

**OFFICIAL PROCEEDINGS
CITY OF COLUMBIA HEIGHTS
CITY COUNCIL MEETING
MAY 29, 2018**

The following are the minutes for the regular meeting of the City Council held at 7:00 PM on Tuesday May 29, 2018 the City Council Chambers, City Hall, 590 40th Ave. N.E., Columbia Heights, Minnesota

1. CALL TO ORDER/ROLL CALL

Mayor Schmitt called the meeting to order at 7:04 p.m.

1A. Appoint Secretary Pro Tem

Motion by Councilmember Buesgens, seconded by Councilmember Novitsky to appoint Nancy Becker as Secretary Pro Tem. All Ayes, Motion Carried.

Present: Mayor Schmitt, Councilmember Williams, Councilmember Murzyn, Jr., Councilmember Buesgens, and Councilmember Novitsky

Also Present: Walt Fehst; City Manager, Jim Hoeft; City Attorney, Keith Dahl; Economic Development Manager Joe Kloiber; Finance Director, Gary Gorman; Fire Chief, and Nancy Becker; Council Secretary Pro Tem

2. INVOCATION

Invocation provided by Bill Hugo, St Matthew

3. PLEDGE OF ALLEGIANCE

4. MISSION STATEMENT, Read by Mayor Schmitt

Our mission is to provide the highest quality public services. Services will be provided in a fair, respectful and professional manner that effectively address changing citizen and community needs in a fiscally-responsible and customer friendly manner.

5. APPROVAL OF AGENDA

Motion by Councilmember Buesgens, seconded by Councilmember Novitsky to approve the agenda as presented. All Ayes, Motion Carried.

6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS

7. CONSENT AGENDA

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

A. Approve Minutes of the City Council

MOTION: Move to approve the minutes of the City Council meeting of May 14, 2018

B. Consideration of approval of attached list of rental housing applications.

MOTION: Move to approve the items listed for rental housing license applications for May 29, 2018, in that they have met the requirements of the Property Maintenance Code.

C. Approve Business License Applications

MOTION: Move to approve the items as listed on the business license agenda for May 29, 2018.

D. Review of Bills

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8 the City Council has reviewed the enclosed list of claims paid by check and by electronic funds transfer in the amount of \$676,659.51.

Motion by Councilmember Murzyn, Jr., seconded by Councilmember Novitsky to approve the Consent Agenda as presented. All Ayes, Motion carried.

8. PUBLIC HEARINGS

A. Approval Consideration of Resolution 2018-32, a Resolution for the Issuance of Tax Exempt Bonds

Keith Dahl, Community Development Manager reported that the City received an Application for Financial Assistance from Love To Grow On, a Minnesota nonprofit for the issuance of a revenue note in one or more series, not to exceed a principle amount of \$3,800,000.

The Tax Exempt Bonds would be issued as a conduit revenue bond secured solely by revenues derived from the Subject Project. Thus, the Tax Exempt Bonds will not constitute a general obligation of the City; will not be secured by or payable from any property or assets of the City; and will not be secured by any taxing power of the City. Furthermore, the issuance of the Tax Exempt Bonds will have no adverse impact on the credit rating of the City, even in the event that the Applicant encounters financial difficulties with respect to the Subject Project.

The Applicant has paid the application fee, deposited an escrow to cover all expenses incurred by the City for attorney and consultant fees, as well as agreed to pay an issuance fee equal to 1% of the principal amount issued for the Tax Exempt Bonds.

Motion by Councilmember Buesgens , seconded by Councilmember Williams to waive the reading of Resolution 2018-32, there being ample copies available to the public. All Ayes, Motion Carried.

Gina Fiorini, Kennedy & Graven clarified that the City is acting as a conduit, to allow the borrower to get the benefit of a tax exempt rate.

Mayor Schmitt asked for assurance that the City will not need the funds for any projects this year. Dahl confirmed that there are not any projects planned for this year. Dahl reported the funds would be deposited into Fund 226, to be used towards Special Projects.

Motion by Councilmember Buesgens , seconded by Councilmember Williams to approve Resolution No. 2018-32, a resolution authorizing the issuance, sale and delivery of a revenue obligation for the benefit of Love To Grow on; authorizing the execution and delivery of the revenue obligation and related documents; and approving other actions related thereto. All Ayes, Motion Carried.

