

**LAUDERDALE CITY COUNCIL MEETING AGENDA  
6:00 P.M. THURSDAY, SEPTEMBER 13, 2012  
LAUDERDALE CITY HALL, 1891 WALNUT STREET**

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

1. **CALL THE MEETING TO ORDER**
2. **ROLL CALL**
3. **APPROVALS**
  - a. Agenda
4. **CONSENT**
5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
6. **INFORMATIONAL PRESENTATIONS / REPORTS**
7. **HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.

- a. Rental Housing License Held by Allan Giese, Giese Rice Creek, LLC.,  
Owner of 1954 Malvern Street

8. **DISCUSSION / ACTION ITEMS**
9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
10. **ADDITIONAL ITEMS**
11. **SET AGENDA FOR NEXT MEETING**
  - a. 2013 Budget and Capital Improvement Program Discussion
  - b. Presentation by University of Minnesota Sustainability Class
  - c. Open Burning Ordinance
12. **WORK SESSION**

Any member of the public may speak at this time on any item not on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be

continued at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address, and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer.

Your participation, as prescribed by the Robert's Rules of Order and the standing rules of order and business of the City Council, is welcomed and your cooperation is greatly appreciated.

**13. ADJOURNMENT**

## ST. ANTHONY POLICE DEPARTMENT INCIDENT REPORT

<b>ICR#</b> 12007427	<b>AGENCY ORI#</b> MN0272000	<b>JUVENILE:</b>
<b>INCIDENT</b>	<b>Reported:</b> 08-20-2012 0037 <b>First Assigned:</b> 0039 <b>First Arrived:</b> 0042 <b>Last Cleared:</b> 0054 <b>Committed Start:</b> 08-20-2012 0037 <b>Committed End:</b> <b>Title:</b> Disturbance/Noise Complaint <b>How Received:</b> Radio <b>Summary:</b> SQUADS WERE DISPATCHED TO RESIDENCE FOR LOUD MUSIC COMPLAINT. UPON ARRIVAL, LOUD SOUL MUSIC HEARD FROM STREET. MUSIC WAS PICKED UP ON SQUAD CAMERA/AUDIO RECORDING. SUBJECT WHO IDENTIFIED HIMSELF AS RESIDENT. <b>Location(s)</b> <b>Address:</b> 1954 MALVERN ST <b>City:</b> Lauderdale <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b>	
<b>OFFICERS</b>	<b>Officer Assigned:</b> Lebens, Mark <b>Badge No:</b> 123 <b>Primary:</b> No <b>Officer Assigned:</b> Erdman, Elliot <b>Badge No:</b> 148 <b>Primary:</b> No	
<b>MOC</b>	<b>MOC:</b> N3070 <b>Literal:</b> DISTURB PEACE-MS-PUBLIC NUISANCE <b>Statute:</b> 609-74 <b>UCR:</b> 24 <b>Name(s)</b> <b>Last Name:</b> Walker <b>First:</b> Keonte <b>Middle:</b> Tyrell	
<b>NAMES</b>	<b>Involvement:</b> Anonymous Complainant <hr/> <b>Involvement:</b> Suspect <b>Name:</b> Walker, Keonte Tyrell <b>Age:</b> 26 <b>Sex:</b> M <b>Race:</b> B <b>Height:</b> 509 <b>Weight:</b> 168 <b>Address:</b> 1199 Reaney <b>City:</b> St Paul <b>State:</b> MN <b>Zip:</b> 55106 <b>Country:</b> <b>Phone:</b> (Home) (612)221-8417 <b>Eye Color:</b> BRO <b>Hair Color:</b> BLK	

