

City of Ramsey
Agenda
City Council Work Session
Tuesday, March 23, 2021

5:30 pm
Lake Itasca Room, 7550 Sunwood Drive NW

This meeting is being held in accordance with Minnesota Statutes 13D.021. Due to the COVID-19 Pandemic, it is not practical and prudent for all members of this board to attend in person. Current Minnesota law requires certain social distancing standards that impacts the capacity of the Council Chambers. For these reasons, it is not practical and prudent to have this meeting exclusively in person. Members of the public are welcome to attend in person or remotely.

Remote Attendance available at www.cityoframsey.com/meetings. To maximize social distancing due to the COVID-19 Pandemic, those that can join remotely are encouraged to do so. Those joining remotely and requesting to speak are asked to use a webcam when speaking.

- 1. Call to Order**
- 2. Topics for Discussion**
 1. Receive Update on Discussions for the Potential Expansion for Loral I Armstrong Delaney Central Park
 2. Discuss Potential Ordinance Regulating Targeted Picketing in Residential Neighborhoods
 3. Acknowledge Resignation of the Part-time Recreation Specialist and the Recruitment Process
 4. Direction on Whether to Continue Waiving Late Fee Penalties on Quarterly Utility Bills.
 5. Review 2021 Planning Session
- 3. Topics for Future Discussion**
 1. Review Future Topics/Calendar
- 4. Mayor/Council/Staff Input**
- 5. Adjournment**

Meeting Date: 03/23/2021

Information

Title:

Receive Update on Discussions for the Potential Expansion for Loral I Armstrong Delaney Central Park

Purpose/Background:

This topic report has two components:

1. Report to City Council on the status of discussions on potential expansion of Central Park; and
2. Request for feedback on future land use of the vacant land East of the park

Staff recommends that the work session discussion follow this sequence, separating the two subjects. General consensus direction is appropriate on both topics, with future discussions reviewing more detailed plans.

Loral I Armstrong Delaney Central Park Expansion

On January 14, 2021, the Park & Recreation Commission discussed the potential purchase of approximately 11 acres of raw land east of Loral I Armstrong Central Park for expansion. The present owner, St. Katharine Drexel Church indicated an offer to sell this land to the City. Also, the Owner indicated that there was apparent interest from a residential developer. The Commission's recommendation was direction to Staff to develop a park plan to guide Park Dedication discussions for the future development that accomplished the following:

1. Yield additional athletic field space
2. Improve access and parking for Loral I Delaney Armstrong Central Park

Following the Commissions direction to 'ghost plat' the property to see what residential land use patterns might look like, along with Park Dedication/Park Expansion, Staff worked with the Owner to develop a series of land use concepts. Attached are two diagrams of potential land use and residential street scenarios that demonstrate additional park field space with improved public access and parking. It is important to note that the concepts are not the only configurations that may be tenable for park expansion concurrent with the subdivision of land.

At the February 11th Park & Recreation Commission meeting, five alternatives were deliberated, relative to the original question on the proposed purchase of approximately 11 acres to expand Central Park (for \$517,000) these were:

- Take no action at this time (formally or informally decline)
- Purchase 11 acres without a plan for the land's use
- Attempt to negotiate different terms or acreage for a purchase
- Attempt to negotiate the dedication of land to be credited against future Park Dedication
- Designate minimum expectations and goals for a park expansion to satisfy future Park Dedication obligations, to be met before or no later than the time of the subdivision of land east of the park.

By Motion, the Park & Recreation Commission's recommendation to City Council was that, 'the future subdivision of land east of Loral I Armstrong Delaney Central Park include a park expansion consisting of a minimum of two new areas for flex-use athletic fields, additional public access and parking, to be considered as fulfilling Park Dedication obligations'.

Future Development of Saint Katharine Drexel Remnant Parcel

Also on February 11th, the Planning Commission held a Special Work Session which included the subject of residential land use considerations for the St. Katharine Drexel church property. Generally, only 'high level'

concepts were discussed, with no apparent clear consensus on desired residential densities (one aspect of the discussion). Since then, the Owner has submitted the attached Concept Plan and desires Council feedback on proposal. The Planning Commission has not yet seen the current concept plan. The revised concept plan is in response to concerns raised by the Planning Commission when asked about level of support for attached townhomes. There did not appear to be sufficient support to move forward with an attached townhome concept, resulting in the current concept for detached single-family homes on smaller lots. The proposed lot sizes (55 foot wide) would require a Zoning Amendment. This is not a formal Sketch Plan submission.

Timeframe:

The primary focus of this case should focus on the potential expansion of the park, taking up to 15 minutes for consensus direction.

The Planning Commission appreciates any high-level direction regarding future land use on the remnant church parcel including, but not limited to support/lack of support for 55 foot wide lots instead of 80 foot wide lots.

Funding Source:

Funding for any potential land purchase this case discusses would be from the Park Trust Fund (expansion). In the alternative, the City may receive park land through the subdivision process, including dedication of land at the time of development OR purchase in advance of development with credit towards future park dedication obligations.

Feedback on residential land use alternatives for the church property does not require funding considerations.

Responsible Party(ies):

Parks & Assistant. Public Works Superintendent Riverblood (park expansion)

Deputy City Administrator Gladhill (future land use)

St. Katharine Drexel Catholic Church is expected to have a representative(s) available to speak to their proposal for future residential land use on their property. It is noted that both the Planning Commission Chair and Vice-Chair also represent Saint Katharine Drexel on their future building plans.

Outcome:

By consensus, acknowledge the Park & Recreation Commission's recommendation to City Council that, "the future subdivision of land east of Loral I Armstrong Delaney Central Park include a park expansion consisting of two new areas for flex-use athletic fields, additional public access and parking, to be considered as fulfilling Park Dedication obligations."

Provide general feedback to church representatives on future residential options on their property (appropriate densities).

Attachments

Park Expansion Alternative 1: Single New Field

Park Expansion Alternative 2: 2 New Fields

Church Remnant Parcel Development Concept

Park and Recreation Commission Minutes dated February 11, 2021

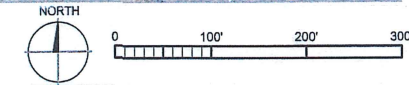
Planning Commission Work Session Minutes dated February 11, 2021

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	03/17/2021 04:33 PM
Kurt Ulrich	Kurt Ulrich	03/18/2021 04:39 PM

Form Started By: MaryJo Warner
Final Approval Date: 03/18/2021

Started On: 03/03/2021 02:06 PM



NO.	DATE	ISSUE/REVISION	DRWN	CHKD	NO.	DATE	ISSUE/REVISION	DRWN	CHKD

DATE:
02/01/2021

DRAWN:
SPM

DESIGNED:
SPM

CHECKED:
SPM

APPROVED:
SPM

I hereby certify that this landscape architectural document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Landscape Architect under the laws of the State of Minnesota.

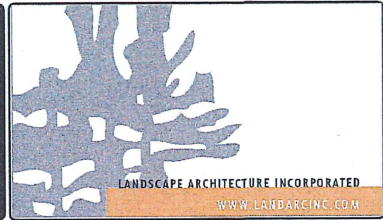
Signature: STEPHEN P. MASTEY Date: 40629

Printed name: STEPHEN P. MASTEY Reg. No. 40629

My license renewal date is: 06/30/2022

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Pages or sheets covered by this seal



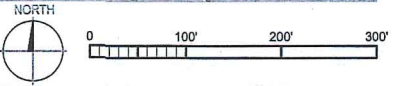
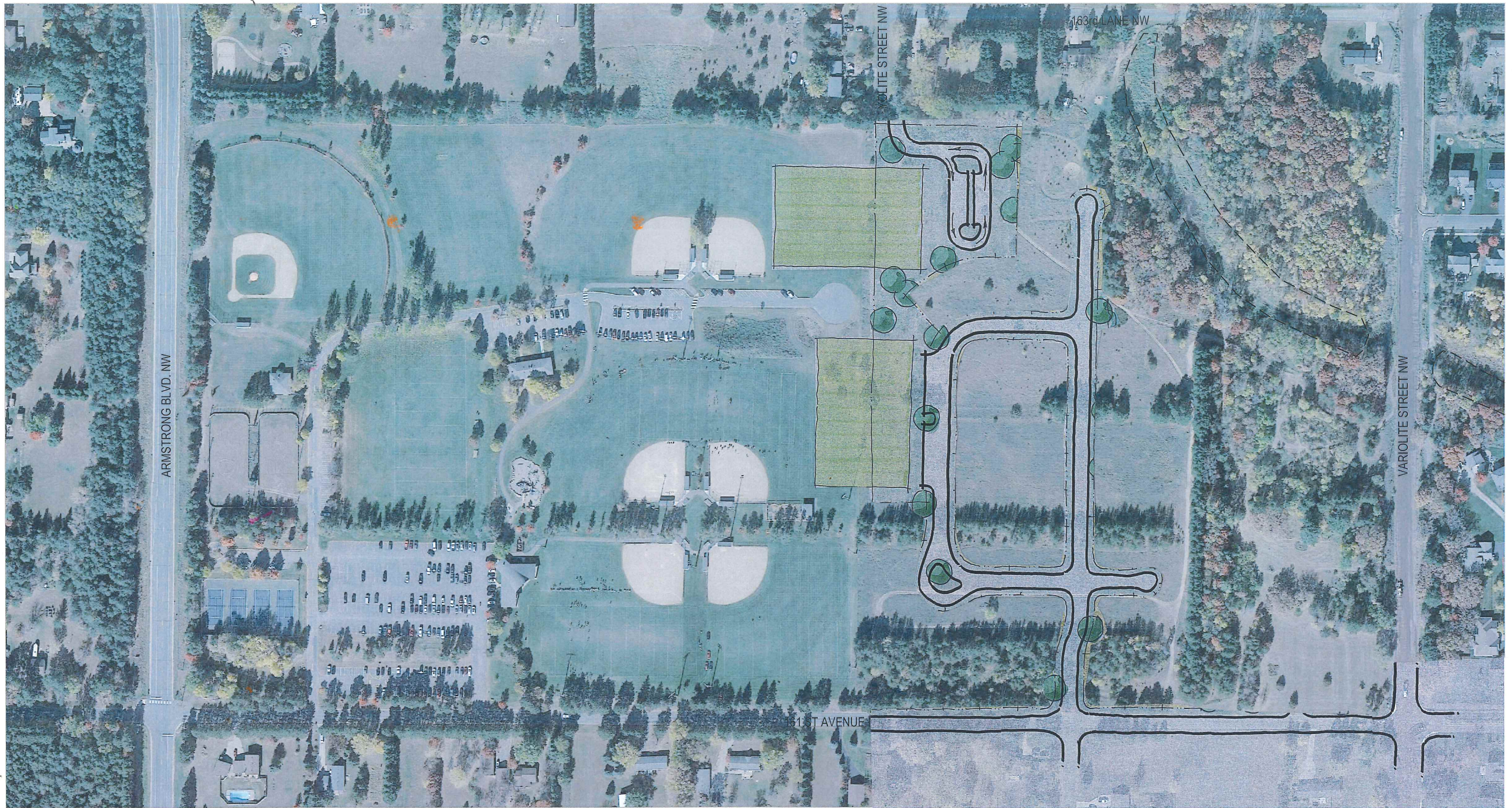
PROJECT

CITY OF RAMSEY, MINNESOTA

DRAWING TITLE

PROJECT NO. 09-2014 DRAWING NO.

SCALE: AS NOTED



NO.	DATE	ISSUE/REVISION	DRWN	CHKD	NO.	DATE	ISSUE/REVISION	DRWN	CHKD

DATE:
02/01/2021

DRAWN:
SPM

DESIGNED:
SPM

CHECKED:
SPM

APPROVED:
SPM

I hereby certify that this landscape architectural document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Landscape Architect under the laws of the State of Minnesota.

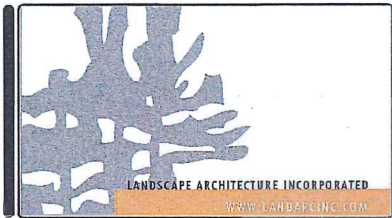
Signature: STEPHEN P. MASTEY Date: 40629

Printed name: _____ Reg. No. _____

My license renewal date is: 06/30/2022

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PROJECT

CITY OF RAMSEY, MINNESOTA

DRAWING TITLE

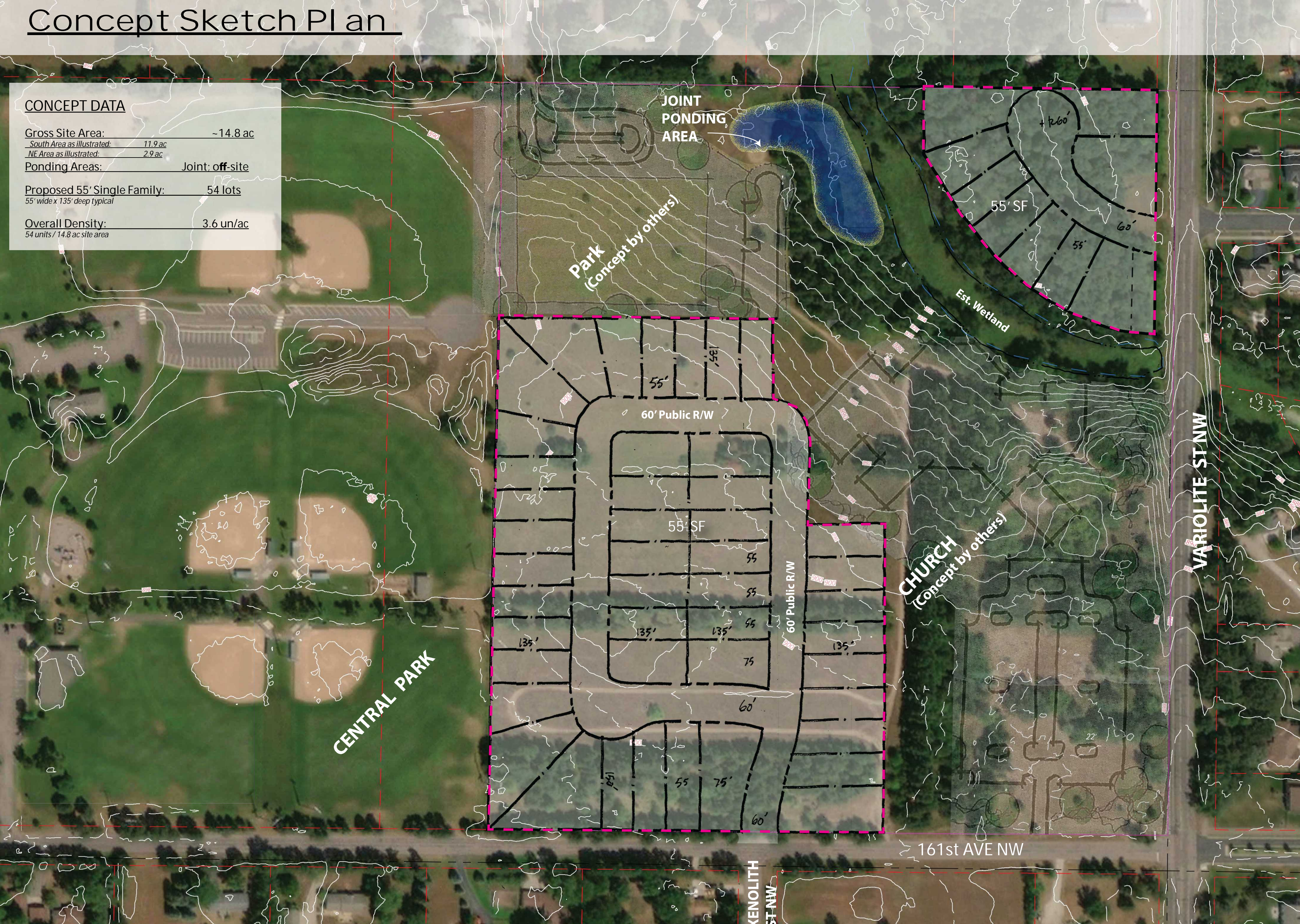
PROJECT NO. 09-2014 DRAWING NO.

SCALE: AS NOTED

Concept Sketch Plan

CONCEPT DATA

Gross Site Area:	~14.8 ac
South Area as illustrated:	11.9 ac
NE Area as illustrated:	2.9 ac
Ponding Areas:	Joint; off-site
Proposed 55' Single Family:	54 lots
<i>55' wide x 135' deep typical</i>	
Overall Density:	3.6 un/ac
<i>54 units / 14.8 ac site area</i>	



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SKD Property
 Ramsey, MN



15' sbk

Commissioner Leistico aye
Commissioner Loss aye
Commissioner Sis aye

Motion carried.

5.02: Consider Potential Expansion for Loral I Armstrong Delaney Central Park

Parks & Assistant Public Works Superintendent Riverblood stated that the consensus of the Commission following the last discussion was to direct staff to ghost plat the property owned by the church that could include possible expansion of the park. He stated that staff sketched the area using R-1 zoning, as that is the current zoning for the property and recognized that there are many ways that land could be subdivided. He reviewed three possible scenarios and highlighted some of the differences between the sketches and the benefits that could be created for each scenario. He stated that the minimum land donation for park dedication of a residential development would be ten percent but could be higher in the case of higher density or under a PUD and therefore park dedication could provide the City with the land necessary to expand the park in the future. He reiterated that the Anoka Ramsey Athletic Association has stated that in the near term there is not a need for outdoor fields and instead desire additional indoor space for volleyball and basketball and that if changes are made to outdoor fields the association would request conversion of a field to artificial turf which would have less impacts by use and weather.

Riverblood continued, that he recognized that the configuration of the church parcel is not fully known as this time, therefore the layout of a future development and land available for Park Dedication could obviously vary from the scenarios reviewed. He noted that there would be options that would present cost-savings and shared parking options for the park and church and the church seems open to continuing discussions and potentially bringing a land developer onboard to review options for synergy and more comprehensively review the development opportunity. He stated that the Planning Commission is holding a work session tonight and will discuss residential land use for that area in a similar planning activity for the site. He stated that there are five scenarios the Commission could consider related to possible purchase of land and/or expansion of the park which were included in the case. He stated that staff supports options three, four or five noting that option five would seem to be the most straightforward. He stated that this will go forward to the City Council as soon as March in order to secure more formal direction for the church as it looks towards the future.

Chair Bennett stated that it seemed there was consensus that the City would not need the full amount of land, nor would that purchase seem logical in terms of expense. He stated that it would seem that looking for a land and/or land plus cash Park Dedication contribution when the parcel develops.

Commissioner Leistico referenced the flex-use athletic fields stated that perhaps that language would be too specific for what may be needed in the future in terms of park needs.

Parks & Assistant Public Works Superintendent Riverblood explained that flex-use is the largest size and that is why that was suggested as it would provide the most flexibility. He stated that this would not lock the City into any certain type of park/land use.

Commissioner Sis stated that he would support some of the ideas proposed that explore the shared use between the church and community need for parking and therefore supports option five which would be the minimal expansion of park land with additional opportunities for shared use facilities and parking.

Chair Bennett stated that he also agrees with that comment as this would help to solve the issue of parking and leave room for potential expansion. He agreed that he would want to see flexibility as well.

Parks & Assistant Public Works Superintendent Riverblood commented that when the additional 65 stalls were added a few years ago, that did help to alleviate some of the issues with parking on that site. He recognized that there could be pros/cons to connecting the parkway to the residential development that will be further explored throughout the planning process.

Commissioner Loss asked the difference between options four and five and whether that difference would be that Park Dedication is negotiated prior to subdivision.

Parks & Assistant Public Works Superintendent Riverblood replied that the options are very similar to each other and provided additional explanation on the difference between the two options. He provided additional details on the pros and cons of locking in an agreed upon amount of Park Dedication prior to a subdivision request being presented. He stated that no matter the action of the Commission tonight, that option could continue to be discussed and the ultimate decision would be between the City and the landowner as discussions continue.

Motion by Commissioner Sis, seconded by Commissioner Loss to recommend to City Council that, the future subdivision of land east of Loral I Armstrong Delaney Central Park include a park expansion consisting of a minimum of two new areas for flex-use athletic fields, additional public access, and parking, to be considered as fulfilling Park Dedication obligations.