B. First Reading of Ordinance 1648 Amending Chapter 2, Section 10 and Chapter 6, Section 53 pertaining to the Direction of the Police Department.

City Attorney Jim Hoeft reported that the Charter Commission has been consideration two issues pertaining to the City's Charter. The first issue was to change the Mayor's term from two years to four years. The Council considered that amendment at their February 12th meeting, the item was not approved.

Ordinance 1648 would authorize the City Manager to oversee and direct the Police Department, rather than the Mayor, as the Charter currently indicates.

Motion by Councilmember Buesgens, seconded by Councilmember Williams to waive the reading of the Ordinance No. 1648, there being ample copies available to the public. All Ayes, Motion Carried.

Councilmember Buesgens reported that 10 of 14 neighboring Charter Cities operate with the City Manager overseeing the Police Department. Buesgens reported that historically some of the Mayors have informally given the responsibility to the City Manager, while some have not.

Buesgens stated she is in support of the change, for reasons including the fact that the Charter was written nearly 100 years ago, and the City Manager (whoever that may be) would likely be better qualified in personnel matters. Councilmember Williams agreed with Councilmember Buesgens.

City Manager Walt Fehst agreed that things have changed over the years, and it makes sense to make the change. Fehst indicated that while there have not been any negative issues in the past, the City may be at risk in the future.

Mayor Schmitt questioned the pay increase the former Mayor received due in part to hiring of the former Police Chief. Manager Fehst indicated that the Mayor at the time made the decision to include the whole council in the interview process.

Finance Director Joe Kloiber stated that if the City plans to combine the Public Safety functions, that it would be problematic if the oversight of the departments were by different people.

City Attorney Jim Hoeft reported the City Managers in the past have been involved in the hiring of the past three Police Chiefs, indicating the City Manager has the training and education to do so. Hoeft compared the City of Colombia Heights to a corporation, with the Council serving as the Board of Directors, and the City Manager as the CEO.

KT Jacobs-4104 Monroe St. asked if there have been any problems with the current structure. Manager Fehst stated that since he has been with the City there have been no problems.

Jim Hoeft clarified that if the item does not move to a second reading, it will revert back to the Charter Commission for consideration. If a second reading is scheduled, a unanimous approval is required. If not unanimous it goes back to the Charter Commission. The commission can then decide whether to leave the Charter as is, modify the resolution, or submit for a ballot question.

Mayor Schmitt indicated she would prefer the item be decided by the citizens, and placed on a future ballot.

Motion by Councilmember Buesgens , seconded by Councilmember Williams to schedule the second reading of Ordinance No.1648, being an ordinance amending Chapter 2, Section 10 and Chapter 6, Section 53 of the City's Charter pertaining to the Direction of the Police Department for June 11, 2018, at approximately 7:00 p.m. in the City Hall Council Chambers. A roll call vote was taken. All Ayes, Motion Carried.

9. ITEMS FOR CONSIDERATION

- A. Other Ordinances and Resolutions
- B. Bid Considerations
- C. New Business and Reports

10. CITY COUNCIL AND ADMINISTRATIVE REPORTS

Councilmember Buesgens attended the Recycling Recognition Ceremony in Anoka County, the Northeast Bank movie night, HeightsNEXT perennial exchange, the Community Education Pow Wow, she assisted with weeding the Lions Garden, attended Planning Commission training, attended the swearing-in of Officer

Jamie Mittelstaedt, planted flowers with the Beautification Committee, and attended the VFW Memorial Day Service.

Councilmember Williams announced Valley View Elementary School Urban Liaison Adriana Morales has been named the Columbia Heights Public Schools 2017-2018 Employee of the Year. Williams also announced \$292,000 in scholarships were awarded to High School Seniors.

Councilmember Murzyn, Jr. attended Iftar with a Cop, the swearing-in of Officer Jamie Mittelstaedt, and the VFW Memorial Day Service.

Councilmember Novitsky participated in calling a meat raffle at Millers, he presented three scholarships on behalf of the Lions, and attended Iftar with a Cop.

Mayor Schmitt attended the Pow Wow , attended the Multi-cultural Advisory meeting, attended the Morning side Cemetery & Bunker Hills Park Veterans Day celebration, and the VFW Memorial Day service.

