the penalty.

Commissioner Bradley stated if the City is going to propose this amount of assessment, it needs to be able to conclusively show that it was a rental.

15. CASE 15-14V – RACHID KHALLAF AND TOURIA FOUZBI – 550 121ST AVENUE NW – SPECIAL ASSESSMENT OBJECTION – 12-31-24-24-0038

Chairman Vande Linde noted that this special assessment regarded administrative citations for long grass.

No one appeared.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER WIGEN, IN CASE 15-14V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

16. CASE 15-15V – JESSE SCHABERT – 10311 HUMMINGBIRD STREET, SPECIAL ASSESSMENT OBJECTION – 22-31-24-41-0072

Chairman Vande Linde noted that this special assessment regarded an administrative citation for long grass and that it was similar to a previous case with regard to receiving notification while on vacation and correcting the problem as soon as the property owner became aware of it.

No one appeared.

Commissioner Spano-Madden stated that residents have to make sure someone takes care of their properties while they are away.

Commissioner Bradley stated it appears that an attempt to make arrangements for care of the property was made and that this was a first time offense. He suggested the penalty be reduced because, while it wasn't mowed by the compliance date, City staff did not have to mow it.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER WIGEN, IN CASE 15-15V, TO RECOMMEND THE CITY COUNCIL MODIFY THE \$300 SPECIAL ASSESSMENT TO \$150.

THE MOTION PASSED UNANIMOUSLY.

17. CASE 15-16V – BERTHA VENTURA – 2510 NORTHDALÉ BOULEVARD –
SPECIAL ASSESSMENT OBJECTION – 16-31-24-11-0096

Chairman Vande Linde noted that this special assessment regarded administrative citations for long grass.

No one appeared.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-16V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

18. CASE 15-17V – KONGMONG LO C/O THOR AND TSONG LO – 12551 AVOCET
STREET NW – SPECIAL ASSESSMENT OBJECTION – 02-31-24-34-0034

Chairman Vande Linde noted that it appears that the homeowners do not speak English and that the proxy was stricken in an appeal of the original citation.

Commissioner Bradley asked staff if the City has provisions for notices in other languages and expressed concern about the property owners not being able to understand the notice.

Chairman Vande Linde asked staff why the proxy was stricken.

Housing and Zoning Coordinator Bennett explained that she acted as hearing examiner in that matter and that there was no indication provided that the person who submitted the appeal was doing so on behalf of the property owner. She stated that no authority, such as a power of attorney, was indicated or submitted with the Notice of Appeal of the citation, nor did the property owner appear at the time of submission.

Commissioner Bradley stated the situation is unfortunate and that the City has to recognize that it is becoming more diverse. He stated that it makes it difficult to hold the property owner to a strict timeline on compliance when they receive a notice and then they have to wait a while for a proxy to explain it to them. They may not even know of the importance of the notice.

Commissioner Wigen stated she is leaning toward recommending rescinding the assessment. Commissioner Bradley stated he

Commissioner Thorup stated that it appears that the representative also resides in the home.

Commissioner Bradley questioned if the citation was adequate notice if it is given to them in a language they do not understand and stated he is not sure it is. He stated that the notice was directed to the parents who claim very limited language skills.

Chairman Vande Linde commented that it appears that the property owners' son wrote the check for the initial violation. He noted that a verbal extension was provided but that they did not meet that deadline. He agreed with Commissioner Bradley

Commissioner Spano-Madden stated she would rescind based on the language barrier and lack of adequate notification for a non-English speaking person.

Commissioner Wigen understood that the appeal not being submitted by the owner was an issue but was concerned that the hearing was denied. Assistant City Attorney Westervelt stated this would have been handled differently if staff had known of the language barrier earlier, but staff did not until it was coming before the Board.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-17V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

19. CASE 15-18V – CLARENCE HAWKINS – 12131 LILY STREET NW – SPECIAL ASSESSMENT OBJECTION – 09-31-24-32-0011

Neighborhood Coordinator DeGrande provided the Board members with a copy of a letter received earlier today from the property owner. No one appeared.

Commissioner Vande Linde inquired how the letter should be treated as an appearance or non-appearance. Assistant City Attorney Westervelt stated that it should be treated as any other written letter of objection.

In response to a request from Commissioner Thorup, Neighborhood Coordinator DeGrande presented the photographs of other properties purported to be in violation of codes as referenced in the petitioner's letter.

Commissioner Bradley stated the photographs of other properties are irrelevant. Chairman Vande Linde agreed.

Chairman Vande Linde asked if seasonal workers are assigned a section of the City or do they randomly patrol.

Housing Inspector Drabzcak stated no and explained that the procedure is currently complaint driven. Ms. DeGrande added that violations found on neighboring properties during an inspection are addressed.

Chairman Vande Linde noted that Mr. Hawkins is indicating that he is typically in compliance and he believes that his neighbors are harassing him and continuing to call in a number of different violations. He stated he did not see this issue documented in the property report. Housing and Zoning Coordinator Cheryl Bennett explained that staff had determined that

including reports of past activity may be prejudicial. She stated that the fine level imposed in this action was not affected by any previous activity.

In response to Chairman Vande Linde's question, Assistant City Attorney Westervelt directed he add the letter to the record and that it would be appropriate to attach it to their recommendation.

MOTION BY COMMISSIONER WIGEN, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 15-18V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

20. CASE 15-19V – SHAWN LARSEN – 10961 FOLEY BOULEVARD NW – SPECIAL ASSESSMENT OBJECTION

Chairman Vande Linde noted that this special assessment regarded administrative citations for long grass. He also noted that this case was another vacationing property owner situation, however, it was a period of two months between citations.

No one appeared.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, IN CASE 15-19V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

21. CASE 15-21V – AMY DEUTSCH – 13271 GROUSE STREET NW – SPECIAL ASSESSMENT OBJECTION – 03-31-24-11-0103 (AGENDA ITEM 22)

Chairman Vande Linde noted that this special assessment regarded an administrative citation for long grass.

No one appeared.

Chairman Vande Linde noted that the property owner actually hired a landscaper to take care of the property and that an invoice was submitted to show that the landscaper mowed the lawn on the inspection date. He stated he could only assume that compliance inspection took place earlier in the day before the lawn was mowed.

Neighborhood Coordinator Kristin DeGrande stated that all lawn inspections are done in the morning. Chairman Vande Linde confirmed this inspection took place on the day following the compliance date.

Commissioner Bradley noted that the property owner called the City on the compliance date and said she would take care of it, but did not request an extension. The City is notified that the property owner is going to take care of it and had a landscaper out there within a day.

Commissioner Bradley stated that without actually asking for an extension, it appeared the property owner made the effort to comply and may have thought she was in compliance by making that call advising that she was going to get it done. Chairman Vande Linde agreed.

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER WIGEN, IN CASE 15-21V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

ON A ROLL CALL VOTE THE MOTION PASSED 3-2 (COMMISSIONERS SPANO-MADDEN AND THORUP VOTED NAY).

OTHER BUSINESS

22. 2014 ANNUAL REPORT OF THE BOARD OF ADJUSTMENT AND APPEALS

MOTION BY COMMISSIONER BRADLEY, SECOND BY COMMISSIONER THORUP, TO ACCEPT THE 2014 ANNUAL REPORT OF THE BOARD OF ADJUSTMENT AND APPEALS.

THE MOTION PASSED UNANIMOUSLY.

ADJOURNMENT

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, TO ADJOURN THE MEETING AT 10:28 P.M. THE MOTION PASSED UNANIMOUSLY.

Respectfully submitted,
Denise Bosch
Board of Adjustment and Appeals Secretary