A roll call vote was performed:

Commissioner Barten	aye
Chair Bennett	aye
Commissioner Guck	aye
Commissioner Leistico	aye
Commissioner Loss	aye
Commissioner Sis	aye

5.03: Tennis Court Maintenance and Consider Adding Pickleball Courts

Parks & Assistant Public Works Superintendent Riverblood provided background information on the typical tennis court maintenance schedule. He stated that the City has continued to receive requests for pickleball noting that staff previously striped pickleball over the tennis court at Central Park and has noted pickleball having much more activity. He stated that staff recommends completing the typical court maintenance along with conversion of two tennis courts into six pickleball courts. He displayed the proposed design and conversion, detailing the work that would

**PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a work session meeting on Thursday, February 11, 2021, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Randy Bauer
 Commissioner Bruce Anderson
 Commissioner Cheri Gengler (arrived at 5:36 p.m.)
 Commissioner Eric Peters
 Commissioner Gary VanScoy

Members Absent: None

Also Present: Deputy City Administrator Timothy Gladhill
 Senior Planner Chloe McGuire Brigl
 City Council Liaison Debra Musgrove

1. CALL TO ORDER

Chairperson Bauer called the regular meeting to order at 5:30 p.m.

2. TOPICS FOR DISCUSSION

2.01: Review Concept Plan for Graw Addition (Lot Split); Case of Gail Graw

Deputy City Administrator Gladhill asked for high level policy direction on a request for a lot split near Central Park. The property owner desires feedback before investing in engineering and surveying to complete a potential land split.

Chairperson Bauer asked for clarification on the lot of discussion.

Deputy City Administrator Gladhill identified the lot on the map.

Commissioner VanScoy asked if this property is within the MUSA.

Commissioner Gengler arrived.

Deputy City Administrator Gladhill replied that this property is not within the MUSA. He stated that it would be anticipated that there would be sufficient space for private well and septic, both primary and secondary sites. He noted that the issue of discussion would be related to the minimum lot size and lot width.

Commissioner VanScoy asked if staff has an idea of how many one acre lots there are within the rural zoning areas.

Deputy City Administrator Gladhill was unsure of the exact number today. He stated that there are 4,100 lots on private well and septic and perhaps half are around one acre as they were developed before the minimum lot standards.

Commissioner VanScoy commented that the City has received multiple requests and perhaps the idea of 2.5 acre lots should be reviewed on a bigger picture discussion.

Deputy City Administrator Gladhill noted that would involve the Comprehensive Plan and staff is not prepared for that discussion tonight.

Commissioner Anderson asked if there have been comments from the neighborhood related to this request.

Deputy City Administrator Gladhill replied that staff has not yet reached out for public input.

Gail Graw, applicant, stated that she has spoken with the surrounding neighbors and has not received any comments in opposition of her request to split the lot.

Commissioner Anderson asked to see a GIS map of the area in order to see more of the surrounding area.

Senior Planner McGuire Brigl asked if any of the neighbors were interested in completing a similar split when Ms. Graw spoke with her neighbors.

Ms. Graw replied that to her knowledge, the home placement on the neighboring lots would not allow for a similar split and therefore approval of her request would not lead to a rash of similar applications.

Commissioner Gengler asked if the intent would be to leave the existing residence and create a new residence on the newly created lot.

Ms. Graw confirmed that the existing residence would remain, and the second lot would become a buildable lot for a new home.

Commissioner Anderson referenced the distance from this parcel to another parcel that would be similar in size and was concerned with how the neighboring property owners would feel about this change.

Chairperson Bauer noted that input from the public would be gained through a public hearing.

Deputy City Administrator Gladhill stated that they could do a public comment process without asking the applicant to invest additional cost to move forward in the process.

Commissioner Anderson stated that this would set a precedent in this area. He stated that he would support the suggestion by staff for public input. He asked if this change would make the lot lawful nonconforming.

Deputy City Administrator Gladhill stated that it would be permitted but would not be conforming with the standards. He confirmed that the zoning is rural developing with a minimum lot size of 2.5 acres. He stated that a variance would be required should the Commission support the request rather than attempting to make a larger policy change to support a request for one parcel.

Commissioner Anderson stated that he would not want to set a precedent that this could be done in any place.

Deputy City Administrator Gladhill provided examples in different neighborhoods, noting that this situation does not come forward very often.

Commissioner Anderson stated that if there can be consensus from the neighborhood in support of the request, he could also support the request.

Senior Planner McGuire Brigl stated that she would like to see input from the overall neighborhood as there are many other lots in the overall neighborhood that are similarly setup and therefore could essentially submit a similar request.

Ms. Graw stated that she would want to work with the City to place a covenant on the lot to place limitations on the type of home that could be constructed, to ensure it would fit with the neighborhood. She stated that in order to stay in her home she needs additional income and saw this as a viable option.

Chairperson Bauer asked if a public input meeting could be scheduled prior to the March meeting.

Deputy City Administrator Gladhill stated that staff could queue that up to match that timeframe and from there the property owner could invest the additional funds to submit application. He stated that perhaps the item does not appear on the March regular meeting agenda as it could take a few weeks for the applicant to develop their plans following public input.

Chairperson Bauer confirmed the consensus of the Commission to direct staff to schedule a public input session to gather input from the surrounding neighborhood.

2.02: Review Java Properties Concept Plan

Senior Planner McGuire Brigl presented a concept plan from Java Properties for a new commercial building west of Casey's on Sunwood Drive NW. The subject property is owned by the City of Ramsey and is approximately 13 acres in size, noting that the applicant would only be purchasing a plat a portion of that property. She asked the Commission to provide feedback to the applicant on the plan and specifically note any items they would like to see added or removed from the project.

Mark Krogh, Java Companies, stated that they are excited about this project as they continue to build for O'Reilly's Auto Parts. He stated that they are close on the parking calculations but would like to add a few more stalls. He stated that they will work with the City to deliver a great project.

Senior Planner McGuire Brigl asked for input on the proposed site layout. She stated that staff is comfortable with the additional parking requested as the business is established and most likely is aware of their parking needs.

Chairperson Bauer asked if the turn lanes and striping would be the responsibility of the City or developer.

Senior Planner McGuire Brigl stated that staff has not gone to that level of detail. She commented that it would not be a huge change but would make the site function better.

Chairperson Bauer agreed that designated turn lanes could be a benefit.

Senior Planner McGuire Brigl asked for input on the proposed suggestion for the entrance/exit aspect recommended by staff.

Councilmember Musgrove asked for staff to provide clarification on where vehicles would access and exit the site.

Senior Planner McGuire Brigl traced the path vehicles would take to enter and exit the site.

Councilmember Musgrove asked about the potential to move the northern access further south.

Mr. Krogh stated that this is the agreed upon site plan with the tenant and therefore he would want to discuss any modifications with the tenant. He stated that if the access were moved, parking could be placed in that location. He noted that they would work with planning staff on any modifications to see what works best. He stated that he does not mind having the entrance only option for that access.

Commissioner Anderson asked where the loading and unloading of trucks would occur, as that will have a direct impact on the flow of traffic for the site.

Mr. Krogh stated that the loading door is on the south of the building, noting that the business typically utilizes box trucks for deliveries.

Commissioner VanScoy referenced the shared entrance and asked if that would be the main entrance to the outlot and whether it would be adequate.

Senior Planner McGuire Brigl replied that the road to the north would also extend south onto the property, as will the road behind the outlot.

Deputy City Administrator Gladhill stated that they talked about a master plan for the area when Casey's was developed. He identified additional streets that would be extended to provide access to the other parts of the outlot. He confirmed that there would be adequate access.

Commissioner VanScoy commented that the concern he would have is that the architectural walls near the roads could impact sightlines for pedestrians and traffic. He stated that other than that he is comfortable with the request.

Senior Planner McGuire Brigl confirmed that additional review could be done to ensure sightlines are not impacted.

Commissioner Anderson replied that this is a good layout, with the few comments made by the Commission.

Senior Planner McGuire Brigl stated that architectural details were provided of the trash enclosure for comment from the Commission. She stated that the staff report provided specific comments. She stated that staff also recommended a bike rack onsite as staff anticipates people biking to get auto parts if their vehicle needs repair.

Commissioner Anderson agreed that every business should have a bike rack.

Commissioner Gengler agreed.

Councilmember Musgrove stated that she was unsure how much of that decision would be of the City as compared to the business owner. She noted that some auto parts would not be able to be carried by someone riding a bicycle. She asked if that would be a requirement or suggestion.

Senior Planner McGuire Brigl commented that it is a recommendation within the design guidelines for The COR but not a requirement. She stated that because additional parking is being requested, this could be a negotiation.

Chairperson Bauer asked if EDA staff is concerned with the remaining lot size.

Senior Planner McGuire Brigl stated that Economic Development Manager Sullivan has been working on this project for some time and is not concerned with the remaining parcel size. She asked for direction from the Commission on whether the applicant should move forward to submit the Conditional Use Permit request.

Chairperson Bauer stated that he would rather see additional parking than the business not having enough parking.

Commissioner Peters agreed that it could be helpful to have a few additional stalls for this type of business.

Councilmember Musgrove stated that she would like to see this type of business come to the community for Ramsey residents.

Chairperson Bauer confirmed the consensus of the Commission to direct the applicant to continue moving forward to the application process.

2.03: Receive Update on Trott Brook North Planning Area – Makowsky and Hunt Property Projects

Senior Planner McGuire Brigl provided an update on the status and timing of the projects generally known as “Trott Brook North” which is the area between Variolite Street and Nowthen Boulevard NW, north of Trott Brook. The two properties are separately owned, and the City is working with two separate applicants, the Excelsior Group and Platinum Land LLC. Both applicants are working towards formal applications with 80-foot-wide lots.

Deputy City Administrator Gladhill provided details on the shared infrastructure that would be needed, similar to what was done with Riverstone.

Chairperson Bauer asked for input from Councilmember Musgrove related to the previous direction for 80-foot lots.

Councilmember Musgrove confirmed the direction from the Council for 80-foot lots. She asked if there would be any issues with easements for utility lines.

Senior Planner McGuire Brigl provided details on the utility lines and how those are being worked into the plans.

Councilmember Musgrove commented that it would seem that 80 foot lots would be more acceptable from the existing neighborhoods, although those residents may want to see some larger lots. She did have concern with easement placement and how those could possible encumber lots.

Deputy City Administrator Gladhill stated that there are known utility easements on the properties. He stated that if there are any conservation or density transition easements, that land would be taken by the City through fee title.

Commissioner Anderson stated that he has been plowing snow for the City this winter and commented that cul-de-sacs are difficult, especially for snow storage. He stated that he likes the plan, and that the developer adjusted their plans, but asked if this could be done with less cul-de-sacs.

Senior Planner McGuire Brigl asked if it is easier to plow nub type cul-de-sacs compared to a typical cul-de-sac.

Commissioner Anderson replied that it would depend on the amount of land around the cul-de-sac and where driveways are situated. He stated that there is often no other place to put the snow other than someone’s yard.

Senior Planner McGuire Brigl commented that the driveways could be shown on the plat and Public Works could be consulted prior to this going forward to the Commission.

Commissioner Anderson agreed that would be helpful and noted that outside of the number of cul-de-sacs, he likes the layout.

Chairperson Bauer commented that this does seem to meet the main objectives that were expressed at the previous public hearing and City Council review. He confirmed the consensus of the Commission for this to continue to move forward.

2.04: Review Concept Plan for Saint Katherine Drexel Addition (Remnant Developable Area); Case of Saint Katherine Drexel Catholic Church

Chairperson Bauer and Commissioner VanScoy recused themselves from the discussion as members of the Commission as they will be representing the applicant.

Commissioner Anderson agreed to act as Chair for review of this concept.

Deputy City Administrator Gladhill stated that the intent of this item is to have a high-level policy review. Staff needs initial policy direction from the Commission before formulating a recommendation. Nothing in this case should be interpreted to mean that the City is considering the project, it is simply reacting to a request to consider potential land use alternatives.

Randy Bauer, representing the applicant, commented that the church owns slightly more than 32 acres, noting that the City previously expressed interest around 2010 in acquiring a portion of the property. He stated that they are aware that the only option to expand Central Park would be in this property. He noted that the church is working on a capital campaign to improve the building and therefore the discussion also includes the remainder of the property. He stated that they have worked with City staff, who solicited input from the athletic association and ultimately determined only a small portion would be desired for park expansion. He stated that the church has also received interest from a developer for the other portion of their property. He noted that the concepts sketches were developed by City staff. He stated that the developer is interested in townhomes and therefore the church wanted input from the Commission and Council as to whether they would be open to rezoning to allow townhomes for the property between the park and church.

Acting Chairperson Anderson stated that the property to the south was discussed earlier in tonight's case related to a potential lot split. He asked staff for clarification on the different lot sizes in this area.

Deputy City Administrator Gladhill stated that to the east there are quarter acre lots, to the south there are 2.5 acre lots, to the west is Central Park and to the north there are one and two acre lots.

Acting Chairperson Anderson stated that he would support the expansion of the park but would not be comfortable with townhomes. He stated that there would definitely need to be a public hearing, noting the large opposition from residents for similar projects.

Commissioner Gengler asked if the addition to Central Park would connect to the roadways in the park or only connect through the neighborhood.

Deputy City Administrator Gladhill stated that has been discussed. He noted that previously there was a larger need for that type of connection as the park was lacking in parking. He stated that issue has essentially been solved with the parking expansion that occurred and therefore was unsure that a road connection would be critical. He stated that one of the options show a parking lot to the north that would benefit that area but would still not connect. He stated that many of the concepts attempted to avoid the connection as that typically causes additional opposition from the neighbors.

Commissioner Gengler stated that she would be open to having townhomes in this area because it is set apart from the other neighborhood but recognized that she may be in the minority.

Gary VanScoy, representing the applicant, referenced the concepts provided by the City noting that the church had no input on those sketches. He stated that the church envisions that there would be a strip between the park and church for future development, estimating that as 20 acres. He stated that the residential development would be well buffered by the church, the park, and the mature trees.

Acting Chairperson Anderson stated that he would want to hear from the developer. He stated that he would prefer smaller lot single family homes over townhomes in order to be consistent with the overall neighborhood.

Commissioner Peters commented that if homes were to be built, they should match the character of the neighborhood to the east and did not think townhomes would match the look of the surrounding neighborhoods and would see a lot of opposition from those residents.

Councilmember Musgrove asked if the concepts show new driveways off the existing street.

Mr. Bauer stated that when the new church building is constructed there would be access and egress off 161st, with one closer to the Variolite intersection and the other closer to the street to the south. He noted that those would come into play later in the process noting that the church building and parking lot on the City sketches do not match the desires of the church. He stated that City staff expressed a desire for shared parking and therefore that concept remains for further discussion.

Deputy City Administrator Gladhill stated that the attempt of City staff was to create some ideas that could facilitate discussion for the park and whether expansion would be desired. He noted that the residential developer could provide a sketch for review related to residential development. He stated that he does hear some opposition to medium density residential. He stated that input will be solicited from the City Council. He recognized that only three of the active five members of the Commission can provide input on this topic. He noted that additional public comment could be solicited as well.

Acting Chairperson Anderson agreed that input from the neighborhood would be helpful because this would be a change.

Councilmember Musgrove stated that with the traffic to the park, she would want to see fewer driveways on that road.

Mr. Bauer commented that the desire of the church tonight was to see if the City would be open to townhomes before the developer invests additional expense.

Acting Chairperson Anderson stated that there were two members opposed and one member open to townhomes. He believed that additional data would be helpful before providing direction to the developer on whether townhomes could be supported.

Mr. Bauer asked if the developer could bring forward a townhome proposal that the Commission would be open to, or whether those two members were adamant that townhomes would not be a good fit.

Acting Chairperson Anderson replied that he does not believe that townhomes fit the character of the neighborhood.

Commissioner Peters agreed that townhomes would not fit with the character of the neighborhood.

Mr. Bauer confirmed that is the direction the developer was looking for before spending additional funds developing a sketch.

Commissioner Gengler stated that she could support townhomes as she believes it could provide a variety of housing options on a parcel that is set apart from the existing residential homes.

Deputy City Administrator Gladhill asked if input should be received from the City Council as to whether the Council would support this type of development and if so, should that be in worksession or regular session.

Acting Chairperson Anderson commented that he would love to hear the input of the Council and left the format to staff, as to whether that would be better in worksession or regular session.

Commissioner Peters agreed that it would make sense to get input from the Council.

Councilmember Musgrove agreed that the Council should provide input on both potential park expansion along with the residential development. She recommended a worksession discussion for the Council.

Mr. Bauer recognized that this is an awkward position as it is hard for him to be objective. He stated that if someone else came in with a proposal to place townhomes between a park and church, he would be open to it as that development would not be directly against existing residential.

Mr. VanScoy agreed and stated that is why he wanted to be clear that the residential development would occur in an isolated area between the park and church that would not be against the existing residential development.

Deputy City Administrator Gladhill stated that this could go forward on a Council worksession in March to gain their input.

Mr. Bauer stated that he believed that Parks and Assistant Public Works Superintendent is bringing the potential park expansion concept forward and asked if it would make sense to bring this discussion forward at the same time.

Councilmember Musgrove commented that the park discussion will help to make this subject clearer as the direction has changed on the needs for the park since the last time the Council reviewed that topic.

Deputy City Administrator Gladhill commented that he believes that the topics could go forward together in the same discussion as they are interwoven. He stated that staff can work with the church to gain additional input before it goes to the Council.

3. OTHER

No additional comments.

4. ADJOURNMENT

The regular meeting of the Planning Commission adjourned at 7:54 p.m.

Respectfully submitted,

Chloe McGuire Brigl
Senior Planner

ATTEST:

JoAnn Shaw
Community Development Assistant

Drafted by Amanda Staple
TimeSaver Off Site Secretarial, Inc.

Meeting Date: 03/23/2021

Information

Title:

Discuss Potential Ordinance Regulating Targeted Picketing in Residential Neighborhoods

Purpose/Background:

A few Minnesota cities have recently adopted ordinances prohibiting targeted picketing in residential areas, while others have had them for years based on incidents that occurred in their cities. The City of Ramsey currently has no ordinances that prohibit targeted picketing in residential areas and have had no recent examples of this. Targeted picketing in other cities has been disruptive to neighborhoods and escalated to violence and criminal acts by those picketing and those opposing picketers. Examples of persons targeted with picketing include doctors at their homes for performing abortions, elected officials for their view/vote on an issue, corporate executives for their companies product use in animal testing, police officers, union leaders, etc. Targets of picketers include both public and private persons based on their occupation or position.

Targeted picketing in residential neighborhoods is not regulated in MN State Statutes. However, local ordinances prohibiting residential and targeted picketing have been upheld by MN Appeal Courts and the US Supreme Court to be constitutional.

Attached to this case are news articles, and related court decisions.

Timeframe:

20 minutes

Funding Source:

none. part of staff regular duties

Responsible Party(ies):

Police Chief Katers

Outcome:

Staff direction to propose an ordinance prohibiting targeted picketing in Ramsey or make no changes to city code.

Attachments

[LL/Hugo Article](#)

[MN Appeals Court Case](#)

[US Supreme Court Case](#)

[Woodbury Article](#)

[Opinion Article](#)

Form Review

Inbox

Kurt Ulrich

Form Started By: Jeff Katers

Reviewed By

Kurt Ulrich

Date

03/18/2021 02:13 PM

Started On: 03/15/2021 04:25 PM

[startribune.com](https://www.startribune.com)

Lino Lakes joins Hugo in banning targeted residential protests

Kim Hyatt

13-16 minutes

Lino Lakes is about to join Hugo in banning targeted residential protests, after an August demonstration outside the Hugo home of Minneapolis police union president Bob Kroll.

The Lino Lakes City Council on Monday unanimously passed the first reading of a residential picketing ordinance similar to one Hugo approved in September that bans targeted protests in residential neighborhoods.

Council members are expected to take a final vote on the ordinance after a second reading on Nov. 23, said City Clerk Julianne Bartell.

The council action is in response to summer protests outside Kroll's home in neighboring Hugo. A [Black Lives Matter protest on Aug. 15](#) drew a crowd of more than 100 people calling on Kroll and his wife, WCCO reporter Liz Collin, to be fired from their jobs.

Hugo City Administrator Bryan Bear noted that during the rally DFL legislative candidate John Thompson made "inflammatory comments" about burning down Hugo. Videos of the event show Thompson shouting expletives and pounding on piñatas depicting

Kroll and Collin.