Walt Fehst announced there will be a Meet and Greet at the City of Peace Neighborhood Center on June 6th from 5:00-7:00. Manager Fehst announced candidate filing will run through June 5th, with offices remaining opening until 5:00 on June 5th.

11. COMMUNITY FORUM

Joyce Meyer, 4931-4933 Jackson St NE reported she has received a condemnation letter from the City. Ms Meyer stated she intends to hire a contractor to take care of the restoration in her basement following a recent pipe break. City Attorney Jim Hoeft explained that the City is willing to work with the property owner, and instructed the property owner to contact the Building Official by June 1st.

12. ADJOURNMENT

Motion by Councilmember Murzyn, Jr., seconded by Councilmember Novitsky to adjourn. All Ayes, Motion carried.

Meeting adjourned at 8:25 p.m.



Respectively Submitted,
Katie Bruno, Council Secretary/City Clerk

Resolution 2018-32

RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF A REVENUE OBLIGATION FOR THE BENEFIT OF LOVE TO GROW ON; AUTHORIZING THE EXECUTION AND DELIVERY OF THE REVENUE OBLIGATION AND RELATED DOCUMENTS; AND APPROVING OTHER ACTIONS RELATED THERETO

BE IT RESOLVED by the City Council of the City of Columbia Heights, Minnesota (the "City"), as follows:

Section 1. Findings.

1.01. Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Act"), authorizes the City to carry out the public purposes described in the Act by providing for the issuance of revenue obligations to provide funds to finance revenue-producing enterprises, whether or not operated for profit.

1.02. Minnesota Statutes, Section 471.656, as amended, authorizes a municipality to issue obligations to finance or refinance the acquisition or improvement of property located outside of the corporate boundaries of such municipality if the governing body of the city in which the property is located consents by resolution to the issuance of such obligations.

1.03. Love To Grow On, a Minnesota nonprofit corporation, or any of its affiliates (the "Borrower"), has proposed that the City issue its revenue obligation (the "Note"), in one or more series, as a taxable or tax-exempt obligation, in an aggregate principal amount not to exceed \$3,800,000. The Borrower has proposed to apply the proceeds of the Note to (i) finance the acquisition, construction, and equipping of an approximately 13,000 square foot early childhood educational facility located at 6499 Lakota Trail in Lino Lakes, Minnesota (the "Project"); (ii) finance capitalized interest on the Note during construction of the Project, if necessary; (iii) fund required reserves for the Note, if any; and (iv) pay the costs of issuing the Note.

1.04. The Project financed with the proceeds of the Note will be owned and operated by the Borrower.

1.05. The Borrower has represented to the City that it is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the "Code"), as a result of the application of Section 501(c)(3) of the Code.

1.06. Section 147(f) of the Code, and regulations promulgated thereunder, and Section 469.154, subdivision 4 of the Act require that, prior to the issuance of the Note, the City Council approve the issuance of the Note after conducting a public hearing thereon preceded by publication of a notice of public hearing (in the form required by Section 147(f) of the Code and applicable regulations) in the official newspaper of and a newspaper of general circulation in the City at least fourteen (14) days prior to the public hearing date.

1.07. On the date hereof, the City Council conducted a public hearing on the Project and the issuance of the Note. A notice of public hearing was published at least fourteen (14) days prior to the regularly scheduled meeting of the City Council in the *Sun Focus*, the official newspaper of and a newspaper of general circulation in the City, with respect to the required public hearing under Section 147(f) of the Code and the Act. At the public hearing, a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on the Project and the proposed issuance of the Note.

1.08. Pursuant to Section 469.154 of the Act, prior to the issuance of the Note by the City, the Commissioner of the Minnesota Department of Employment and Economic Development ("DEED") must approve the costs of the Project to be funded by the Note on the basis of an application submitted by the City with all required attachments and exhibits (the "DEED Application").