[Thompson apologized for his behavior and Washington County Attorney Pete Orput and Sheriff Dan Starry didn't file charges.](#) [Despite widespread criticism](#), Thompson was elected last week to the District 67A House seat.

There was another protest this summer at Hugo's Lions Park, which is nestled in a residential area. But City Attorney Dave Snyder said such a gathering wouldn't violate the ordinance because public parks are reasonable sites for protests.

Targeted protests at private homes limit the ability for residents to escape, cause emotional distress and obstruct public right-of-ways, Bear said at the September meeting when the City Council unanimously passed the ordinance.

Now Lino Lakes has decided to follow suit. Violators would face a misdemeanor charge if they engage in targeted residential picketing, which includes marching, standing on or patrolling a single residential property without consent of the occupants.

John Swenson, Lino Lakes public safety director, said the ordinance was developed with the feedback of residents who were "fearful that could happen in their neighborhoods and limit their ability to move about their neighborhood and feel safe in their own homes."

Swenson said there is "firm legal ground" for the ordinance, citing a case from the 1990s that involved 20 protesters outside the White Bear Township home of Thomas Webber, executive director of Planned Parenthood Minnesota. The state Court of Appeals upheld a township ordinance that restricted targeted residential picketing.

"The state's interest in protecting the well-being, tranquillity, and privacy of the home is certainly the highest order in a free and civilized society," the court stated.

[Woodbury City Council banned targeted picketing in 2009](#), following animal rights protests outside the homes of 3M executives.

No protests took place in Lino Lakes this summer, but Swenson said city leaders felt they could craft an ordinance that strikes a balance between free speech and privacy rights. "This is about us seeing issues that have occurred in our neighboring communities and being proactive about making sure we have things that balance everyone's rights equally," he said.

Nekima Levy Armstrong, a civil rights attorney and activist who attended the Hugo protest, said the ordinances are overreactions and hypocritical. While government acts swiftly to limit freedom of speech, she said, it refuses to swiftly hold police officers accountable. She doesn't think the ordinances will prevent nonviolent, peaceful protesters from showing up at rallies.

"People like Bob Kroll take issue with a few hours of an inconvenient protest when we're expected to tolerate his abusive behavior for years," she said. "If Hugo loves Bob Kroll so much, then they should hire him for their police department and he should be fired from the Minneapolis Police Department."

JUSTIA

Laws & Legal Resources.

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State v. Castellano

506 N.W.2d 641 (1993)

STATE of Minnesota, Respondent, v. Leo CASTELLANO, Appellant.

No. C4-93-356.

Court of Appeals of Minnesota.

September 28, 1993.

*643 Hubert H. Humphrey, III, Atty. Gen., Martin J. Costello, Hughes & Costello, St. Paul, John G. Dillon, Minneapolis, for respondent.

Thomas W. Strahan, Minneapolis, for appellant.

Considered and decided by HUSPENI, P.J., and SCHUMACHER and KLAPHAKE, JJ.

OPINION

HUSPENI, Judge.

Appellant, convicted of violating a township ordinance that prohibits targeted residential picketing, facially challenges the constitutionality of the ordinance on the grounds of overbreadth and vagueness. We affirm.

FACTS

On August 24, 1991, approximately 20 men and women were picketing in the area of 5758 Meadowview Drive in the Town of White Bear. Several of the individuals carried graphic signs depicting aborted fetuses. Thomas Webber, Executive Director of Planned Parenthood of Minnesota, who resides at 5758 Meadowview Drive, called the Ramsey County Sheriff's Department to report the noise and disruption caused by the protestors.

A sheriff deputy arrived at 5758 Meadowview Drive and talked to Webber. Webber told the deputy that appellant Leo Castellano *644 had stood directly in front of his residence for approximately 30 minutes and shouted "Tom Webber in his hour of death" and "Pray for us sinners now and in the hour of Tom Webber's hour of death" numerous times loudly enough to disrupt Webber and several other neighborhood residents.

The deputies informed the group that they would be arrested if they continued to picket in front of Webber's residence on Meadowview Drive. The protestors reluctantly dispersed after the deputy told them he would not debate the legal issues involved and took photographs of the graphic signs. Appellant, however, refused to leave the area and stayed in front of Webber's residence. He stated "I am not a part of the group" and "[t]his is a public street." Appellant then commenced marching in one place as though he was walking but did not physically leave the street in the area in front of Webber's residence. Webber signed a certificate of arrest by private citizen, and a deputy took appellant into custody for violating the targeted residential picketing ordinance. See White Bear Township, Minn., Ordinance No. 63.

The trial court denied appellant's motion to dismiss and held that the ordinance was constitutional. Based on stipulated facts, the trial court adjudicated appellant guilty of violating Ordinance No. 63 and ordered him to pay a \$60 fine plus a surcharge.

ISSUES

1. Is the Town of White Bear, Minn., Ordinance No. 63 (1990), prohibiting targeted residential picketing, facially unconstitutional on the grounds of overbreadth?
2. Is the Town of White Bear, Minn., Ordinance No. 63 (1990), prohibiting targeted residential picketing, facially unconstitutional under the void for vagueness doctrine?

ANALYSIS

At issue in this case is a municipal ordinance prohibiting focused, or targeted residential picketing.[1] The constitutionality of an ordinance is a question of law. See *Hibbing Educ. Ass'n v. Public Employment Relations Bd.*, 369 N.W.2d 527, 529 (Minn. 1985) (construction of a statute is clearly a question of law fully reviewable by an appellate court); *State v. Clarke Plumbing & Heating, Inc.*, 238 Minn. 192, 197, 56 N.W.2d 667, 671 (1952) (whether an ordinance is constitutionally valid is a question of law). Although ordinances are ordinarily afforded a presumption of constitutionality, ordinances restricting First Amendment rights are not so presumed. *Goward v. City of Minneapolis*, 456 N.W.2d 460, 464 (Minn.App.1990). The burden of proving the need of such a law rests with the government. *Id.* (citing *Meyer v. Grant*, 486 U.S. 414, 426, 108 S. Ct. 1886, 1894, 100 L. Ed. 2d 425 (1988)).

I. Overbreadth

In the area of freedom of expression, it is well-established that an overbroad *645 regulation may be subject to facial review and invalidation even though the application in a particular case may be constitutionally unobjectionable. *Forsyth County, Ga. v. Nationalist Movement*, ___ U.S. ___, ___, 112 S. Ct. 2395, 2400-01, 120 L. Ed. 2d 101 (1992). Permitting a facial challenge to allegedly overbroad legislation is an exception to general standing principles. *Broadrick v. Oklahoma*, 413 U.S. 601, 615, 93 S. Ct. 2908, 2917, 37 L. Ed. 2d 830 (1973). The exception is "based on an appreciation that the very existence of some broadly written laws has the potential to chill the expressive activity of others not before the court." *Forsyth County*, ___ U.S. at ___, 112 S. Ct. at 2401.

In order to invalidate a statute or ordinance on its face, the overbreadth not only must be real, but "substantial." *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 574, 107 S. Ct. 2568, 2572, 96 L. Ed. 2d 500 (1987). The requirement that the overbreadth be substantial arose from the Court's recognition that striking an ordinance on overbreadth grounds imposed "manifestly, strong medicine." *Id.* (quoting *Broadrick*, 413 U.S. at 613, 93 S.Ct. at 2916). The Court has required that there be a "realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court" to facially challenge legislation on overbreadth grounds. *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 801, 104 S. Ct. 2118, 2126, 80 L. Ed. 2d 772 (1984).

The United States Supreme Court addressed the facial constitutionality of an ordinance restricting residential picketing in *Frisby v. Schultz*, 487 U.S. 474, 108 S. Ct. 2495, 101 L.

Ed. 2d 420 (1988). In *Frisby*, the Court found constitutional a Brookfield, Wisconsin, ordinance that provided:

It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the Town of Brookfield.

Id. at 477, 108 S. Ct. at 2498. The Brookfield ordinance stated that its purpose was "the protection and preservation of the home" through assurance "that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility, and privacy." Id. According to the Town of Brookfield, prohibiting residential picketing was necessary because such picketing "causes emotional disturbance and distress to the occupants * * * [and] has as its object the harassing of such occupants." Id.

An ordinance restricting targeted residential picketing "operates at the core of the First Amendment" because it prohibits picketing on issues of public concern. Id. at 479, 108 S. Ct. at 2499. In *Frisby*, the Court stated that restrictions on public issue picketing are typically subject to careful scrutiny because of the importance of "uninhibited, robust, and wide-open" debate on public issues. Id. (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270, 84 S. Ct. 710, 720-21, 11 L. Ed. 2d 686 (1964)). The Court specifically held that picketing on public streets is "the archetype of a traditional public forum" and such status is not lost because a public street runs through a residential area. Id. 487 U.S. at 480, 108 S. Ct. at 2500. Although in a "quintessential public forum[], the government may not prohibit all communicative activity," *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45, 103 S. Ct. 948, 955, 74 L. Ed. 2d 794 (1983), the government may

enforce regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication.

Id.

Respondent argues that White Bear Ordinance No. 63 meets all the requirements of *Frisby*. Appellant, conversely, would have this court find the White Bear ordinance unconstitutional because it does not, in fact, satisfy the requirements of *Frisby*. We agree with respondent that White Bear Ordinance No. 63 is facially constitutional under *Frisby*. However, we believe that *Frisby* compels us to narrowly construe the White Bear Ordinance in order to avoid constitutional overbreadth. We address each of the *Frisby* factors in turn.

*646 A. Content Neutrality

In First Amendment time, place, or manner cases, the principal inquiry in determining whether legislation is content-neutral is "whether the government has adopted a regulation of speech because of disagreement with the message it conveys." *Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S. Ct. 2746, 2754, 105 L. Ed. 2d 661 (1989). An ordinance restricting expressive activity is content-neutral so long as it is "justified without reference to the content of the regulated speech." *Id.* (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293, 104 S. Ct. 3065, 3069, 82 L. Ed. 2d 221 (1984)).

The Frisby Court accepted the determination of the lower courts that the Brookfield ordinance was content-neutral. *Frisby*, 487 U.S. at 482, 108 S. Ct. at 2501. Appellant argues that *Carey v. Brown*, 447 U.S. 455, 100 S. Ct. 2286, 65 L. Ed. 2d 263 (1980) compels a conclusion that the White Bear ordinance is not "content-neutral." We disagree and find *Carey* distinguishable. In *Carey* the regulation prohibited residential picketing except for peaceful picketing of a place of employment involved in a labor dispute. *Id.* at 457, 100 S. Ct. at 2288. Because the regulation in *Carey* discriminated among speech-related activities in a public forum based upon content, the Court considered whether the statute was finely tailored to serve a substantial state interest. *Id.* at 462-63, 100 S. Ct. at 2291. The Court determined that exempting labor picketing did not advance the state's asserted interest in protecting residential privacy, *id.* at 465, 100 S. Ct. at 2293, and struck the regulation as unconstitutional.

Appellant has presented no evidence that the Town of White Bear discriminatorily enacted the ordinance specifically to suppress expression espousing opposition to abortion. To the contrary, the White Bear ordinance unequivocally prohibits all targeted residential picketing regardless of the content of speech and is, therefore, content neutral. See *Ward*, 491 U.S. at 791, 109 S. Ct. at 2754.

B. Valid Governmental Interest

In Ordinance No. 63, the Town of White Bear specifically states that it has an interest in protecting residential privacy. A similar significant governmental interest was acknowledged in *Frisby*, 487 U.S. at 484, 108 S. Ct. at 2502. The Court has long recognized that:

Preserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value. * * * The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society.

Carey, 447 U.S. at 471, 100 S. Ct. at 2295-96. Because the home is "the last citadel of the tired, the weary and the sick," Gregory v. City of Chicago, 394 U.S. 111, 125, 89 S. Ct. 946, 954, 22 L. Ed. 2d 134 (1969) (Black, J., concurring), and is "one retreat to which men and women can repair to escape from the tribulations of their daily pursuits," Carey, 447 U.S. at 471, 100 S. Ct. at 2295, the government may legislate to protect intrusion into the privacy of the home of unwilling listeners. Frisby, 487 U.S. at 484, 108 S. Ct. at 2502. The Town of White Bear, in stating its substantial interest "in the protection of residential privacy * * * and [in] protecting the well-being, tranquility, and privacy of the home which is * * * of the highest order in a free and civilized society," see Town of White Bear, Minn., Ordinance No. 63, § 2, parallels language of the Court in Carey, 447 U.S. at 471, 100 S. Ct. at 2296 (the "State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society"). Thus, the language of the White Bear Ordinance meets fully the requirement that a valid government interest be served by the regulation of expression.

C. Narrow in Scope

In arguing that Ordinance No. 63 unconstitutionally sweeps too broadly, appellant essentially claims that the ordinance is not narrow in scope. He raises two concerns: (1) the ordinance, in using the word "activity" in describing targeted residential picketing, *647 includes within the sweep of regulation activity that is clearly protected by the First Amendment; and (2) the ordinance, in prohibiting expression unless the dwelling's "occupant" consents, extends beyond the protection of the unwilling listener. We believe each of these challenges must fail.

"A statute is narrowly tailored if it targets and eliminates no more than the exact source of the `evil' it seeks to remedy." Frisby, 487 U.S. at 485, 108 S. Ct. at 2503 (citing Taxpayers for Vincent, 466 U.S. at 808-810, 104 S.Ct. at 2130-32). Even a complete ban can be narrowly tailored if each activity within the proscription's scope is an appropriately targeted evil. Id.

Frisby held that the Brookfield ordinance was narrowly tailored despite its complete ban on focused residential picketing. The "evil" of targeted residential picketing, the presence of an unwelcome visitor at the home, which the ordinance sought to eliminate was "created by the medium of expression itself." Id. at 487, 108 S. Ct. at 2504. Frisby noted that the Brookfield ordinance was narrowly directed at the household, not the public, and thus distinguished cases which had struck down complete bans of communication such as handbilling, solicitation, and marching, which communications were directed at broader residential areas.

The type of picketers banned by the Brookfield ordinance generally do not seek to disseminate a message to the general public, but to intrude upon the targeted resident, and to do so in an especially offensive way.

Id. at 486, 108 S. Ct. at 2503.

The White Bear ordinance, like the Brookfield ordinance in *Frisby*, is "readily subject to a narrowing construction that avoids constitutional difficulties." See id. at 482, 108 S. Ct. at 2501. In construing the Brookfield ordinance, the Court stated:

[T]he use of the singular form of the words "residence" and "dwelling" suggests that the ordinance is intended to prohibit only picketing focused on, and taking place in front of, a particular residence. * * * "Picketing," after all, is defined as posting at a particular place, a characterization in line with viewing the ordinance as limited to activity focused on a singular residence.

Id. (emphasis added) (citing Webster's Third New International Dictionary 1710 (1981) to define picketing as "posting at a particular place").

Similarly, Ordinance No. 63 was not intended to circumscribe all "activity,"[2] but only activity constituting picketing in the focused sense. We interpret the White Bear ordinance in a limited fashion to proscribe only "picketing activity" focused on or taking place in front of a particular single residential dwelling. See id.[3] So narrowed, the ordinance would not prohibit constitutional distribution of materials to neighborhood residents, or solicitation by mail or in person.

Appellant also argues that the White Bear ordinance is not tailored narrowly enough to protect only unwilling[4] listeners in *648 their homes, and that by extending protection to "occupants" rather than to "residents" the ordinance is unconstitutionally overbroad and vitiates any possibility of narrow construction. We disagree. We believe the word "occupant," as used in the ordinance, has a narrower definition than appellant urges,[5] and makes the White Bear ordinance no broader than the one held constitutional in *Frisby*.

An "occupant" is a person "having possessory rights, who can control what goes on on premises." Black's Law Dictionary 1078 (6th ed. 1990). Black's Law Dictionary also defines "occupant" as "[o]ne who has actual use, possession or control of a thing." Id. Webster's defines "occupant" as

one who takes possession of something that has no other owner and thereby acquires title by occupancy * * * one who takes possession under title, lease, or tenancy at will * * * one

who occupies a particular place or premises [such as a] tenant [or a] resident.

Webster's Third New International Dictionary 1560 (1961). Similarly, an "occupant" is

one that occupies a position or place * * * one who has certain legal rights to or control over the premises occupied.

American Heritage Dictionary of the English Language 1251 (3d ed. 1992).

"Resident," on the other hand, means a "dweller, habitant or occupant." Black's Law Dictionary 1309 (6th ed. 1990). Webster's defines "resident" as "having an abode for a continued length of time" or "one who resides in a place, one who dwells in a place for a period of some duration." Webster's Third New International Dictionary 1931 (1961).

"Resident" is also defined as "one who resides in a particular place permanently or for an extended period." American Heritage Dictionary of the English Language 1535 (3d ed. 1992).

In view of the recognized definitions of "resident" and "occupant," we believe that "occupant," as used in the White Bear ordinance, means an individual with a legal right to possess or to control the single residential dwelling. A guest, visitor, or contractor would not come within the definition of "occupant" because those persons would not have some legal right to possess or control the residence. Whether the ordinance used "resident" or "occupant," its protection would extend to those other than a fee owner and would cover those who had some legal right to possess or control the residence.

Our interpretation of "occupant" as one who has some legal right to possess or control the premises answers, we believe, appellant's concerns that the White Bear ordinance is not narrowly enough drafted to protect only "unwilling" listeners. The words "unless the occupant consents" inform the potential defendant that one not having the status of an "occupant," even though that one be a "willing" listener, has no power to consent.

We also reject appellant's argument that the ordinance is overbroad because it would be violated regardless of whether the occupant was home. Whether or not an occupant is home, the government has an interest in prohibiting targeted residential picketing that invades the sanctity of the home. To somehow justify the intrusion simply because the resident is not home would be to say that the "evil" of targeted residential picketing only results if someone is home. Although we recognize that the ordinance is intended to protect residential privacy and recipients unwilling to receive the communication, an occupant returning home to find picketers focused on his or her home might be persuaded to stay

away. Such an individual would be just as much captive as if in the home when the focused picketing commenced. See *Frisby*, 487 U.S. at 488, 108 S. Ct. at 2504.

The targeted picketing ordinance of the Town of White Bear is narrowly tailored to protect unwilling occupants of a single residential dwelling. The ordinance eliminates no more than the exact source of the "evil" it *649 seeks to remedy. See *id.* at 485, 108 S. Ct. at 2503.

D. Alternative Means of Expression

The *Frisby* Court, after narrowly construing the Brookfield, Wisconsin, ordinance "to prohibit only picketing focused on, or taking place in front of, a particular residence," *id.* at 482, 108 S. Ct. at 2501, had no difficulty in determining that the ordinance left open alternative channels of communication. The Court held that the ordinance did not prohibit general marching through neighborhoods, walking a route in front of an entire block of houses, or distributing literature door-to-door or through the mail. *Id.* at 483, 108 S. Ct. at 2502.

We agree with the Town of White Bear that Ordinance No. 63 permits general dissemination of ideas protected by the First Amendment. Because the prohibition is limited to targeted picketing focused on and taking place in front of a single residential dwelling, picketers may enter, alone or in groups, residential White Bear neighborhoods, march the public streets, distribute literature, and go door-to-door to proselytize their views. Sufficient alternative channels of communication remain open under Ordinance No. 63, as fully as they did under the Brookfield, Wisconsin, ordinance found to be constitutional in *Frisby*. See *id.*

In summary, the Town of White Bear has demonstrated the need for Ordinance No. 63. See *Goward*, 456 N.W.2d at 464. The ordinance is content-neutral, narrowly tailored to promote a significant government interest, and leaves open alternative means of communication. See *Perry*, 460 U.S. at 45, 103 S. Ct. at 955. Neither the selection of the word "occupant" nor the concept of "activity" as narrowly construed here causes the ordinance to be substantively overbroad under *Broadrick*. Under *Frisby*, White Bear Ordinance No. 63 is a facially constitutional governmental regulation of the time, place or manner of speech.

II.

Finally, appellant contends that Town of White Bear Ordinance No. 63 is void for vagueness. We disagree. The void-for-vagueness doctrine, based upon due process,

requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.

Kolender v. Lawson, 461 U.S. 352, 357, 103 S. Ct. 1855, 1858, 75 L. Ed. 2d 903 (1983). In the First Amendment context, the Court has "taken special care to insist on fair warning when a statute regulates expression." *Marks v. United States*, 430 U.S. 188, 196, 97 S. Ct. 990, 995, 51 L. Ed. 2d 260 (1977).