1.09. The Note is to be issued under the terms of this resolution. Northeast Bank, a Minnesota banking and insurance corporation (the "Lender"), has agreed to purchase the Note. The proceeds derived from the sale of the Note to the Lender (the "Loan") are to be loaned by the City to the Borrower pursuant to the terms of a Loan Agreement (the "Loan Agreement") between the City and the Borrower. Proceeds of the Note will be applied by the Borrower to (i) finance the acquisition, construction, and equipping of the Project; (ii) finance capitalized

interest on the Note, if necessary; (iii) fund required reserves for the Note, if any; and (iv) pay the costs of issuing the Note. The proceeds of the Note will be disbursed pursuant to the Loan Agreement and a Disbursing Agreement (the "Disbursing Agreement") between the Borrower, the Lender, and a disbursing agent named therein.

1.10. The loan repayments required to be made by the Borrower under the terms of the Loan Agreement and certain other rights will be assigned to the Lender under the terms of a Pledge Agreement (the "Pledge Agreement") between the City and the Lender.

1.11. In consideration of the Loan by the City and to secure the payment of its obligations under the Loan Agreement and the principal of, premium, if any, and interest on the Note when due, the Borrower will execute and deliver a mortgage agreement granting a mortgage lien on certain property of the Borrower (the "Mortgage"), an assignment of leases and rents (the "Assignment"), and other security documents that are intended to secure timely payment of the Loan.

1.12. The principal of, premium, if any, and interest on the Note (i) shall be payable solely from the revenues pledged and otherwise available therefor; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; and (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Loan Agreement.

Section 2. The Note.

2.01. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Note in an aggregate principal amount not to exceed \$3,800,000. The Note shall bear interest at rates designated by the terms of the Note, and shall be designated, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, shall be in such form, and shall have such other terms, details, and provisions as are prescribed in the form of the Note now on file with the City, with the amendments referenced herein. The City hereby authorizes the Note to be issued as a "tax-exempt bond" the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes.

2.02. All of the provisions of the Note, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Note shall be substantially in the form now on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the name of the Note, the aggregate principal amount of the Note, the stated maturity of the Note and the maturity date of the Note, the interest rate on the Note, and the terms of optional and mandatory redemption of the Note) as the Mayor and the City Manager (the "Mayor" and the "City Manager," respectively), in their discretion, shall determine. The Mayor and the City Manager are authorized and directed to prepare the Note, and the Note shall be delivered to the Lender. The execution of the Note with the manual or facsimile signatures of the Mayor and the City Manager and the delivery of the Note by the City shall be conclusive evidence of such determination. The City Council of the City hereby authorizes and directs the Mayor and the City Manager to execute and deliver the Note.

2.03. The Note shall be a special, limited obligation of the City, and the principal of, premium, if any, and interest on the Note shall be payable solely from the proceeds of the Note, the revenues derived from the Borrower pursuant to the terms of the Loan Agreement and the security provided by the Borrower in accordance with the terms of the Loan Agreement, the Mortgage, the Assignment, and any and all other security of any kind or nature provided by the Borrower (or an affiliate) to the Lender.

2.04. As provided in the Loan Agreement, the loan repayments to be made by the Borrower under the Loan Agreement will produce revenues sufficient to pay the principal of, premium, if any, and interest on the Note when due. The Note shall not be payable from or charged upon any funds other than the revenues pledged to its payment, nor shall the City be subject to any liability thereon, except as otherwise provided in this paragraph. No holder of the Note shall ever have the right to compel any exercise by the City of its taxing powers to pay any of the Note or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Loan Agreement and the revenues and assets thereunder, which will be assigned to the Lender under the Pledge Agreement. The Note shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City, except the interests of the City in the Loan Agreement, and the revenues and assets thereunder, which will be assigned to the Lender under the Pledge Agreement. The Note shall recite that the Note is issued pursuant to the Act and that the Note, including interest and premium, if any, thereon, is payable solely from the revenues and assets pledged to the payment thereof, and the Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

2.05. It is hereby found and determined that the Project furthers the purposes set forth in the Act, and therefore the Project constitutes a "project" within the meaning of Section 469.153, subdivision 2(b) of the Act. The City acknowledges, finds, determines, and declares that the issuance of the Note is authorized by the Act and is consistent with the purposes of the Act and that the issuance of the Note and the other actions of the City under the Loan Agreement, the Pledge Agreement, and this resolution constitute a public purpose and are in the best interests of the City.