Here, the ordinance prohibits all targeted residential picketing unless the occupant of a single residential dwelling has consented. Although appellant attempts to argue the ordinance is vague because a picketer will never know if an occupant will object to the content of the message, the language of the ordinance is clear and unambiguous. Because of the particular intrusiveness that results from targeted residential picketing, such picketing is presumed to be without the consent of the occupant and the ordinance sufficiently gives notice to picketers that focused picketing on a residence is prohibited under the law. See *Kolender*, 461 U.S. at 357, 103 S. Ct. at 1858. Should an occupant consent to the picketers' presence before his or her residence, the municipality will be unable to make a prima facie showing of a violation of the ordinance. The ordinance, therefore, does not give the government unbridled discretion to arbitrarily or discriminatorily enforce the ordinance. See *id.* Ordinance No. 63 provides fair notice that all targeted residential picketing is prohibited. The ordinance is not void for vagueness.

DECISION

Town of White Bear, Minn., Ordinance No. 63 is facially constitutional.

Affirmed.

NOTES

[1] In 1990, the Town of White Bear enacted an ordinance regulating targeted residential picketing. The ordinance, in full, provided as follows:

SECTION 1. DEFINITION. For the purpose of this Ordinance, "targeted residential picketing" means an activity focused on a single residential dwelling without the consent of the dwelling's occupant.

SECTION 2. TARGETED RESIDENTIAL PICKETING. The Town of White Bear has an interest in the protection of residential privacy within the Town of White Bear and

protecting the well-being, tranquility and privacy of the home which is certainly of the highest order in a free and civilized society. The Town Board of the Town of White Bear further finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedom of speech and expression.

SECTION 3. PROHIBITED. No person shall engage in targeted residential picketing within the Town of White Bear.

SECTION 4. PENALTY. Every person convicted of a violation of any provision of this Ordinance shall be punished as provided in Ordinance No. 26.

SECTION 5. SEVERABILITY. Should any section, subdivision, clause, or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part held to be invalid.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage and publication.

Town of White Bear, Minn., Ordinance No. 63 (1990).

[2] "Activity" is defined as a "specified pursuit in which a person partakes." American Heritage Dictionary of the English Language 18 (3d ed. 1992). In *Frisby*, after construing the Brookfield ordinance to limit picketing focused on a particular residence, the Court noted that its construction was "in line with viewing the ordinance as limited to activity focused on a single residence." *Frisby*, 487 U.S. at 482, 108 S. Ct. at 2501 (emphasis added).

[3] We believe that implicitly the ordinance requires that the dwelling be used for residential, not business or other pecuniary, purposes when the picketing occurs. The ordinance expressly states that it is intended to protect residential privacy. In *Town of Barrington v. Blake*, 568 A.2d 1015 (R.I.1990), the Rhode Island court applied *Frisby* and held constitutional a targeted residential picketing ordinance which prohibited picketing taking place in front of or adjacent to property used for residential purposes "except where such picketing relates to a use or activity being carried on within such property." *Id.* 568 A.2d at 1017-18. The court noted that the exemption narrowed the scope of the *Barrington* ordinance beyond *Frisby*. *Id.* 568 A.2d at 1021.

[4] A dissent in *Frisby* noted that the plain language of the Brookfield ordinance applied to communications "to willing and indifferent recipients as well as to the unwilling." *Frisby*, 487 U.S. at 497, 108 S. Ct. at 2509 (Stevens, J., dissenting). The Town of White Bear represents that it drafted Ordinance No. 63 mindful of Justice Stevens' concern.

[5] Appellant argues that the ordinance's use of "occupant" extends its protection to visitors, guests, or even contractors working in a single residential dwelling and other individuals who have a "substantially lessened privacy interest."

SUPREME COURT OF THE UNITED STATES

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RUSSELL FRISBY, ET AL., :
Appellants, :
v. : No. 87-168
SANDRA C. SCHULTZ AND ROBERT C. :
BRAUN :
-----X

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IN THE SUPREME COURT OF THE UNITED STATES

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RUSSELL FRISBY, ET AL., :

Appellants, :

v. : No. 87-168

SANDRA C. SCHULTZ AND ROBERT C. :
BRAUN :

-----x

Washington, D.C.

Wednesday, April 20, 1988

The above-entitled matter came on for oral argument
before the Supreme Court of the United States at 12:59 p.m.

APPEARANCES:

HAROLD H. FUHMAN, ESQ., Milwaukee, Wisconsin, on behalf
of Appellants.

STEVEN FREDERICK MCDOWELL, ESQ., Milwaukee, Wisconsin,
on behalf of Appellees.

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C O N T E N T S

<u>ORAL ARGUMENT OF:</u>	<u>PAGE</u>
HAROLD H. FUHRMAN, ESQ. on behalf of Appellants	3
STEVEN FREDERICK MCDOWELL, ESQ. on behalf of Appellees	23

1 P R O C E E D I N G S

2 CHIEF JUSTICE REHNQUIST: We will hear argument now
3 in No. 87-168, Russell Frisby v. Sandra C. Schultz and Robert
4 C. Braun.

5 Mr. Fuhrman, you may proceed whenever you are ready.

6 ORAL ARGUMENT OF HAROLD H. FUHRMAN, ESQ.

7 ON BEHALF OF APPELLANTS

8 MR. FUHRMAN: Mr. Chief Justice, and may it please
9 the Court:

10 This case is an appeal from a judgment of the United
11 States Court of Appeals for the Seventh Circuit. This judgment
12 was adopted by an equally divided court from a vote of five to
13 five. The effect of the judgment was to affirm the order of
14 the United States District Court for the Eastern District of
15 Wisconsin.

16 That order contained an injunction that enjoined the
17 enforcement of an ordinance of the Town of Brookfield. That
18 ordinance provided for the prohibition of picketing before and
19 about any residence or dwelling in the Town of Brookfield.

20 After that ordinance was adopted, the Appellees
21 commenced this legal action seeking declaratory relief and an
22 injunction against the enforcement of the ordinance. They
23 immediately asked for a preliminary injunction, and that was
24 granted.

25 In the request for the preliminary injunction, it was

1 argued that there was a violation of the equal protection
2 clause as well as the First Amendment, and that particular part
3 of the argument of the Appelles was not ruled upon favorably by
4 the District Court, and there was no cross appeal from that
5 particular part of the order.

6 An appeal from the order as a whole was taken by the
7 Appellants, that is by the Town of Brookfield, and proceeded to
8 the United States Court of Appeals for the Seventh Circuit.

9 Before all of this occurred, I should point out that
10 the initial ordinance adopted by the Town of Brookfield
11 provided an exception to the prohibition against picketing,
12 namely an exception in favor of labor disputes.

13 When the town attorney became aware of the fact that
14 that ordinance had been adopted, he advised the chief of police
15 not to enforce it until he had an opportunity to study its
16 constitutionality.

17 After he had reread the case of Carey v. Brown, he
18 advised the town board to repeal that ordinance in deference to
19 this Court's decision in Carey v. Brown. The town board did
20 precisely that.

21 Subsequently, they adopted the current ordinance,
22 which has a uniform prohibition against residential picketing
23 without any exception. And this also was in recognition of
24 footnote number two of this Court's decision Carey v. Brown in
25 which this Court stated that it was reserving judgment on the

1 question of whether or not an ordinance that uniformly
2 prohibited picketing without exception --

3 QUESTION: Did it say prohibit; it just said
4 regulate, did it not?

5 MR. FUHRMAN: The --

6 QUESTION: Well, never mind, maybe I have it wrong.

7 MR. FUHRMAN: Well, footnote two reads as follows,
8 "Because the Court of Appeals concluded that the labor dispute
9 exception was not severable from the remainder of the statute,
10 it invalidated the enactment in its entirety. The Court
11 therefore found it unnecessary to consider the
12 constitutionality under the First Amendment of the statute that
13 prohibited all residential picketing. Because find the present
14 statute defective on equal protection principles, we likewise
15 do not consider whether a statute barring all residential
16 picketing regardless of its subject matter would violate the
17 First and Fourteenth Amendments."

18 And so that situation then is now a situation that is
19 squarely before the Court today. Because we do have an
20 ordinance that prohibits all residential picketing without the
21 labor exception.

22 The fact situation that gave rise to the adoption of
23 these two ordinances was a period of picketing of approximately
24 three weeks that had been conducted by the Appellees and their
25 associates before the home of one Dr. Benjamin Victoria, a

1 resident of the Town of Brookfield. The purpose of the
2 picketing was to denounce him as an abortionist and as a killer
3 of babies.

4 The town board had no desire to get involved in this
5 debate. However, it was appalled at the invasion of privacy
6 that occurred, and also it was appalled at the very
7 serious --

8 QUESTION: Now this picketing was at the Doctor's
9 home, was it not?

10 MR. FUHRMAN: It was at the Doctor's home.

11 QUESTION: He did not operate a clinic, did he, from
12 his home?

13 MR. FUHRMAN: No, he did it.

14 QUESTION: It was just where he lived?

15 MR. FUHRMAN: That was just where he lived. In fact,
16 he had two clinics, one in Milwaukee, and one in another city,
17 but not in his home.

18 QUESTION: None in Brookfield?

19 MR. FUHRMAN: None in the Town of Brookfield, right.

20 So in oral argument today, I propose to concentrate
21 on three principal points. The first is that the District
22 Court order was filed, and it was a final order. Second, that
23 the residential streets of the Town of Brookfield are not
24 public fora. And third, that assuming arguendo that the
25 streets of the Town of Brookfield are public fora, that

1 nevertheless that the ordinance is a valid and constitutional
2 regulation of time, place and manner, and to achieve two
3 important governmental interests, the one being residential
4 privacy, and the other being public safety.

5 QUESTION: Mr. Fuhrman, we are reviewing, I guess,
6 the preliminary injunction.

7 So is our standard of review whether the lower court
8 abused its discretion in the issuance of the injunction?

9 MR. FUHRMAN: We contend that it is not. And I would
10 like to point out perhaps at this point that although the order
11 of the District Court is in form a preliminary injunction,
12 actually however, it has finally decided the constitutional
13 issue involved, at least from the standpoint of the District
14 Court.

15 QUESTION: You still want to go to trial?

16 MR. FUHRMAN: No. Let me explain. The preliminary
17 injunction so-called said that it would become final in the
18 event that there were no requests for a trial, number one, by
19 any party; and number two, that an appeal would be taken.

20 So the protect the interests of the Town of
21 Brookfield, we did appeal and we did file a request for a
22 trial. But it is clear from a reading of the order that the
23 Court had already determined that it would be unnecessary to
24 have an evidentiary hearing.

25 And there were two reasons for that. Number one, it

1 was stipulated by both parties that an evidentiary hearing was
2 not necessary. And number two, the way in which this ordinance
3 was attacked by the Plaintiffs was not in a factual context at
4 all. They attacked it facially before it ever had an
5 opportunity to be enforced.

6 Shortly after the ordinance was adopted, there was a
7 request for the preliminary injunction. And so this particular
8 ordinance has yet to be enforced. And so there is no factual
9 context within which the District Court could construe the
10 ordinance. It is purely a matter of law. If there were to be
11 a trial, the trial would be purely on that constitutional
12 issue.

13 QUESTION: Mr. Fuhrman, can I ask whether this
14 ordinance would prohibit someone picketing generally, that is
15 suppose a picket was not stationed in front of this Doctor's
16 house, but would a group of people be able to parade through
17 the neighborhood carrying signs and just leave?

18 MR. FUHRMAN: Yes.

19 QUESTION: What does picketing consist of under the
20 ordinance?

21 MR. FUHRMAN: Although the ordinance contains no
22 definition section, in our opinion, picketing would be having
23 the picket proceed on a definite course or route in front of a
24 home. Because keep in mind, the ordinance only prohibits
25 picketing before and about a dwelling or a residence.

1 QUESTION: And that means that you have to be
2 concentrating on one dwelling?

3 MR. FUHRMAN: That is right.

4 QUESTION: If you were just walking through the
5 neighborhood, that would not qualify?

6 MR. FUHRMAN: That would not qualify.

7 QUESTION: Suppose you were walking by a home with a
8 picket sign that said, "I am against the war in the Asian
9 Gulf", would that be a violation of the statute?

10 MR. FUHRMAN: In the Town of Brookfield, under this
11 ordinance, it would be.

12 QUESTION: And what would that damage be to the city?

13 MR. FUHRMAN: The damage would be to privacy.
14 Because the ordinance is content neutral. It has nothing to do
15 with the message at all.

16 QUESTION: So if you had some people marching up and
17 down these streets saying vote for so and so for sheriff, that
18 would be banned, too?

19 MR. FUHRMAN: If as Justice Scalia asked, it was a
20 march, the answer would be that it would not be in violation of
21 the ordinance. However, if the pickets actually pursued a
22 route only in front of this particular house, any particular
23 house which is targeted, then it would be a violation.

24 QUESTION: Do the findings of fact indicate that
25 there is a commercial area or business area in which picketing

1 can take place, was that a stipulation or a finding?

2 MR. FUHRMAN: It is an uncontested fact, yes. There
3 are two commercial areas in the Town of Brookfield along the
4 Bluemound Road.

5 QUESTION: Near this residence, is the commercial
6 area anywhere near this residence?

7 MR. FUHRMAN: No.

8 QUESTION: Is the Doctor's clinic in Brookfield or is
9 it elsewhere?

10 MR. FUHRMAN: It is elsewhere.

11 QUESTION: How far away is the nearest commercial
12 area on Bluemound Road from this residence?

13 MR. FUHRMAN: I would estimate approximately three
14 miles.

15 QUESTION: What is the width of the street there?

16 MR. FUHRMAN: The width of the residential streets in
17 the Town of Brookfield are thirty feet.

18 QUESTION: Any sidewalks?

19 MR. FUHRMAN: And there are no sidewalks, and no curb
20 and gutter. And this, of course, brings you into focusing upon
21 the public safety aspect. And I should point out that in our
22 brief that we incorporated by reference the opinion of
23 Judge Coffey of the Seventh Circuit, and it was his dissenting
24 opinion.

25 And the reason that we did that was because among

1 other things, he has in his opinion a very good analysis of the
2 safety aspect of this case, and it is printed in the joint
3 appendix. And if it has not been read by any member of the
4 Court, I would urge its being read, because I think that it is
5 very helpful to understand the case.

6 QUESTION: We have no record as to the conduct of the
7 pickets; there was picketing, was there not?

8 MR. FUHRMAN: There was picketing. And there is a
9 record of its conduct. The picketing occurred, however, prior
10 to the adoption of the ordinance. And the reason why that
11 record exists is because the picketers had to show their
12 standing to bring the action. And they, of course, had been
13 picketing right up until the time that the legislation was
14 adopted. So when the legislation was adopted, they then
15 commenced their action and applied for the preliminary
16 injunction.

17 QUESTION: And what was their conduct?

18 MR. FUHRMAN: Well, there were pickets of eleven to
19 forty people picketing off and on over a period of
20 approximately three weeks. Their conduct was to denounce the
21 Doctor.

22 QUESTION: How, vocally or signs?

23 MR. FUHRMAN: Both, both vocally and by sign. He was
24 described as a baby killer, and there were other picturesque
25 phrases that are in the record.

1 QUESTION: Stop abortion, and abortion is murder?

2 MR. FUHRMAN: Yes, among other things. Yes,
3 Justice Marshall.

4 QUESTION: Here you are not complaining about that?

5 MR. FUHRMAN: No, we are not complaining about that.
6 We are complaining about two things. The invasion of the
7 privacy of this residence, and also the threat to public
8 safety.

9 QUESTION: You are still relying on the threat to
10 public safety?

11 MR. FUHRMAN: Yes, we are.

12 QUESTION: Although you just told me that there would
13 be no problem if the picketers kept moving throughout the whole
14 neighborhood, I mean it is less of a threat if it occurs in the
15 whole neighborhood than if it occurs in front of one house?

16 MR. FUHRMAN: As we pointed out in our brief, in the
17 event that you have a parade rather than simply a picket, you
18 do have a less hazardous situation. We concede, first of all,
19 that any walking on the street by pedestrians is dangerous.
20 But it is more dangerous if you have a picket line. Because
21 you have these people not actually in continuing movement, but
22 you have them moving only a short distance, and then following
23 their picket route, you see.

24 QUESTION: You will forgive me if I do not find that
25 self-evident. I think that it surely depends on how people are

1 walking and what they are doing. And you could be walking the
2 same way throughout the whole neighborhood, two abreast or back
3 and forth or whatever.

4 It seems to me that if you are focusing on the fact
5 that it is in front of one house, that it must have something
6 to do with matters other than safety.

7 QUESTION: Well, your record certainly contains
8 instances of interference, does it not?

9 MR. FUHRMAN: Well, the record contains instances of
10 interference, which of course goes beyond picketing, such as
11 obstructing the driveway and trespassing upon property. Now as
12 has been pointed out by the Appellees, there are ordinances
13 addressed to those particular problems. The point that we are
14 discussing today really is the picketing ordinance itself.

15 QUESTION: Mr. Fuhrman, would the town prohibit
16 Appellees from standing in the street in front of the house and
17 handing out leaflets containing the same messages as on the
18 signs?

19 MR. FUHRMAN: No. It is our understanding that
20 leafleting is not covered by this ordinance. Now I could
21 conceive of a situation where a picketer might have leaflets
22 and do two different things. But leafleting is not picketing.

23 QUESTION: But what is a picket, does a picket have
24 to have a sign?

25 MR. FUHRMAN: He does not have to have a sign.

1 QUESTION: Suppose he just stands there handing out
2 leaflets, but he stands right at the one stop, is that
3 picketing?

4 MR. FUHRMAN: If he is following a picket route, he
5 is picketing.

6 QUESTION: I will give you the facts. The lot is
7 sixty feet. And just in order to amuse himself, he goes up on
8 the sixty feet until somebody comes out, and then he gives him
9 the leaflet.

10 MR. FUHRMAN: All right. What I am saying is that he
11 is performing two functions. One, he is picketing; and one, he
12 is leafleting.

13 QUESTION: Suppose he just stands in one spot and
14 hands out the leaflet, is that a picket?

15 MR. FUHRMAN: Not a picket.

16 QUESTION: But if he moves ten feet of the way, then
17 that is a picket?

18 MR. FUHRMAN: If he is moving and following a picket
19 route, he is a picket, right.

20 QUESTION: Even if he is not carrying a sign?

21 MR. FUHRMAN: That is true. For instance, although I
22 am not aware of any Appellate Court decisions on this, there
23 have been instances where a member of the Ku Klux Klan has
24 picketed from one point to another point following a picket
25 route in a residential area. And that would be a violation of

1 the ordinance.

2 QUESTION: Let us assume that he was in a black
3 neighborhood and he walked up and down a whole block and did
4 not concentrate on one house, is that picketing?

5 MR. FUHRMAN: Then it would not be picketing within
6 the meaning of our ordinance.

7 QUESTION: Well, he is concentrating on all of the
8 houses there, all of the houses.

9 MR. FUHRMAN: I understand what you are saying. And
10 I am simply drawing a distinction between picketing and parade.

11 QUESTION: Mr. Fuhrman, do you say that a single
12 picketer, let us say present one hour a day, in front of a
13 residence substantially interferes with the residential
14 privacy?

15 MR. FUHRMAN: I certainly do. Let us just take the
16 Ku Klux Klan picketer that I just mentioned before. Certainly,
17 one picket making that route back and forth in front of one
18 home that he is targeting would violate the privacy.

19 QUESTION: For one hour a day or half an hour a day?

20 MR. FUHRMAN: Yes, ma'am. I would say so.

21 QUESTION: Or once a week?

22 MR. FUHRMAN: I would say that if he did it once a
23 week, that it would also be a violation of the privacy of that
24 home.

25 QUESTION: Sufficiently substantial to justify the

1 First Amendment infringement?

2 MR. FUHRMAN: It certainly would.

3 The second point that we planned to discuss was the
4 matter of the streets of Brookfield not being a public fora.
5 Now we realize, of course, that there are cases that have
6 substantial dicta indicating a repetition of the cliché that
7 streets are quintessential public fora since time immemorial.

8 And we believe that the key word in that cliché is
9 the word immemorial. We realize that --

10 QUESTION: One man's cliché is another man's
11 fundamental principle. Be careful here.

12 MR. FUHRMAN: Touche. Nevertheless, I think that we
13 have to really realize the historical origin of this. Many,
14 many years ago, the streets of Ancient Rome converged upon a
15 public square known as the Forum. And all of the principal
16 buildings were at the Forum, and that Forum was certainly the
17 place of discussion and of debate. And all other forums have
18 derived their names from that location.

19 We submit, however, that in 20th Century United
20 States that to say that every street is a public forum is
21 simply a statement contrary to fact.

22 Take for instance, the major arteries of the
23 interstate highway system. Here you have a system of arteries
24 that penetrate all of the major cities of the United States.
25 And nevertheless, they are --

1 QUESTION: Billboards are forbidden on some of them,
2 are they not?

3 MR. FUHRMAN: I beg your pardon.

4 QUESTION: Billboards are forbidden on some of them,
5 are they not?

6 MR. FUHRMAN: Right. But they are cordoned off by
7 cyclone fences from the pedestrians and for a darn good reason.
8 Because the volume of traffic and the velocity of traffic is
9 such that to say that that would be a forum for picketing and
10 other forensic activity is just ridiculous. And nevertheless,
11 we have the old cliché or fundamental principle.

12 And on the other hand, we have the opposite extreme.
13 We have these thirty foot roads in suburban Brookfield which
14 are so small and so narrow that only one car can travel in each
15 direction at the same time, no curbs, no gutters, no sidewalks.
16 Basically, it is an inherently hazardous situation for any
17 pedestrian as a matter of *res ipsa loquitur*, simply by
18 accepting these basic facts which are undisputed.

19 QUESTION: That argument might cut two ways. Because
20 if there are no sidewalks, I presume that when someone has to
21 go for a walk, that person must walk on the street, so drivers
22 should realize.

23 MR. FUHRMAN: Or across his neighbor's lawn.

24 QUESTION: They encourage trespassing in Brookfield.

25 MR. FUHRMAN: Well, trespassing is a matter of

1 intent, because of the neighbor consensus.

2 QUESTION: But is it not normal that in a lot of
3 neighborhoods like that that you do in fact walk along the edge
4 of the road, do you not?

5 MR. FUHRMAN: This does happen.

6 QUESTION: So I would think that the drivers would be
7 aware of the fact that it is not a heavily trafficked area, I
8 am sure, and they would know that you have to drive rather
9 carefully.

10 What is the speed limit, about fifteen miles an hour?

11 MR. FUHRMAN: No, it is twenty miles an hour.

12 QUESTION: Twenty miles an hour. So it is not high
13 traffic and high speed driving.

14 MR. FUHRMAN: No. And of course, I would concede
15 that any pedestrian on these streets is to some
16 extent --

17 QUESTION: That sounds like the ordinance is enacted
18 for the protection of the picketer.

19 MR. FUHRMAN: Well, this is the reason why I am
20 suggesting reading the dissenting opinion of Judge Coffey.
21 Because he not only talks about the protection of the picketer,
22 but he also discusses the responsibility of the municipality
23 for the safety of all people on the public highways.

24 MR. FUHRMAN: This is quite a separate argument from
25 frankly what to me is more persuasive, the interest of the

1 resident in not having someone who is arguably hostile out in
2 front all day long. That is the interest frankly that would
3 concern me more than worrying about whether the fellow would
4 step in front of fifteen mile an hour school bus or something
5 like that.

6 QUESTION: And that is the interest that Carey spoke
7 about, Carey v. Brown.

8 MR. FUHRMAN: Well, Carey v. Brown primarily dealt
9 with the matter of privacy.

10 QUESTION: Yes.

11 MR. FUHRMAN: And in fact --

12 QUESTION: Why do you not talk about that. I really
13 think a whole lot of us want to hear about this.

14 MR. FUHRMAN: We believe that this Court should
15 follow its own precedent that it established in the City of
16 Renton case, and protect residential privacies. In
17 Carey v. Brown, this Court stated, "Preserving the sanctity of
18 the home, the one retreat to which men and women can repair to
19 escape from the tribulations of their daily pursuits, is surely
20 an important issue. Our decisions reflect no lack of
21 solicitude for the right of an individual to be let alone in
22 the privacy of a home, sometimes the last citadel of the tired,
23 the weary and the sick."

24 QUESTION: Mr. Fuhrman, do you think that the First
25 Amendment under that precedent would enable a city to prevent

1 door to door solicitation and the actual ringing of the
2 doorbell?

3 MR. FUHRMAN: I would say that personally that an
4 ordinance to that effect could be constitutionally valid. I
5 would have to naturally recognize --

6 QUESTION: Do you think that this Court's precedence
7 would support your view?

8 MR. FUHRMAN: First of all, I believe at this time,
9 we are not arguing that point of course, and we believe that
10 there has been a division among the Circuits on that issue.
11 And as far as the Seventh Circuit is concerned, the Seventh
12 Circuit in the Watseka case, had determined that this type of
13 activity is unconstitutional.

14 QUESTION: I thought that this Court had spoken to
15 that issue.

16 MR. FUHRMAN: This Court did, because it actually
17 confirmed the decision in the Watseka case.

18 QUESTION: The Green River ordinance cases,
19 *Murdock v. Pennsylvania*, and *Struthers*, those are pretty much
20 what Justice O'Connor is talking about, too, are they not?

21 MR. FUHRMAN: Yes.

22 QUESTION: What about the Austin case and the City of
23 Boston back in 1971. They said that door to door picketing was
24 all right, door to door leafleting was all right.

25 MR. FUHRMAN: Leafleting.

1 QUESTION: And you would draw a line between
2 leafleting and picketing.

3 MR. FUHRMAN: As a matter of fact, I said that I do
4 draw a line between leafleting and picketing. And
5 Justice O'Connor had asked that question before.

6 QUESTION: I still have not gotten your answer.

7 MR. FUHRMAN: The ordinance of the Town of Brookfield
8 only relates to picketing. It does not relate to leafleting.

9 QUESTION: And the difference between leafleting and
10 picketing is what from a constitutional standpoint?

11 MR. FUHRMAN: From a constitutional --

12 QUESTION: They both disturb, do they not?

13 MR. FUHRMAN: Well, they do to some extent. Although
14 picketing is more invasive, because you are actually --

15 QUESTION: You are disturbing, are you not?

16 MR. FUHRMAN: I beg your pardon.

17 QUESTION: Is that not what you are against,
18 disturbing the resident?

19 MR. FUHRMAN: We are against invading the privacy of
20 the home. And leafleting is less invasive in that regard than
21 picketing.

22 QUESTION: It is less disturbing then?

23 MR. FUHRMAN: Less disturbing, yes.

24 QUESTION: I suppose that you suggest a bright line,
25 that any street that could be classified as a residential

1 street could be subject to an ordinance like this?

2 MR. FUHRMAN: The rule that we believe that the Court
3 should follow is the rule of *Cornelius v. NAACP*. We believe
4 that like other publicly owned property, that each street
5 should be determined as to whether or not it lends itself to
6 the First Amendment activity.

7 QUESTION: If the focus of the ordinance is an
8 individual home, what difference would it make what kind of
9 street it is, as long as the picketing is aimed at one home on
10 a particular street, as the invasion of privacy is just as
11 great?

12 MR. FUHRMAN: I agree. But we have in our argument
13 really two propositions. Number one, we are arguing that
14 streets, the residential streets of Brookfield, are not public
15 fora. And the reason that we are making that argument is
16 because that establishes a different standard for evaluating
17 the ordinance. But we are arguing, number two, that in the
18 event that this Court should find that notwithstanding
19 everything that I have said that all streets without exception
20 are public fora, that then in that event that the ordinance is
21 still constitutional as a valid time, place and manner,
22 regulation of two important governmental interests.

23 QUESTION: It is going to take a lot of litigation to
24 litigate every street in the country to figure out whether they
25 are public fora or not.

1 MR. FUHRMAN: Well, if you had litigation on each and
2 every street, yes. But on the other hand, we believe that
3 reason would enter in here. Because if you look at the streets
4 of the Town of Brookfield, and you know that they are thirty
5 feet in width, you should know that you do not have public
6 fora.

7 CHIEF JUSTICE REHNQUIST: Thank you, Mr. Fuhrman.
8 We will hear now from you, Mr. McDowell.

9 ORAL ARGUMENT BY STEVEN FREDERICK MCDOWELL, ESQ.

10 ON BEHALF OF APPELLEES

11 MR. MCDOWELL: Mr. Chief Justice, and may it please
12 the Court:

13 Before this Court today is an attempted appeal from
14 an order affirming a preliminary injunction. There is no
15 finality, no ultimate determination on the merits of the
16 constitutional issue, and therefore no appeal jurisdiction.

17 In light of the preliminary nature of the case, this
18 case may well be more appropriately handled by way of summary
19 affirmance rather than a comprehensive review of the town's
20 claims, claims which we contend lack support in either the
21 record nor the decisions of this Court.

22 The town's case rests fundamentally upon a challenge
23 of two basic premises of First Amendment law. That streets are
24 quintessential public fora; and that picketing, a legitimate
25 peaceful forum of First Amendment expression is to be permitted

1 in such public fora areas.

2 The District Court, we contend and we believe, did
3 not abuse its discretion in determining that the picketers were
4 likely to prevail on the merits of their First Amendment
5 claims.

6 QUESTION: The District Court or Court of Appeals,
7 either one, Mr. McDowell, indicate that they thought more facts
8 were necessary in order for them to reach a conclusion on the
9 constitutional issue?

10 MR. MCDOWELL: The District Court's opinion indicated
11 that based upon the facts that are currently in the record that
12 there were sufficient facts to grant the preliminary injunction
13 and in fact to grant a final injunction.

14 We believe that this is in fact an appropriate
15 determination. Because based upon the normal assumptions that
16 are normally made about streets, that they are normally public
17 fora, and also based upon the normal conclusion that picketing
18 is a legitimate form of expression, just based upon the facts
19 as developed there, that there would be a sufficient record to
20 make that determination.

21 However, if other facts are sought to be introduced,
22 such as for example, the question of whether one must move or
23 remain stationary to constitute picketing in the Town of
24 Brookfield, perhaps it may be necessary to go back for a
25 further determination.

1 QUESTION: But the town says that it does not have
2 anything else to offer.

3 MR. MCDOWELL: That is correct. And if that be the
4 case, then it would seem that this Court may well wish to go
5 ahead with a final decision on the merits. However, we would
6 point out that there are a number of facts that the town has
7 asserted in its brief, such as the lack of past use of the
8 streets of the Town of Brookfield for picketing, which are not
9 currently in the record.

10 So if this Court wishes to rely on such facts, it may
11 be necessary for a further determination. But based upon the
12 facts now in the record, there is in fact evidence sufficient
13 to support a preliminary injunction in favor of the picketers
14 in this case.

15 QUESTION: Well, if the town wants the issue decided
16 on the present record, does that make it a final judgment?

17 MR. MCDOWELL: I am not certain of that fact, because
18 I am not certain of that point. Normally, a preliminary
19 injunction is considered a non-final order. And secondly,
20 there has not been a square holding on the constitutional issue
21 as of yet. Because all that we have at this point is a
22 preliminary injunction. A final injunction was never issued.

23 The town could have simply allowed a final injunction
24 to be issued, in which case there would be no problem with
25 finality in this case. It chose not to do so.

1 QUESTION: Did they not ask for a trial? I thought
2 that they asked for a trial.

3 MR. MCDOWELL: They did.

4 QUESTION: So they obviously are not satisfied with
5 the record.

6 MR. MCDOWELL: Well, that is the way that the
7 picketers have to construe the status of the case at this
8 point.

9 QUESTION: But before us today, I guess that
10 Mr. Fuhrman says that he does not now want a trial.

11 Is that what you heard?

12 MR. MCDOWELL: That is what I heard. So that is
13 something that is Mr. Fuhrman's decision to make, and not the
14 decision of the picketers, since we did not request a trial.

15 QUESTION: The problem here is not finality at all, I
16 do not think, under the provisions of the statute. An order
17 granting a preliminary injunction is appealable. The only
18 question is what standard of review do you use in judging
19 whether or not the preliminary injunction was correctly
20 granted.

21 Everybody concedes that there was at least a
22 preliminary injunction. That is appealable to the Seventh
23 Circuit, and we have jurisdiction to review a case that is in
24 the Seventh Circuit.

25 MR. MCDOWELL: Yes, it would be reviewed on the basis

1 of an abuse of discretion standard in such a situation.
2 However, there is a question of whether there is a square
3 holding on the constitutional point. Because the lower court
4 judge utilized the normal standard that is used in the Seventh
5 Circuit, which is the standard of whether one is likely to
6 prevail upon the merits.

7 QUESTION: You were just talking about appellate
8 jurisdiction, were you not, not certiorari jurisdiction?

9 MR. MCDOWELL: That is correct. We were speaking of
10 appellate jurisdiction.

11 QUESTION: So if you are talking about jurisdiction,
12 we can always just grant cert.

13 MR. MCDOWELL: Oh, certainly.

14 QUESTION: But that would still leave the standard of
15 review that the Chief Justice was talking about.

16 MR. MCDOWELL: That is correct. And in fact, the
17 District Court did not abuse its discretion in granting the
18 preliminary injunction in this case.

19 When we turn to the substance of the case and the
20 merits of the case on the free speech issue --

21 QUESTION: Mr. McDowell, is this a facial attack on
22 the ordinance?

23 MR. MCDOWELL: The attack is more in line of a facial
24 attack, in that what the picketers are challenging is the
25 application of the ordinance to picketers in general and into

1 activity that they would wish to engage in. So it basically is
2 a facial challenge.

3 QUESTION: Well, if it is, then I take that if there
4 is any set of facts that we can think about picketing to which
5 the ordinance could constitutionally be applied, you lose, do
6 you not, if it is a facial attack?

7 MR. MCDOWELL: If it is a facial attack, there the
8 question that this Court would have to determine is whether the
9 ordinance could appropriately be subject to a limiting
10 construction.

11 In this case, the town in its brief indicated that
12 limiting constructions might or might not be possible, but that
13 the town wished to forbid all picketing.

14 QUESTION: You are not relying on the overbreadth
15 doctrine then, I take it?

16 MR. MCDOWELL: The overbreadth doctrine is a point
17 that we have relied upon at various points. It was not the key
18 issue upon which the District Court granted its injunction.
19 However, the overbreadth doctrine has been raised both at the
20 District Court and at the Seventh Circuit. And in this case,
21 there may well be that the ordinance sweeps substantially
22 overbroadly with respect to protected expression.

23 QUESTION: If you can only conceive of one instance
24 in which it is okay and only one, one might suspect that it is
25 overbroad.

1 MR. MCDOWELL: That is absolutely correct.

2 QUESTION: I would think so.

3 MR. MCDOWELL: Yes.

4 QUESTION: I must confess that I am a little puzzled.
5 Your complaint suggests that you are concerned about your
6 client's own right to picket.

7 MR. MCDOWELL: Yes.

8 QUESTION: Because they have been threatened with
9 arrest. But the District Court found what kind of picketing
10 that they had engaged in the past, namely eleven to forty
11 people, and there were some unfortunate remarks and one thing
12 or another of that kind.

13 Should we ask the question whether that particular
14 type of picketing is constitutionally protected?

15 MR. MCDOWELL: That type of picketing serves as a
16 background certainly that this Court can consider and can
17 consider in terms of the motivation perhaps of the town in
18 passing this ordinance.

19 QUESTION: What if we were to assume that that is all
20 that it really prohibits, and that is all that you really care
21 about, because you want to engage in exactly what you have done
22 before, and then focus on that issue instead of all of these
23 hypothetical things like leafleting.

24 Would you say that you could picket with forty
25 persons out in front all day long seven days a week in front of

1 this house?

2 MR. MCDOWELL: The problem is that the ordinance
3 forbids more than simply that.

4 QUESTION: Well, first answer my question, would you.

5 MR. MCDOWELL: We do not believe that the picketers
6 have an absolute right to picket without respect to
7 considerations.

8 QUESTION: Do you think that they have a
9 constitutional right to engage in the kind of picketing that
10 the District Court found in this case?

11 MR. MCDOWELL: Yes, I do.

12 QUESTION: You do. Forty persons seven days a week
13 right straight through.

14 And if that is true and if we are focusing on this
15 picketing, what was the audience at which this picketing was
16 directed?

17 MR. MCDOWELL: The picketing was directed at both
18 Dr. Victoria and his neighbors.

19 QUESTION: I see, thank you.

20 MR. MCDOWELL: That is what the affidavits show and
21 the record shows in this case.

22 QUESTION: What do you mean directed at, was it in
23 front of the neighbors' houses or in front of his house?

24 MR. MCDOWELL: It was in front of his house.

25 QUESTION: Well, that is generally referred to as

1 picketing him, not picketing his neighbors.

2 MR. MCDOWELL: That is correct. The question I
3 believe that Justice Stevens has was a question as to who the
4 proper audience was. Certainly, neighbors going back and forth
5 would be able to see the signs, and obviously would be an
6 audience.

7 QUESTION: Mr. McDowell, you mentioned a couple of
8 basic principles of First Amendment law when you started off.
9 On another one, and we just issued an opinion today that averts
10 to it indirectly, is that picketing is different from other
11 First Amendment activities. It can be intimidating. It is
12 different from leafleting, and it is different from pure
13 speech.

14 As far as the merely informative content of letting
15 the neighbors know that this man is an abortionist and that you
16 disapprove of it, as far as that is concerned, you would
17 leaflet, you could slip information under the doors of the
18 neighbors, and you could march around the whole neighborhood
19 with a sign, as counsel for the city says is permissible under
20 this ordinance.

21 But you do not want to do that. You want to
22 essentially hassle this doctor, to put it in the vernacular.
23 You want to be in front of his house and bring home to him your
24 displeasure with him in, maybe intimidating is not the word,
25 but an annoying fashion essentially.

1 Is that not what is going on, is there any other
2 reason why you have to picket his house?

3 MR. MCDOWELL: We do not claim a right to harass.
4 And in this case, that is not what was involved. Because
5 public issue picketing is in many ways quite similar to
6 leafleting. Because what is involved is the transmission of a
7 message, in this case a message of opposition to abortion.
8 Picketing was a means utilized.

9 However, what was involved here was not the type of
10 perhaps signal that one might have in a labor picketing
11 instance, but instead merely a use of the signs and the
12 picketing to indicate disapproval.

13 QUESTION: When you picket a store, that is a logical
14 place to do that, because you are sending your message to the
15 customers of that store or a business. Or you are picketing a
16 plant that is on strike. You are sending the message to the
17 other workers who might want to come in.

18 To whom are you sending the message here, that they
19 could not get it anywhere else, why is this a logical place to
20 get this message across to anyone except the doctor whose
21 privacy you are invading?

22 MR. MCDOWELL: Well, it is a legitimate place, as the
23 picketers noted in their affidavits, to transmit their message
24 both to the doctor and also to his neighbors.

25 QUESTION: You can get it to his neighbors very

1 easily. His neighbors do not congregate in front of his house.

2 MR. MCDOWELL: The reason why picketing may be a
3 particularly sensible type of procedure by which to transmit
4 such a message is that a picket sign is a sign that a neighbor
5 or anyone going by can look at and notice what the opinions are
6 of the picketers. It is in essence something like a mass media
7 that can be done at a minimum amount of expense to the
8 picketers involved.

9 QUESTION: You can do that walking around the
10 neighborhood. In fact, it would be better. You would not have
11 to rely on the neighbors happening to come out by the house.
12 You do not want to do that. You want to stand right in front
13 of his house. You want to stick your thumb in his eye
14 essentially.

15 Is that not what it is about, the annoying nature of
16 picketing?

17 MR. MCDOWELL: I do not believe that it is in this
18 case. Because the picketers' desire is a desire simply to
19 transmit their message involved, and they wish to utilize
20 picketing which has been recognized as a legitimate First
21 Amendment protected means of expression.

22 QUESTION: Why not picket him at his clinic?

23 QUESTION: You can go up to Appleton or into
24 Milwaukee and picket him at his clinic.

25 MR. MCDOWELL: It is possible to picket at other

1 locations. However, the mere fact that one can picket at
2 another location does not permit a picketing ban in a certain
3 location unless such a ban is narrowly tailored to support
4 specific interests, either in safety or in residential privacy.