In accordance with Section 469.154 of the Act, the City Manager and other City staff are hereby authorized and directed to cause a draft copy of the DEED Application, together with drafts of all required attachments and exhibits, to be prepared by Kennedy & Graven, Chartered, as bond counsel ("Bond Counsel"). The City Manager and other officers, employees, attorneys, and agents of the City are hereby authorized to provide DEED with any information needed for this purpose, and the City Manager is authorized to initiate and assist in the preparation of such documents as may be deemed appropriate by Bond Counsel.

Section 3. Agreements. The Mayor and the City Manager are hereby authorized and directed to execute and deliver the Loan Agreement and the Pledge Agreement. All of the provisions of the Loan Agreement and the Pledge Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement and the Pledge Agreement shall be substantially in the forms on file with the City which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Mayor and the City Manager, in their discretion, shall determine, and the execution thereof by the Mayor and the City Manager shall be conclusive evidence of such determination.

Section 4. Disbursements of Note Proceeds. The proceeds of the Note shall be disbursed in accordance with the terms of the Loan Agreement and the Disbursing Agreement.

Section 5. Other Documents. The Mayor, the City Manager, and the Finance Director of the City are hereby authorized to execute and deliver, on behalf of the City, such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the Note, including one or more certificates of the City, an endorsement of the City to the tax certificate of the Borrower, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, and all other documents and certificates as shall be necessary and

appropriate in connection with the issuance, sale, and delivery of the Note. The City hereby authorizes Bond Counsel to prepare, execute, and deliver its approving legal opinion with respect to the Note.

Section 6. The City and Its Officers, Employees, and Agents.

6.01. Except as otherwise provided in this resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City Council, or such officers, board, body, or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

6.02. No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council of the City, or any officer, agent, or employee of the City in that person's individual capacity, and neither the City Council of the City nor any officer or employee executing the Note shall be liable personally on the Note or be subject to any personal liability or accountability by reason of the issuance thereof.

6.03. No provision, covenant, or agreement contained in the aforementioned documents, the Note, or in any other document relating to the Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement which are to be applied to the payment of the Note, as provided therein.

6.04. Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the Note, any right, remedy, or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any holders from time to time of the Note.

Section 7. Severability. In case any one or more of the provisions of this resolution, other than the provisions contained in Section 2.03 hereof, or of the aforementioned documents, or of the Note issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Note, but this resolution, the aforementioned documents, and the Note shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

Section 8. Validity of the Note. The Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Note and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Note, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.

Section 9. Authorization for Other Acts. The officers of the City, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Note for the full, punctual,

and complete performance of all the terms, covenants, and agreements contained in the Note, the aforementioned documents and this resolution. In the event that for any reason the Mayor is unable to carry out the execution of any of the documents or other acts provided herein, any persons delegated the duties of the Mayor shall be authorized to act in the capacity of the Mayor and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City. If for any reason the City Manager is unable to execute and deliver the documents referred to in this resolution, such documents may be executed by any person delegated the duties of the City Manager, with the same force and effect as if such documents were executed and delivered by the City Manager.

Section 10. Designation as Bank-Qualified Obligation. The City hereby designates the Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.

Section 11. Payment of Costs. The Borrower has agreed to pay directly or through the City any and all costs paid or incurred by the City in connection with the transactions authorized by this resolution, whether or not the Note is issued. It is understood and agreed that the Borrower shall indemnify the City against all liabilities, losses, damages, costs, and expenses (including attorneys’ fees and expenses incurred by the City) arising with respect to the Project or the Note as provided for and agreed to by and between the Borrower and the City in the Loan Agreement.

Section 12. Payment of City’s Administrative Fee. The Loan Agreement will require the Borrower to pay the City’s bond administrative fee when the Note is issued.

Section 13. Effective Date. This resolution shall be in full force and effect from and after its passage.

Ordinance 1648

THE CITY OF COLUMBIA HEIGHTS DOES ORDAIN: CHAPTER 2, FORM OF GOVERNMENT

Section 10. THE MAYOR. The mayor ~~shall have the appointment, control, and direction of all police officers of the city, and shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for the purposes of the military law.~~

Section 53. POWERS AND DUTIES OF THE CITY MANAGER. Subject to the provisions of this charter and any regulations consistent therewith which may be adopted by council, the city manager shall control and direct the administration of the city's affairs. ~~except that the police department and the enforcement of the laws pertaining to said department shall be under the sole control of the mayor.~~