5 QUESTION: But I think that any court familiar with
6 our cases might be more likely to uphold a ban on residential
7 picketing if there was an opportunity to picket the individual
8 that they desire to bring the message home to somewhere else.

9 MR. MCDOWELL: Certainly, alternative channels can
10 figure into the analysis. However, once again, the key point
11 is is this ordinance which forbids all picketing flatly in the
12 Town of Brookfield an ordinance which is narrowly tailored to
13 support the interests involved.

14 QUESTION: Why do you say that it is not narrowly
15 tailored to support privacy and safety?

16 MR. MCDOWELL: Turning first to safety, the reason
17 why it is not narrowly tailored to support the safety interests
18 is number one, because the ordinance prohibits only picketing
19 but permits a number of expressive and non-expressive
20 activities which can have just as severe an effect upon the
21 interests of free vehicular movement and free pedestrian
22 movement and the like as anything else.

23 Furthermore, the ordinance addresses the problem in a
24 way which does not make much sense. If the problem is with the
25 picketers' safety and with the safety of the community with

1 concerns about traffic, what is done is that the picketers are
2 moved off of a property where perhaps there is less traffic and
3 moved on to Bluemound Road, a busy highway. Where seemingly if
4 one is concerned about safety, and traffic, and the like, that
5 the distractions will be greater than in the residential
6 neighborhood.

7 QUESTION: As to privacy?

8 MR. MCDOWELL: As to privacy, the reason --

9 QUESTION: How do you tailor this more narrowly than
10 an absolute prohibition?

11 MR. MCDOWELL: Well, a number of different options
12 are available to the town. First, with respect to the adverse
13 effects of picketing, the town has a number of ordinances
14 currently in effect, ordinances banning such things as
15 littering, obstruction of the streets and so forth, which apply
16 equally to expressive and non-expressive activity, which could
17 suitably apply to this case.

18 QUESTION: For example, they have an ordinance or law
19 of some kind under which the picketers for crowding and such
20 numbers on the lawn could be arrested?

21 MR. MCDOWELL: Well, there is a trespass ordinance
22 which would apply to such activity on the lawn.

23 QUESTION: Could they be arrested for violation of
24 that ordinance?

25 MR. MCDOWELL: That is correct. They could, if they

1 were on the lawn, under the construction of the state
2 constitution.

3 QUESTION: Is there any way that they could not be on
4 the lawn?

5 MR. MCDOWELL: They would be on the streets. And
6 there, you have the question of whether such activity would
7 obstruct the street. And there, what one could do perhaps, and
8 the town has not done this -- the point is that the town has
9 banned all picketing irrespective of numbers -- the town could
10 perhaps place some limitation on the numbers of picketers, some
11 limitation on the time at which the picketers could be out
12 there, but it has not done that.

13 QUESTION: Let me interrupt you. You told me a
14 minute ago that this picketing of forty persons all day long
15 was constitutionally protected.

16 How could they put a limit on, you mean no more than
17 fifty would be the limit, or could they put a limit on no more
18 than one or two?

19 MR. MCDOWELL: We believe, and obviously this is a
20 legislative question which the town would have to address, and
21 it would present a different constitutional question.

22 QUESTION: It is not a legislative question. You are
23 telling us what they could constitutionally do, that they
24 constitutionally could do these alternative things, all of
25 which are different from what you a few minutes ago told me

1 that they could not constitutionally do.

2 MR. MCDOWELL: Let me clarify then my statement of a
3 few minutes ago. The basic protection of picketing is
4 something that is constitutionally protected. Certainly,
5 numbers of picketers could be regulated to the extent that
6 numbers of picketers interfere either with free use of the
7 streets or with the interests of the town in privacy.

8 QUESTION: Well, specifically, could they pass an
9 ordinance saying that you may not picket with more than ten
10 persons in front of a house for more than eight hours a day?

11 MR. MCDOWELL: We would have with respect to that
12 ordinance the similar analysis that would have to be applied.
13 That is does the ordinance restrict picketing.

14 QUESTION: I understand the analysis. I am curious
15 to know what your answer is.

16 MR. MCDOWELL: All right. My answer would be that
17 ten picketers would raise a severe question, because there
18 would be a question of whether a limitation --

19 QUESTION: I understand that there is a severe
20 question, but what is the answer to it?

21 MR. MCDOWELL: Okay. I would say that that would not
22 be constitutional, because there would not be a significant
23 enough impact upon public safety interests to justify the
24 ordinance.

25 QUESTION: In other words, you gave me the same

1 answer that you did before, the picketing that you engaged in,
2 you think was constitutionally protected. And therefore, these
3 alternatives about changing numbers or hours are purely just
4 argument. You do not really believe that.

5 MR. MCDOWELL: The question with respect to whether
6 the picketers would believe that or not, I think would largely
7 be determined if the town passed such an ordinance, would the
8 picketers then challenge it as an unreasonable limitation on
9 their speech. And that is a question for a future case.

10 QUESTION: But it is not so much the picketers. You
11 are giving answers saying that although the town cannot do what
12 it has done, that it could do these other things. But then
13 that seems inconsistent with the answer that you think that the
14 Constitution protects the way that you actually picketed here,
15 which would be prohibited by some of the alternatives that you
16 propose. So the question is how serious you are about the
17 alternatives.

18 MR. MCDOWELL: I would answer the question this way.
19 We are serious about the alternatives. It is possible that
20 some of the picketers' activities might have violated the
21 Constitution under a narrowly tailored ordinance. This
22 ordinance, however, is not narrowly tailored.

23 QUESTION: Suppose that we thought that as applied to
24 the picketing that actually had taken place and presumably
25 would take place again, that the ordinance was quite

1 constitutional, what if we thought that.

2 Should we not then just sustain the ordinance, or
3 what else do you have to offer?

4 MR. MCDOWELL: I would again go back to points that
5 have been emphasized with respect to the entire discussion of
6 this case. What is not involved here is an enforcement action
7 on picketing which took place after the ordinance was passed.

8 QUESTION: I know. But if this is a facial attack,
9 and suppose we say that as applied to this picketing as applied
10 by the District Court, that this ordinance is quite
11 constitutional.

12 Now is not your only rejoinder then, well, that may
13 be so, but it is overbroad?

14 MR. MCDOWELL: That is right. That is right. If our
15 activity is not protected, then it becomes an overbreadth
16 challenge.

17 QUESTION: And then what do we have to do, do we have
18 to imagine the reach of the ordinance. It may not be
19 substantially overbroad.

20 MR. MCDOWELL: That is perhaps a question that would
21 then have to be determined at trial. There might have to be
22 additional facts and so forth put out as to the enforcement
23 policies of the town, which might need to be dealt with at that
24 point.

25 QUESTION: Well, that may be. But to do that, we

1 should just reverse, we should reverse the Court of Appeals?

2 MR. MCDOWELL: No, but --

3 QUESTION: We could never decide an overbreadth case
4 if we had to do that, to go back to see exactly how the statute
5 would be applied in these situations. That is not how we do
6 overbreadth.

7 MR. MCDOWELL: Overbreadth is --

8 QUESTION: If it is overbroad, it is overbroad, is it
9 not?

10 MR. MCDOWELL: Right. Overbreadth is basically a
11 question of applying the sweep of the statute, and in essence
12 determining that the statute can apply very clearly to
13 protected activity. And that is apparent with respect to this
14 ordinance which bans all residential picketing in a
15 neighborhood without any concerns.

16 QUESTION: Have we ever applied overbreadth to an
17 ordinance or a statute dealing just with picketing?

18 MR. MCDOWELL: I believe that the Thornhill case,
19 which overbreadth was first utilized, was a picketing case. So
20 picketing cases are subject to overbreadth analysis.

21 QUESTION: Have you ever checked on how many times
22 Thornhill has been cited?

23 MR. MCDOWELL: I have not checked out how many times,
24 but I believe with some degree of frequency in my reading of
25 this Court's First Amendment cases in preparation here.

1 QUESTION: In your answer to Justice Stevens, you
2 indicated that privacy is a protectable interest insofar as the
3 state is concerned, the privacy of homes?

4 MR. MCDOWELL: Privacy of homes is a protectable
5 interest.

6 QUESTION: Can it be protected from picketing in any
7 degree?

8 MR. MCDOWELL: In applying such an analysis, what has
9 to be determined is what precisely is the character of the
10 privacy interest. For example, in the Keith case, this Court
11 seemed to indicate that there were questions with respect to
12 the application of --

13 QUESTION: Do you have a right to a quiet street?

14 MR. MCDOWELL: Excuse me.

15 QUESTION: Is there a right to a quiet street?

16 MR. MCDOWELL: The residential privacy interests can
17 extend to some extent to cover interests in tranquillity and
18 quiet. A noise ordinance, for example, is a proper means to
19 address that interest.

20 QUESTION: But some picketing can be regulated in
21 order to preserve the character of the residential
22 neighborhood?

23 MR. MCDOWELL: The abuses that go with certain
24 picketing could be regulated. However, an inherent
25 proscription of all picketing --

1 QUESTION: So picketing can interfere with privacy
2 and with residential character, and to that extent can be
3 regulated?

4 MR. MCDOWELL: What we have in essence is a balance
5 in such a situation. Picketing may have some impact upon
6 residential privacy interests. However, in looking at that
7 analysis, it is important to remember that normally, as in the
8 Keith case, the interest in residential privacy does not extend
9 to forbid activity taking place on a public forum property.
10 Second, it is important to realize --

11 QUESTION: But you indicate that it can in some
12 instances?

13 MR. MCDOWELL: The Court has not applied the analysis
14 of residential privacy to forbid activity in a public forum of
15 the picketing nature.

16 QUESTION: Well, has the Court confronted a case
17 where the public forum doctrine has squarely measured against
18 the interest of the homeowner and privacy and quiet?

19 MR. MCDOWELL: The closest that this Court has come
20 to that situation was the Carey case. And in the Carey
21 case --

22 QUESTION: And that went off on equal protection
23 grounds.

24 MR. MCDOWELL: Well, in the Carey case --

25 QUESTION: And in that case, we also said that there

1 is a very strong interest, a very strong constitutional
2 recognition, of the right of privacy.

3 MR. MCDOWELL: Granted, you are absolutely correct.
4 However, I would also point out that in the Carey case in
5 footnote that this Court indicated that its justification and
6 the reason for its analysis in the Carey case was the presence
7 of a public forum there. And so it would appear that public
8 forum analysis does appropriately apply to residential streets,
9 which are not significantly different in any major way from the
10 streets and sidewalks in other particular areas.

11 Furthermore, getting back to the residential privacy
12 interests, it is important to remember --

13 QUESTION: And under Justice Stevens' question, this
14 could go on 365 days a year as far as you are concerned?

15 MR. MCDOWELL: I believe that it could go on for a
16 substantial period of time, yes.

17 QUESTION: 365 days a year?

18 MR. MCDOWELL: Yes, I think it could. However, that
19 is an issue that again is not precisely before the Court.
20 Because what we have here is an absolute flat ban on all
21 residential picketing irrespective of how long it extends.

22 QUESTION: I do not understand how you can say that
23 the length has anything to do with it. I mean either it
24 invades the privacy or it does not invade the privacy.

25 Does it not invade the privacy if it only happens one

1 hour a day? That means that it is an one hour's invasion. I
2 mean some activities you can say if they are at a lower volume,
3 you can say that they do not annoy anybody. So a difference in
4 degree can make a difference in kind. It is no longer an
5 annoying activity.

6 But if this is an invasion of privacy, it is an
7 invasion of privacy if it occurs one hour or 24 hours, is it
8 not?

9 MR. MCDOWELL: We do not believe that -- to a certain
10 extent, there will always be a degree of privacy invasion. But
11 the problem is that what has to be weighed in the balance is
12 this privacy invasion, whatever it may be, vis-a-vis the
13 important interests of the picketers in the First Amendment
14 expression.

15 QUESTION: Right. Now let us talk about that.

16 What is it that you can only do by picketing that you
17 cannot do by some other form of activity, handing out leaflets
18 and parading around, picketing in the sense in which this
19 ordinance uses the term, parading around the whole
20 neighborhood, handing out leaflets, picketing or doing whatever
21 you want in front of the doctor's offices, what is there
22 distinctive about this, is there anything distinctive about
23 this activity except the invasion of this man's privacy?

24 MR. MCDOWELL: What is distinctive about picketing
25 activity is that by use of signs and by use of perhaps a

1 limited degree of movement that it creates a place where people
2 can determine and people can see a message that is broadcast by
3 way of signs.

4 And there is a question that perhaps could be turned
5 the other way with respect to that, what is the significant
6 difference between picketing and marching. If marching is to
7 be prohibited, what is there about picketing that makes it so
8 substantially different that there is a more extensive need to
9 regulate such activity.

10 QUESTION: I suggest that if you have a parade in
11 your neighborhood and then have a picket at your house, that
12 you will see the difference.

13 MR. MCDOWELL: Perhaps so, perhaps so. But the
14 essential question though that has to be determined when one
15 deals with the interest in residential privacy is that this
16 interest is not an interest in restricting content. There mere
17 emotional impact that one may receive from the content of
18 speech is not relevant. That I believe is the message of the
19 Boose case.

20 What is involved here and what is critical to
21 remember is that this ordinance would prohibit picketing
22 activity where it were friendly or unfriendly. For example,
23 one under this ordinance could go back and forth in front of
24 Dr. Victoria's house indicating that Dr. Victoria adhered to
25 the finest standards of the medical profession. If one were to

1 do that, under this ordinance, it would be prohibited, under
2 the definition that the town has utilized.

3 QUESTION: The doctor would probably invite them in
4 for a cup of coffee.

5 MR. MCDOWELL: He might, he might, but he could also
6 report them to the police. Anything is possible under this
7 ordinance.

8 QUESTION: If they liked him that much, of course,
9 they would go away if he asked them, I am sure. I mean he
10 would open the door and say, gee, I really like that, but you
11 fellows are invading my privacy. The best to do if you really
12 like me is to be gone.

13 MR. MCDOWELL: The key point here though is that the
14 ordinance sweeps so broadly that it prohibits all of these
15 types of activity. And furthermore, the presence of the
16 interest in residential privacy is an interest which must be
17 considered without respect to the content of speech.

18 If the town's real interest is in prevention of
19 embarrassment to Dr. Victoria, then such an interest should be
20 appropriately dealt with in other fashions. But the First
21 Amendment does not seem to protect an interest in avoiding the
22 embarrassment or other emotional harm which may result from
23 this type of activity or from other types of content based
24 activity.

25 QUESTION: The town is willing to let you march

1 around Dr. Victoria's neighborhood with a sign saying
2 Dr. Victoria is an abortionist or whatever harsher language
3 that you want to use. They are not worried about protecting
4 him from criticism. They are willing to let you do that.

5 MR. MCDOWELL: However --

6 QUESTION: They just do not want you to annoy him in
7 his home.

8 MR. MCDOWELL: The town's ordinance though --

9 QUESTION: Is there anything to stop you from
10 picketing his office? No.

11 MR. MCDOWELL: No.

12 QUESTION: So he is right.

13 CHIEF JUSTICE REHNQUIST: Thank you, Mr. McDowell.
14 The case is submitted.

15 (Whereupon, at 1:59 p.m., the case in the
16 above-entitled matter was submitted.)

17

18

19

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REPORTERS' CERTIFICATE

1
2
3 DOCKET NUMBER: 87-168

4 CASE TITLE: RUSSELL FRISBY v. SANDRA C. SCHULTZ AND
ROBERT C. BRAUN,

5 HEARING DATE: April 20, 1988

6 LOCATION: Washington, D.C.

7
8 I hereby certify that the proceedings and evidence
9 are contained fully and accurately on the tapes and notes
10 reported by me at the hearing in the above case before the
11 United States Supreme Court,
12 and that this is a true and accurate transcript of the case.

13
14 Date: April 20, 1988

15
16 *Margaret Daly*
17 _____
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Woodbury City Council bans 'targeted picketing'

KEVIN GILES

6-8 minutes

Reacting to protests outside the homes of 3M executives last year, the Woodbury City Council voted Wednesday night in favor of an ordinance that bans "targeted picketing" of residences.

The protests that inspired the ordinance involved chanting by animal rights activists but didn't lead to arrests or skirmishes with police, said Capt. Jay Alberio, who helped draft the proposed ordinance.

Police had received complaints of five separate incidents with seven to 15 protesters each that were affiliated with Stop Huntingdon Animal Cruelty (SHAC), he said. That group objects to 3M's contracts with Huntingdon Life Sciences, a British firm that uses animals to test products from 3M and other companies.

"I would point out that liberty has always been messy," said Jim Grinols, of Woodbury, one of about 10 people who asked the council to reject the ordinance. "A new law that would totally ban peaceful protest is incorrect."

Police Chief Lee Vague, who defended the ordinance as a way to preserve the peace when residents felt they were being targeted,

told the council that the ordinance would be unlikely to result in arrests.

The council passed the ordinance 4-1. Council Member Amy Scoggins, the sole vote against it, said, "One of the things that bothers me is that nobody showed up to support the ordinance."

City Administrator Clint Gridley said the city believes "strongly" in the right of individuals to exercise their First Amendment rights of freedom of speech and assembly, but he said the city attorney researched the proposed ordinance and concluded it was constitutional. Maplewood, White Bear Lake and Shoreview all have ordinances that forbid "targeted picketing," he said, and the White Bear Lake ordinance was tested in the Minnesota Court of Appeals and found to be constitutional.

The White Bear Lake ordinance was passed in 1990 after the Planned Parenthood of Minnesota executive director, who lived in the city, asked for the city's help to stop pickets in front of his house.

The Woodbury ordinance will make punishable by misdemeanor any marching, standing or patrolling "directed solely at a particular residential building in a manner that adversely affects the safety, security or privacy of an occupant of the building."

Alberio said the city doesn't want to deprive protesters of constitutional rights but wants to preserve peace in the neighborhoods. He said residents who called police said they found the noise disturbing.

Woodbury also has an ordinance that prohibits behavior that "annoys, injures or endangers the health, safety, comfort or repose of the public," but the city attorney determined the subjective

nature of the existing ordinance "would likely be challenged in court," Gridley told council members in a memo.

Kevin Giles • 612-673-4432

OPINION > COLUMNISTS

David Schultz: The ethics of protests at people's homes



John Thompson, Minnesota Democratic candidate for district 67A, speaks during a protest near Minneapolis Police Union Chief Bob Kroll's house on Aug. 15, 2020, in Hugo. (Stephen Maturen/Getty Images)

By **DAVID SCHULTZ** |

August 30, 2020 at 1:09 a.m.

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Under what conditions, if at all, is residential picketing a form of legitimate protest or expression of ideas?

Recently in response to the death of George Floyd the streets in front of the personal residences of two police officers and their families have been the sites of public protest. So too has the Minnesota governor's mansion, also located on a residential street.

First, no reasonable person should disagree with the proposition that racism is wrong. Nor should a reasonable person endorse unwarranted use of force by police, especially when done in a racially discriminatory way. What happened to George Floyd was a tragedy and whether the police officers are guilty of a crime is a matter for the courts to decide.

Regardless of legal verdict in the pending trials, individuals have a First Amendment right peaceably to assemble, protest, and present their views on public streets, however much we agree with them or find their views repugnant. There is also a right, whether prudent or not, to use language, symbols, and speech which many might consider to be uncivil, to express their ideas. None of us should be expected to use perfect grammar or prose, and sometimes the choice of words or symbols, however impolite some may view them, may be effective ways to convey a message or get attention.

There are limits to the expression of ideas in residential areas.

The issue is not civility but counterbalancing rights of individuals to be protected from harassment and unwanted speech from which they cannot escape.

In the 1988 case of *Frisby v. Schultz* (no relation to this author), anti-abortion protestors peacefully picketed on the streets in front of the home of a doctor who performed abortions. The home was in a residential district. Justice O'Connor, writing for the Supreme Court, recognized that streets even in residential neighborhoods were public, yet upheld an ordinance banning this picketing. It did so for a couple of reasons.

One, the Court recognized a right to privacy in our homes. There is a legitimate interest in protecting people from unwanted intrusions into their homes.

Two, unlike protests in front of businesses or other public accommodations, individuals in their private residences are captured audiences who have no ability to escape from speech they do not wish to hear. One may have a right to free speech, but not a right to force unwilling audiences to listen.

Protests, especially loud, long, repeated, or with large crowds, can be threatening, and if residents or neighbors have no means to escape, these protests have turned from legitimate expression of views into forms of intimidation. Even the liberal Justices Brennan, Marshall, and Stevens, who dissented in *Frisby*, contended that there are valid time, manner and place restrictions on speech, and a careful balance of expressive rights must be struck with efforts to protect privacy, captured audiences, and prevent intimidation. Contending rights must be balanced, and in some cases limited restrictions on residential protests should be upheld.

There is a critical difference in the protests in front of the private residences of police officers versus the governor's mansion in Minnesota. The latter is a public building with a public official. He is fair game for protest, however uncivil but peaceful it may be, and a different balance may need to be struck here that weighs more in favor of the protestors.

There is an additional problem with protests at private homes, at least as they have emerged recently. The demonstration at the home of Minneapolis officer Bob Kroll also targeted his wife. Bob Kroll's wife is not Bob Kroll. There is an incredible amount of sexism in attributing the views of a husband to his wife, whether the attribution is positive or negative. We are all individuals and should be judged on basis of who we are as individuals, not by association.

But even if that protest had focused only on the officer, it subjected all parties in the household, including children and also perhaps immediate neighbors, to unwarranted intrusions on their privacy under circumstances where they had limited opportunity to escape speech they did not wish to hear. If the whole purpose of the protests at a private residence was in fact to trap people in their homes, then this was not speech but intimidation.

Some will argue that the protest intrusions here were justified in the name of abating racism. Others will contend that criticizing these protestors is racist. Both assertions are wrong and misdirected.

Abating racism and righting the wrongs it has caused do not justify committing other wrongs or trampling on the rights of others, no matter how noble the cause. If today it's racism, tomorrow another perceived greater good may justify similar tactics, perhaps even for a cause you do not endorse and against people whom you do.

Finally, criticism of these tactics is not racist. It is an argument to respect rights and to suggest that there may be more effective and focused ways to make a

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David Schultz

David Schultz, St. Paul, is a professor at Hamline University in the Departments of Political Science and Legal Studies.

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Meeting Date: 03/23/2021

Information

Title:

Acknowledge Resignation of the Part-time Recreation Specialist and the Recruitment Process

Purpose/Background:

The purpose of this case is to acknowledge the resignation of Abby Proulx, and the process to begin filling the part-time Recreation Specialist position she held, pursuant to the process for filling vacancies that are within the established General Fund Budget.

Ms. Proulx has submitted her resignation effective April 1st 2021, as part of accepting a full time position with benefits with the City of Duluth. With new Councilmembers now serving, who did not take part in the lengthy discussion on the merits of a part time position, (to carry out recreation programming) versus interns which took place in 2018-20, staff understands the value of highlighting this conversation.

The the above referenced discussion may be summarized as: "*The Recreation Specialist position was established after an analysis of recreation related programming utilizing interns—finding that both effectiveness and continuity was improved with a regular staff assignment (versus repeating training of interns), and also the annual operating investment in providing recreation services to residents was less with a dedicated Recreation Specialist, in comparison to years when two interns attempted to fulfill the same job duties.*"

In the interest of time, **all relevant detail and justification on this position replacement is included in the first attachment, Needs Analysis.**

Timeframe:

10 minutes may be required to highlight a few of the findings within the attached Needs Analysis.

Funding Source:

Wages and benefits budgeted for 2021 is \$28,989. A replacement would be unlikely to start in the position before mid-May or early June, with the net affect of a modest savings from the 2021 budgeted amount. Note this position is not eligible for City health insurance.

Responsible Party(ies):

Lasher and Riverblood will be available to highlight the background on this position replacement and to address any content within the Needs Analysis.

Outcome:

Acknowledge Resignation of the Part-time Recreation Specialist and the Recruitment Process.

Attachments

Needs Analysis

Job Desc.

Form Review

Inbox

Reviewed By

Date

Colleen Lasher
Mark Riverblood (Originator)
Colleen Lasher
Kurt Ulrich
Form Started By: Mark Riverblood
Final Approval Date: 03/18/2021

Mark Riverblood
Mark Riverblood
Colleen Lasher
Kurt Ulrich

03/16/2021 02:12 PM
03/16/2021 02:16 PM
03/18/2021 11:16 AM
03/18/2021 04:44 PM
Started On: 03/16/2021 01:03 PM

Needs Analysis for Vacant and New Positions

Position: *Recreation Specialist vacated April 1st, 2021*

Requesting to recruit for a: *Recreation Specialist*

1. Is the position essential?

Essential positions are those that provide core public health and safety services; emergency and disaster assistance; and preservation of the essential elements of the City's financial activities.

The position would not be considered essential, as defined above.

2. Is the position critical?

Critical positions are positions that are, for example, one-position job classes or positions with duties that cannot be modified, reassigned or eliminated. Detailed responses to the following questions will be required in determining whether or not a position is "critical" to providing high-quality services to residents, business owners and/or employees:

a. Explain how this position is key to achieving the strategic goals identified by the City Council.

The provision of recreation services was established as an outcome of City Council's strategic planning around 2016-17. One of the priority activities of the Recreation Specialist, in addition to those listed in the Job Description, is to solidify a recreation programming policy that addresses the Strategic Plan Strategy to *"Connect the community both physically and socially to destinations, services, and activities."* and more specifically, the Action item *"Update the Recreation Programming Work Plan—Deliver a diversity of programs that finds a balance of revenue and access,"* in addition to evaluating programs for the greatest return on investment for Ramsey residents.

b. Can the duties be re-engineered or automated? Please explain.

Almost all tasks relating to this position are people-powered, and not conducive for automation.

c. Can the duties be reassigned temporarily or permanently? Please explain.

There is not sufficient capacity in the organization to reassign the day-to-day activity of the Recreation Specialist—temporarily or permanently.

d. Can the position remain unfilled temporarily or permanently? Please explain.

If the position were to remain unfilled, the immediate recruitment of an intern(s)* would be necessary to support the existing recreation program(s) that are already in place for 2021. Any potential recreation programs contemplated would not be able to be developed, except for limited programming through Rumriver Arts, an already established contracted service.

*Note: The Recreation Specialist position was established after an analysis of recreation related programming utilizing interns – finding that both effectiveness and continuity was improved with a regular staff assignment (versus repeating training of interns), and also the annual operating costs in providing recreation services to residents was less with a dedicated Recreation Specialist, in comparison to years when two interns attempted to fulfill the same job duties.

e. Can the position be filled internally

An internal recruitment can be performed to advertise the position, but the 20 hour per week job duties cannot be added to an existing staff position – unless there would be a part time employee qualified, and Council authorized a new full-time job category. (The Recreation Specialist is a part-time, 20 hour per week position.)

f. What is the impact (i.e., to residents, business owners, employees, and/or operations) if the position is not filled?

Certain businesses benefit from recreation programming like Adrenaline Sports which rents facility space to the city. Some recreation programs like Wine and Canvas are at no net cost to the city, with a local restaurant (Kitchen Table) and another small business directly benefiting from patron expenditures back into their community.

Residents appreciate recreation programming, and indeed may have come to expect this from their local government as a symbol of a maturing full-service city. If the position is not filled, and programs are eliminated and limited, there may be a diminution in that ‘sense of community’ that is viewed by many as a measure of the Quality of Life in the city – the drive-in movie last Summer during the Pandemic as example, was viewed as a favorable government sponsored activity. Health and Wellness programs are valued by residents, and would be missed by many, including retired individuals with time for leisure activities. The Recreation Specialist also facilitated volunteering in the community, like the ‘Hike with a Naturalist’ in parks that was a reoccurring program at no net cost to the city.

In terms of internal operations, staff relies on one-another to assist with for many day-to-day tasks across departments (see also letter **g.** below). The reduction of 20 hours of competent professional staffing will likely be manifest in less effectiveness in certain areas of customer service (timeliness and depth of responsiveness), and there would be less ability to 'pick up the slack' for special projects like the re-dedication event to unveil the sign at Loral I Armstrong Delaney Central Park in April, as one example.

g. Can the service provided be reduced, eliminated, or contracted out?

Recreation programming can be reduced, but practically not eliminated unless the community no longer desires events like the Summer Concert Series, Holiday Tree Lighting, and Annual Art Fair etc. The Recreation Specialist also contributes to most other city programs like EDA's golf event, Happy Day's etc., (and was the primary staff organizer for the Pandemic era 'Happy Daze' in 2020 due to temporary staffing shortages in Administrative Services). In addition, the position provides back-up to the Public Works Administrative Assistant, including in aiding the public in park and facility reservations.

h. What is the budgetary impact if the position is not filled (e.g., additional overtime/compensatory time off costs)

The primary budgetary impact if this position is not filled, but rather an attempt (once again) to fill a portion of the job duties with Interns—is the significant inefficiencies with the continual on-boarding and retraining Interns in a rotation of one to three individuals each year. This is an unnecessary drain on other staff's time that does not come with a regular part-time Recreation Specialist (versus an Intern). Recruitment by HR involves many hours of advertising, organizing applications, and setting up interviews---most of which involve young adults who reside outside of the area. Other staff's time is then impacted by a half day of interviews, and then second interviews (for some candidates who decline the position when offered). And then there is more time and expense setting up drug screening and other time investments.

Other departments like Police and IT are impacted (background checks, adding Interns to various electronic networks), and Finance has to set up temporary employees in the payroll systems. However the greatest deleterious impact is the training period for new Interns. Very little productive work emanates from these inexperienced temporary employees in the first week or two (within a typical 12 to 14 week stint). The biggest unproductive time involved is the training period required of supervisors and FT staff on all the aspects and dimensions of the

organization, protocols and details of programming, and the associated procedures and tasks to be carried out. Each new Intern requires a similar time demand of existing employees away from other core duties.

The above recruitment, on-boarding and training of Interns can easily be 40 to 100 hours of staff time per individual hired. The table below may help to illustrate the time outlay for existing staff in various departments related to recreation programming utilizing Interns (E.g. 80 hours times 12 individuals equals 960 hours over recent years).

	<u>Position</u>	<u>Employee</u>	<u>Begin</u>	<u>End</u>	<u>Wage</u>	
2020-2021	Recreation Specialist	Abby Proulx	9/11/2019	Present	\$23.08	
2019	Recreation Specialist	Heather Mohr	1/8/2019	9/30/2019	\$21.34	
2018	P&R Intern	Mitchell Koester	8/27/2018	11/27/2018	\$13.00	
	P&R Intern	Kiana Packer	6/7/2018	9/8/2018	\$13.00	
	P&R Intern	Cecilia Schmit	5/30/2018	9/8/2018	\$13.00	
	P&R Intern	Sophia Thompson	N/A	N/A	N/A	Accepted, but withdrew before she started
	P&R Intern	Eric Chuba	4/16/2018	4/19/2018	\$13.00	**Quit after working 4 days
2016-2018	P&R Intern	Tillery Bailey	12/15/2016	4/27/2018	\$14.00	
2016	P&R Intern	Nathaniel Greenwald	5/16/2016	8/26/2016	\$13.00	
2015	P&R Intern	Zach Ellsworth	5/12/2015	11/9/2015	\$12.00	
	P&R Intern	Jay Kovack	N/A	N/A	N/A	Accepted, but withdrew before he started
2014	P&R Intern	Riley Donovan	5/12/2014	12/31/2014	\$11.00	
2013	P&R Intern	Andrew Langholz	6/3/2013	10/25/2013	\$11.00	
2012	P&R Intern	Adam Moshier	5/14/2012	1/20/2013	\$8.75	

i. What are the circumstances that warrant the creation of this new position?

This is not a new position, but an established 20 hour per week job, included within the General Fund Budget.

3. What is the total annual cost of the position (e.g., salary, taxes, benefits, equipment, etc.)?

Wages and benefits budgeted for 2021 is \$28,989.

CITY OF RAMSEY POSITION ANALYSIS

POSITION TITLE: Recreation Specialist

DEPARTMENT: Public Works

POSITION TITLE OF IMMEDIATE SUPERVISOR: Parks & Assistant Public Works Superintendent

SUBJECT TO RANDOM D.O.T DRUG AND ALCOHOL TESTING: No

FLSA STATUS: Non-Exempt

PRIMARY OBJECTIVE OF POSITION:

Working under the general guidance and direction of the Parks & Assistant Public Works Superintendent, this position facilitates the development and ongoing administration of diverse annual recreational programs serving all ages and demographics. This position develops programs, organizes content, and engages public and private providers, as well as creates and maintains methods for evaluating offerings for consideration in future programming.

RESPONSIBILITIES:

1. Perform all aspects of the development, marketing, implementation, and evaluation of municipal recreational programs and related events
2. Evaluate related contracts for accuracy, completeness, and fair pricing; review and prepare invoices for approval by the Parks & Assistant Public Works Superintendent
3. Create online event registrations and generate social media promotional posts for said activities
4. Use, prepare and maintain detailed notes and outlines on work performed and programs developed
5. Coordinate, purchase, organize, gather, and deliver supplies, documents and schedules for programs and recreational events
6. Provide staff support including data entry, phone calls, program registration, reports, records management in a timely manner
7. Fill in as needed at programs and recreational events. Assist with supervision, periodic check in and leadership of programs, seasonal staff and recreational events

8. Develop, plan, oversee and attend all ten (10) of the Thursday Evening Summer Concert Series events, which includes contract administration
9. Attend and occasionally provide presentations at the once-per-month Parks and Recreation Commission meetings (2nd Thursday of each month)
10. Serve as back-up to the Public Works Administrative Assistant with Park Facility Rentals, bike, bike locker and kayak rentals, and general Park & Recreation / Public Works walk-in questions

ESSENTIAL KNOWLEDGE, SKILLS AND ABILITIES

1. Knowledge of recreational principals and programming
2. Ability to read and understand correspondence, memoranda and materials
3. Ability to effectively represent the organization, department, and administrative operations to management and the public
4. Ability to facilitate effective presentations at public meetings
5. Demonstrated effective written and oral communication skills
6. Ability to act in a decisive manner, using good judgement. Must be able to assess problems and situations, and be able to anticipate needs and evaluate alternatives
7. Must have working knowledge in the use of calculators, personal computers, printers and other office equipment and working knowledge of computer software
8. Must represent the organization to other agencies, staff, and citizens with a courteous, helpful, accurate and business-like attitude in all telephone and personal contact
9. Ability to work effectively and respectfully with department heads, elected officials, staff and other agencies. Ability to work as team member
10. Ability and knowledge to be able to produce quality, accurate work. Must be able to utilize work time properly and productively. Must have the ability to handle detail, meet deadlines and follow through in the completion of projects
11. Must have strong organizational skills and the ability to accurately record documents, publications and various records for official purposes
12. Ability to work effectively under pressure and to competently handle a number of different tasks in a single period of time
13. Ability to plan and perform duties with only general minimum supervision
14. Ability to perform essential position functions under the working conditions as described
15. Ability to work evenings and weekends (if scheduled)

MINIMUM QUALIFICATIONS

- Must be at least 18 years of age or older
- Must have a high school diploma or equivalent
- Must have a valid driver's license with a good driving record
- Must have three (3) years' of related experience in a responsible administrative support position; equivalent combination of education and experience will be considered

- Must have proven Microsoft applications experience (Word, Excel, PowerPoint and Outlook)

DESIRED QUALIFICATIONS

- Possess a Bachelors' degree in Parks and Leisure Services; Public Administration, Business Administration, Community Development or related field
- Experience leading recreational events and programs
- Experience designing and implementing recreational curriculum
- Experience using InDesign, Publisher or Photoshop
- Experience with any online registration systems

Created December 2018

Updated June 2019

Updated March 2021

JOB ACTIVITY REQUIREMENTS
Recreation Specialist

Job activity requirements					
	Physical Activities	Very Important	Important	Slightly Important	Not Important
1	Standing	x			
2	Sitting	x			
3	Walking	x			
4	Lifting	x			
5	Pushing / Pulling	x			
6	Carrying	x			
7	Climbing				x
8	Kneeling		x		
9	Crawling		x		
10	Crouching		x		
11	Bending at waist		x		
12	Reaching	x			
13	Handling Objects	x			
14	Repetitive Hand Motion	x			
15	Use of Arm Muscles over Extended Periods			x	
16	Use of Leg Muscles over Extended Periods		x		
17	Overhead Work			x	
18	Stationary desk or bench work	x			

This job requires employees to be able to lift and carry up to 40 pounds without assistance.

Job working conditions			
		Yes	No
1	Working Outdoors	x	
2	Working Indoors	x	
3	Operating dangerous equipment		x
4	Operating motor vehicles	x	
5	Providing work direction to other employees	x	
6	Working with chemicals		x
7	Working near fumes and vapors		x
8	Driving a City vehicle or personal vehicle	x	
9	Driving is an essential function of this job		x
10	Subject to random DOT drug and alcohol testing		x

Meeting Date: 03/23/2021

Information

Title:

Direction on Whether to Continue Waiving Late Fee Penalties on Quarterly Utility Bills.

Purpose/Background:

The city's standard process is to charge a 10% penalty on utility accounts (water, sewer, street lights, recycling and storm drainage) that are delinquent. This penalty is applied on current billings only and does not reassess a penalty on a penalty.

With the onset of the COVID pandemic in 2020, the City Council elected to waive the penalty starting with the 2nd quarter utility bill sent out in July 2020. The penalty has been waived for 3 billings to date: July 2020, October 2020 and January 2021.

Attached is a brief summary of the penalties collected in 2018, 2019 & first quarter 2020. In regards to utility collections, the city certified fewer accounts in 2020 then 2019 (499 vs 556) and the total delinquent amount on September 1, 2020 when the certification process started was \$343,386 in comparison to \$390,642 in 2019. The city's collection of the annual property tax also remained constant with 2019 levels.

The City's utility billing provider, OPUS 21 said that they are currently waiving the late fees for the cities of Ramsey, Wyoming and Andover, but the cities of Cottage Grove, St. Francis and Mound never waived the fees.

With the first quarter billing for 2021 to go out on April 25, 2021, staff would like direction from the City Council in regards to whether the waiver of late fees should continue.

Timeframe:

15 minutes.

Funding Source:

Responsible Party(ies):

Diana Lund, Finance Director

Outcome:

Give staff direction to continue or discontinue waiver of late fees on utility bills.

Attachments

Utility penalty collection summary

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/18/2021 01:51 PM
Form Started By: Diana Lund		Started On: 03/16/2021 02:44 PM
Final Approval Date: 03/18/2021		

Penalties Collected:

	2018	2019	2020
Water	\$ 32,510.12	\$ 33,183.79	\$ 3,422.58
Sewer	\$ 27,920.18	\$ 29,933.36	\$ 7,206.15
Street Lighting	\$ 4,495.48	\$ 4,604.87	\$ 1,138.62
Recycling	\$ 6,569.64	\$ 6,689.37	\$ 1,714.99
Storm Drainage	\$ 15,729.14	\$ 18,753.02	\$ 4,331.82
Total	\$ 87,224.56	\$ 93,164.41	\$ 17,814.16

Meeting Date: 03/23/2021

Information

Title:

Review 2021 Planning Session

Purpose/Background:

The purpose of this case is to determine what type of planning session(s) the Council would like to conduct in 2021.

Each year, the City Council and city leadership staff typically review the city's strategic plan and adopt priorities for the coming year. This process gives staff clear direction from council as to the priorities for the coming year.

Such sessions in the past have included:

- Review and revision of the City's vision, mission, and values.
- Team-building and development.
- Review of past years accomplishments relative to the plan.
- Review of the citizen's survey results.
- Development of priorities for the next 1-3 years.

On occasion, the City has used consulting firms and has done full-day or multi-day "retreat" sessions with the council and senior staff.

In recent years, the city has done 2-3 evening sessions devoted to the topics above, and has primarily used staff to facilitate the planning sessions. Consultants have been used in this format as well. The League of Minnesota Cities offers facilitators as part of our annual membership. Staff recommend we take advantage of this service from the LMC as a start to our annual planning. The sessions can be tailored to our needs. Note, normally, outside consultants are expensive and it is not unusual for a city to spend \$5,000 to \$15,000 or more, for these planning efforts.

Timeframe:

One or two evening work sessions are recommended for this activity.

Funding Source:

N/A

Responsible Party(ies):

Kurt Ulrich, City Administrator

Outcome:

Direction on how to proceed with planning of 2021 priorities, based on discussion.

Attachments

strategisPlan 2020edits

Form Review

Inbox

Kurt Ulrich
Kurt Ulrich
Kurt Ulrich
Kurt Ulrich
Kathy Schmitz (Originator)
Kurt Ulrich
Kurt Ulrich
Form Started By: Kathy Schmitz
Final Approval Date: 03/19/2021

Reviewed By

Kurt Ulrich
Kurt Ulrich
Kurt Ulrich
Kathy Schmitz
Kathy Schmitz
Kurt Ulrich
Kurt Ulrich

Date

02/14/2019 02:49 PM
03/07/2019 01:37 PM
03/18/2021 04:32 PM
03/19/2021 10:17 AM
03/19/2021 10:17 AM
03/19/2021 10:25 AM
03/19/2021 10:25 AM
Started On: 02/14/2019 02:22 PM

Strategic Plan Update

2020 Update

ABOUT RAMSEY

Ramsey is a suburban city located in the northwestern part of Anoka County, with a population of approximately ~~26,500~~27,051. Two rivers dominate its borders, the Rum River and the Mississippi River.

The first settlement in Ramsey began because of trading along the banks of the Mississippi. Many settlers came here on a steamboat called *The Governor Ramsey* named after our first territorial governor, from which the City reportedly acquired the name.

Only a few of the first houses and structures built in Ramsey remain today. The most notable structure of historic significance is on the National Register of Historic Places, the Old Ramsey Town Hall, located west of Highway 47 (Saint Francis Boulevard) just north of County Road 116 (Bunker Lake Boulevard). This 19th century structure was originally used as a schoolhouse. The building is a community landmark and the City is working on a long term plan for the structure.

Two school districts now serve Ramsey - Elk River #728, and Anoka-Hennepin #11. Students from both districts regularly exceed the state average on the Minnesota Basic Standards in math, reading, and writing, and score well above the national average on college entrance exams.

Many people have chosen to live in Ramsey because of its rural character, wetlands, wildlife, parks, recreation and the housing choices. Ramsey is a mixture of farms, large-lot single family, urban single-family, and multi-family with a range of prices that appeals to a wide variety of families and individuals. The City is expected to grow by approximately 10,000 people over the next 20 years. Economic Development continues to be a priority for our City. With nearly 7,000 employees working in Ramsey everyday, new industrial and retail growth may add an additional 5,000 employees over the next 20 years. We are proud of our commitment to attract economically and environmentally sound commercial development.

Ramsey is committed to manage future growth to provide a high quality of life, enhanced employment opportunities and a stable tax base. Looking ahead, our city is working toward retail and commercial growth that includes restaurants, shopping, entertainment and additional employment opportunities.

Please note: this document is a work in progress. Staff is still working on final formatting. Please focus on content over formatting at this stage.

VALUES

Ethics and Integrity

Fiscal Responsibility

Cooperation and Teamwork

Open and Honest Communications

Excellence and Quality in the Delivery of Service

Treating People with Respect and Fairness

Adaptability and Continuous Learning

VISION

Ramsey will be a secure, citizen-driven, collaborative community that respects the balance and connectivity between its unique urban, rural and natural environments.

MISSION

To work together to responsibly grow our community and to provide quality, cost-effective and efficient government services.

OBJECTIVES

Financial Stability

A Balance of Rural Character and Urban Growth

An Active and Connected Community

Smart, Citizen-Focused Government

An Effective Organization

STRATEGIES

Identify and implement operational efficiencies, cost savings and additional funding sources.

Promote economic growth and development.

Create a positive image for residential neighborhoods, business districts and key corridors.

Enhance Community Engagement in policy decision-making processes.

Improve the safety and mobility of transportation corridors.

Connect the community both physically and socially to destinations, services and activities.

Enhance customer service through process improvements.

Enhance sustainability and efficiency through public facilities and infrastructure investments.

Strengthen and enhance our identity and brand.

Improve City's communication.

Improve and sustain high organizational morale.

Strive to reflect the demographics of the community.

ACTION PLAN

Action	Timeframe	Resources	Key Outcomes and Indicators	Responsible Party
Strategy: Identify and implement operational efficiencies, cost savings and additional funding sources.				
1. Implement a Road Maintenance Pavement Management Funding Program.	2020	Budget Impact = Medium High	Retain existing program or choose a new program. <u>Include regular pavement maintenance in discussion.</u>	Diana Lund
2. <u>Identify and improve one organizational workflow process: Fire Department Duty Crew Analysis.</u>	2020 2020	<u>Budget Impact = Low</u>	<u>Experienced cost savings as a result of improved workflow.</u> <u>Improved service.</u>	<u>Matt Kohner</u>
Strategy: Promote economic growth and development.				
<u>2-3.</u> Continue Business Retention and Expansion efforts for retail and industrial.	Ongoing	Existing Staff: Budget Impact = Low	Stable base of local employers, representing the largest opportunity for future growth of jobs and tax base. Increase the number of business visits. Improve the quality and attendance at EDA events. 5,000 square feet of new retail space per year on average. 50,000 square feet of new industrial per year on average.	Sean Sullivan
Strategy: Create a positive image for residential neighborhoods, business districts and key corridors.				
<u>3-4.</u> Complete Streetscape Plan for Key Corridors.	Q4 2019 2020	Existing Staff: Budget Impact = Low	Reduced blight and public nuisance. Improved responsiveness of neighborhood concerns. Improved empathy to private property rights and complex regulations. Improved aesthetics and reduced blight along Highway 10 and Highway 47. <u>Consider Historic Town Hall as a Welcome to Ramsey Gateway Monument.</u>	Chloe McGuire Brigl
<u>4-5.</u> Update Downtown Master Plan and Multifamily Housing Policies.	2020	Budget Impact = Low RCP Report	Ensure high-quality housing opportunities. Ensure Balance of Retail and Housing Growth.	Tim Gladhill

Action	Timeframe	Resources	Key Outcomes and Indicators	Responsible Party
<u>6.</u> Consider a Crime Free Multifamily Housing Program	<u>2020</u>	Existing Staff Budget Impact = Low RCP Report	Ensure that multifamily properties maintain high quality.	Jeff Katers
Enhance Community Engagement in policy decision-making processes.				
<i>This remains a high priority for the community and is addressed in multiple actions above.</i>				
Strategy: Improve the safety and mobility of transportation corridors.				
<u>5-7.</u> Complete County Road 5 Corridor Study.	2020	Budget Impact = Medium	Unified vision for Nowthen Boulevard, <u>including Turnback Plan and connection to Highway 10.</u> Improved safety and reduced congestion. Development pressures <u>Ensure adequate capacity for planned development.</u>	Bruce Westby
<u>6-8.</u> Advance the Ramsey Gateway Plan.	2020	Existing Staff/Resources Budget Impact = High RCP Report	Unified vision for Highway 10. Improved safety and reduced congestion. Secured \$47M for the Highway 10/169 Plan	Tim Gladhill
Strategy: Connect the community both physically and socially to destinations, services, and activities.				
<u>7-9.</u> Complete the Master Parks and Trail Plan/Capital Improvement Program <u>Update Park System Plan.</u>	<u>2019-2020</u>	Existing Staff/Resources Budget Impact = Medium RCP Report	Adequate parks, trails and public spaces, both future and existing. Unique recreation destinations. <u>Official policy statement on potential Community Center as a lower priority compared to Public Works Campus and Water Treatment Plant.</u>	Mark Riverblood
Enhance customer service through process improvement.				
<i>This remains a high priority for the community and is addressed in multiple actions above.</i>				
Strategy: Enhance sustainability and efficiency through public facilities and infrastructure investments.				
<u>8-10.</u> Implement Develop <u>Implementation Plan for</u> Water Supply Treatment Options.	2020	Budget Impact = High	Reduce levels of iron and manganese in municipal water supply.	Bruce Westby
<u>9-11.</u> Construct Future Public Works Campus.	2020	Budget Impact = High	Adequate space to effectively maintain public infrastructure. Savings of time and money in operational efficiencies.	Grant Riemer

Action	Timeframe	Resources	Key Outcomes and Indicators	Responsible Party
Strategy: Strengthen and enhance our identity and brand.				
10-12. Provide quarterly updates to USPS to secure new Ramsey ZIP Code.	Ongoing	Existing Staff Budget Impact = Medium <u>Low</u> RCP Report (community identity)	ZIP Code will identify itself as Ramsey. Provide regular updates. Detailed Update in 2020 <u>2026</u> .	Kurt Ulrich
Strategy: Improve City's communication.				
11-13. Improve Positive Messaging <u>proactive and time-relevant communication.</u>	2020	Existing Staff Budget Impact = Low RCP Report	Improved external communication. Provide more information of interest to residents in multiple formats. New and more effective ways to reach the community, including but not limited to social media. Talking Points for Key Projects. Policy, process, and timing for communicating key topics. Improved administration of Ramsey Resident Newsletter. <u>Explore new avenues to tell the story of Ramsey and market the community to prospective residents and businesses.</u> <u>Stay relevant by harnessing new technologies and social media platforms to evolve with the ever-changing media landscape.</u>	Megan Thorstad
Improve and sustain high organizational morale.				
<i>This remains a high priority for the community and is addressed in multiple actions above.</i>				
Strive to reflect the demographics of the community.				
<i>This remains a high priority for the community and is addressed in multiple actions above.</i>				

Budget Impact Key; Low = Existing Staff/thousands of dollars; Medium = Additional Staff/Consultants/tens of thousands of dollars; High = capital improvement/hundreds of thousands of dollars.

RCP Report = Partnership with the University of Minnesota completed in 2018. This partnership created a library of resources and policy alternatives. A full list of completed reports can be found online at rcp.umn.edu/ramsey-projects.

PARKING LOT LIST

Action	Strategy
Complete a Development Fee Impact Study.	Identify and implement operational efficiencies, cost savings and additional funding sources.
Complete Comprehensive Streetscape and Greenway Manual -[Moved to Action Item]	Create a positive image for residential neighborhoods, business districts and key corridors.
Complete Neighborhood Plans for Pearson Properties and Makowsky Farms. [Formal Development Proposals Submitted]	Create a positive image for residential neighborhoods, business districts and key corridors.
Remodel 2 nd Floor of City Hall for additional collaboration and meeting space.	Enhance Community Engagement in policy decision-making processes.
Complete a Fire Department Duty Crew Analysis. [Moved to Action Item]	Enhance customer service through process improvements.
Complete Organization Staffing Plan.	Improve and sustain high organizational morale.

~~The above are important topics, but are not the highest priority of the Council and will only be worked on if not interfering with approved Action Items and as time/resources allow.~~

CULTURE

- Utilize Strategic Plan to prioritize budget requests.
- Leverage additional funding sources.
- Seek grants to do high priority projects.
- Seek public and private partnerships.
- Improve Park and Recreation revenue through user fees and sponsorships.
- Provide adequate public safety staffing based upon common metrics (i.e., calls for service, time of day caseload, land use and population, citizen expectations).
- Continue Staff Recognition Programs.
- Increase awareness of various employee resources.

COLLABORATION SERVICES



For more information, contact:

Pam Whitmore
League of Minnesota Cities
Insurance Trust Collaboration
& Mediation Manager
(651) 281-1224 (office)
(612) 816-7386 (cell)
(800) 925-1122 (toll free)
pwhitmore@lmc.org



**LEAGUE of
MINNESOTA
CITIES**

Working collaboratively helps bridge divides.

**Get the help you need to work together,
understand roles, be transparent, and
avoid conflict in your city.**

Strong opinions can lead to lively discussions and promote the exchange of new ideas and creative solutions. However, when those discussions start to lead to conflict, where can your city turn for help? As a member of LMCIT, you can receive free guidance from a qualified neutral and experienced facilitator who will meet with your city to provide personalized workshops and facilitated discussions as a part of LMCIT's Collaboration Services.

When should your city call LMCIT Collaboration Services?

- **If your city has a conflict.** When your city is having issues with communication and trust, problems understanding roles and responsibilities, or struggling with complex topics like the Open Meeting Law or data practices, you can work with LMCIT's Collaboration Services to learn how to work together, engage more respectfully, and get the tools you need to govern more effectively.
- **If your city wants to prevent conflicts from forming.** When your city needs some extra help understanding tricky topics, wants to proactively learn communication skills to better engage in discussions, needs to get a leg-up on good governance, or wants to avoid conflict before it starts, LMCIT's Collaboration Services offers tools to help everyone work toward an integrative solution. Workshops can cover a wide range of topics that will keep your city running effectively.
- **If your city needs assistance with specific issues.** Cities sometimes experience conflict when a lack of understanding or new and difficult issues cause distrust. LMCIT's Collaboration Services can provide your city with needed assistance, such as finding a mentor, getting referrals, sharing written resources, and mediation.

For more information visit www.lmc.org/collabservicesinfo

LMCIT is a self-insured membership cooperative that was formed by Minnesota's cities, with the assistance of the League of Minnesota Cities. In addition to providing workers' compensation and property/casualty coverage, LMCIT provides a comprehensive loss control program to reduce the risk of employee injuries and the volume of costly claims.

COLLABORATION SERVICES



When to Use LMCIT's Collaboration Services

If you're saying:

- We've got to get everybody discussing the issues, not each other
- Our councilmembers really do not understand their roles
- Our council meetings run too long
- We don't completely understand the Open Meeting Law
- Where can we find training on good governance
- How can we learn more about data practices law
- I wish our council could get things done efficiently
- We need a third party to come in and help us communicate better

...then you can get help from LMCIT's Collaboration Services!

Some common offerings include:

- Problem solving
- Working together within conflict
- Good governance & understanding council roles
- Respectful communication & working collaboratively
- Data practices & Open Meeting Law pitfalls
- Meeting & public comment management
- Formal qualified neutral services

Additional resources to help your city:

- www.lmc.org/goodstartpdf
- www.lmc.org/conflictresolutionpdf
- www.lmc.org/conflictinterestpdf
- www.lmc.org/councilauthoritypdf

You can find more resources at www.lmc.org/collabservicesinfo

City Custom Questions (proposed 2020)

Table 49: Question 14

To what extent are each of the following a source of information for you about Ramsey city government and its activities?	
City newsletter (Ramsey Resident)	
Local newspaper	
City website (www.cityoframsey.com)	
Word-of-mouth	
Cable television (QCTV)	
City employees	
Public meetings	
City social media (Facebook)	

Table 50: Question 15

Please indicate how likely you would be, if at all, to engage with the City on the following social media platforms in the future:	
City Facebook page	:
City Twitter feed	:
Nextdoor	:
Instagram	:

ADD: *Zoom, Microsoft Teams*, or other video conference application

Table 51: Question 16

Please indicate to what extent you support or oppose the city investigating the following changes to new or existing amenities, each of which could accordingly result in an increase to the tax levy:	
Making improvements to existing/established parks	
Building new parks	
Making improvements to existing trails	
Building new trails	
Building a new community center	

Table 52: Question 17

Please rate how important, if at all, you think each of the following priorities are for the City to focus on in the next five years:	
Balancing rural character and urban growth (development patterns)	
Creating an active community (parks, trails, open space, recreation)	
Creating a connected community (roads, trails, sidewalks, rail, transportation)	
Creating a positive learning environment (education and outreach)	

DELETE:

Creating a positive learning environment (education and outreach)

ADD:

Creating financial stability for the City.

Delivering quality cost-effective municipal services to residents.

Table 54: Question 19

The City employs a long-term maintenance program to cost-effectively maintain all 175-plus miles of City streets. Currently, street reconstruction projects are funded 25% by special assessments levied against benefitting properties, and 75% by street reconstruction bonds, which are paid back using general property taxes. The City periodically evaluates funding sources for this on-going program. Please indicate the extent to which you would support or oppose the following funding sources:
Current method, which requires 25% of funding by special assessments levied against benefitting properties over 5-15 years
Zero special assessments levied against benefitting properties, which requires 100% of funding by general property tax increases
Electric and/or gas utility fee increases, approximately \$8 per utility, per month

Proposed Revision:

Question 19

The City employs a long-term Pavement management Program to cost-effectively maintain all 180 miles of City streets. From 2015-2020 the City funded projects by assessing 25% to benefitting property owners and contributed 75% through bonded debt, paid with property taxes. The City Council recently passed an ordinance to collect a monthly franchise fee on gas and electric customers and dedicate this funding to the Pavement Management Program, and to eliminate the need for additional property taxes or assessments. The City periodically evaluates funding sources for this ongoing program. Please indicate the extent to which you would support or oppose the following funding sources:

- Assess 25% of street project cost to benefitting property owners and pay 75% through bonded debt, paid with city-wide property taxes.
- Eliminate special assessments and pay 100% with property taxes, resulting in an estimated 15% increase in tax levy.
- Collect a monthly franchise fee on gas and electric customers in the amount of \$7 per utility per month.

CC Work Session

3.1.

Meeting Date: 03/23/2021

By: Katie Schmidt, Administrative Services

Information

Title:

Review Future Topics/Calendar

Purpose/Background:

Attached is the current list of future topics for work session discussion. Items are drawn from Council requests at meetings, or are related to topics that have been identified in the City's strategic plan. Tentative dates have been assigned.

Recommendation:

N/A

Action:

For Council review - no formal action necessary.

Attachments

Future Topics List

Form Review

Inbox

Colleen Lasher

Kurt Ulrich

Form Started By: Katie Schmidt

Final Approval Date: 03/18/2021

Reviewed By

Colleen Lasher

Kurt Ulrich

Date

03/17/2021 01:20 PM

03/18/2021 01:17 PM

Started On: 03/05/2021 12:43 PM

	<u>Tentative City Council Future Work Session Topics</u>	
Proposed Date	Topic	Minutes (Estimate)
04/13/21	Regular City Council Work Session	
	Discuss building access systems for the new Public Works Campus - Fredrickson	15
	Code Enforcement Update - Staff	15
	Discuss Updating City Pricing Strategy for City Owned Land - Sullivan	20
	Discuss Finalizing the Communication Plan – Staff	10
04/20/21	Special Work Session Immediately Following Public Works Committee	
	Discuss Chapter 4 of the Charter (Elections) – Lasher	30
	Review Water Treatment Plant Schedule & Construction management method – Nelson and Staff	30
04/27/21	Regular City Council Work Session	
	Fund Balance Quarterly Update – Lund	15
	Review the Citizen Survey - Ulrich	30
	Fire Department Duty Crew Analysis - Kohner	20
05/11/21	Regular City Council Work Session	
	Discussion items TBD	
05/18/21	Special Work Session Immediately Following Public Works Committee / Additional Special Meetings beyond May 18th TBD.	
	Discussion items TBD	
05/25/21	Regular City Council Work Session	
	Discuss Central Park Re-naming event– Riverblood	
06/08/21	Regular City Council Work Session	
	Review and Discuss the Remote Attendance Policy - Lasher	15
	Discuss Non-union Compensation - Lasher	30
	Review format of cash flows/fund balances - Lund	15
06/22/21	Regular City Council Work Session	
	City Communications Quarterly Update - Staff	15
07/13/21	Regular City Council Work Session	
	Draft Trail Maintenance Policy – Westby/Riemer	30
07/27/21	Regular City Council Work Session	
	Fund Balance Quarterly Update – Diana Lund	
08/10/21	Regular City Council Work Session	
	Draft Stormwater Pond Maintenance Policy – Westby/Riemer	30
08/24/21	Regular City Council Work Session	
	Discussion items TBD	

10/12/21	Regular City Council Work Session	
	Discussion items TBD	
10/26/21	Regular City Council Work Session	
	Fund Balance Quarterly Update – Diana Lund	15
11/09/21	Regular City Council Work Session	
	Discussion items TBD	
11/23/21	Regular City Council Work Session	
	Bi-Annual Communications Update	
12/14/21	Regular City Council Work Session	
Dates TBD:		
2021	Discuss Audio/video recording of work session meetings	15
2021	Review procedure/policy/best practice for introduction of resolutions/proclamations	20
2021	Discuss the General Topic of Holding Joint Meeting(s) with the Council and Commissions & Other Cities. Based on discussion, future work sessions TBD.	20
2021	Discuss Historic Town Hall – Ulrich	30
2021	City Branding Presentation - Ulrich	40
2021	CR-5 Corridor Study Review - Westby	45
2021	Park System Plan – Riemer/Riverblood	60
2021	Accounting of City Engineering Staff Time for City Projects - Westby	30