<b>Supplemental Report</b>	
<b>ICR:</b> 12007427	<b>08-21-2012 1924</b>
<b>Title:</b> Noise Complaint	<b>Created By:</b> Mark Lebens
ON 08-20-12, AT 0039 HRS, SQUADS WERE DISPATCHED TO RESIDENCE FOR LOUD MUSIC COMPLAINT. UPON ARRIVAL, LOUD SOUL MUSIC HEARD FROM STREET. MUSIC WAS COMING FROM THE LOWER LEVEL UNIT OF THIS DUPLEX. MUSIC WAS PICKED UP ON SQUAD CAMERA/AUDIO RECORDING. I HAD TO KNOCK TWICE TO GET THE ATTENTION OF SOMEONE INSIDE. SUBJECT WHO IDENTIFIED HIMSELF AS RESIDENT WAS ADVISED. OFFICER ERDMAN HAD GONE TO THE REAR OF THE RESIDENCE TO CHECK. OFFICER ERDMAN ADVISED ME THAT HE OBSERVED MULTIPLE PEOPLE IN THE KITCHEN AREA, TO INCLUDE ORASA LEE MEHRETE, WHO WE KNOW AS THE RESIDENT THAT WHO HAS LIVED AT THIS RESIDENCE. INFO TO BE FORWARDED TO CITY ATTORNEY DUE TO CHRONIC NOISE PROBLEMS FROM THIS LOCATION.	



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CHARTERED

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## MEMORANDUM

To: Mayor and Members of the City Council

From: Ron Batty, city attorney

Date: September 11, 2012

Re: Continued Hearing Regarding Rental Housing License for 1954 Malvern Street

On August 16, 2012, the city council conducted a hearing on whether to revoke, suspend or not renew the rental housing license for the property at 1954 Malvern Street. The city council considered written material included in the council packet as well as oral testimony and comments from numerous parties lasting almost 90 minutes. Following a brief discussion, the council continued the hearing until September 13, 2012.

At the continued public hearing, I recommend that the city council take the following actions:

1. Reopen the public hearing and consider any additional evidence which may be presented. The evidence may take the form of materials in the September 13 packet or written materials or oral testimony presented at the continued hearing.
2. Close the hearing after receipt of all evidence or continue the hearing again if necessary.
3. Following the close of the hearing, weigh the evidence which has been presented. The council should discuss the matter among themselves and feel free to ask questions of city staff, consultants, the license holder and his representatives and other relevant parties but keep in mind that the hearing is now closed.
4. Consider the actions to be taken, if any, based on the preponderance of the evidence. The preponderance of the evidence means determining the relative weight of the evidence or determining what is more likely to be the case than not.
5. In order to facilitate that process, I have prepared a draft of a resolution for consideration by the council. I have done so due to the numerous sections of the licensing ordinance which

are relevant and the many factual situations which are involved with the property. The intent of the draft resolution is not to steer the council in one direction or the other. The council should feel free to modify the resolution by adding, deleting or revising its recitals, findings and conclusions. It is an attempt to lay out relevant information in one place to help the council make a decision based on the evidence. The council should also feel free to reject the entire resolution if it deems some other approach appropriate, including taking no action against the license.

6. If the council does wish to adopt the resolution in the general form presented here, it will still be necessary to complete a few blanks and the council may wish to amend some of the language of the resolution. I suggest in that case that someone make a motion to direct city staff to prepare a resolution in the form presented in the packet but with the following amendments, and then state as specifically as possible what should be revised.
7. Once the above motion is seconded and adopted, staff will revise the resolution as directed by the city council. It will then be brought back at a subsequent meeting within 30 days for formal adoption, most likely on the consent agenda.

I will be in attendance at the September 13<sup>th</sup> continued hearing and available for questions or any assistance I may offer.

**CITY OF LAUDERDALE  
RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION REGARDING THE RENTAL HOUSING LICENSE FOR THE  
PROPERTY AT 1954 MALVERN STREET**

WHEREAS, on July 25, 2006, the city council of the city of Lauderdale (the “City”) adopted an ordinance regarding rental housing licensing within the community which was codified as Chapter 11 of the Lauderdale city code (the “Ordinance”); and

WHEREAS, section 9-11-1 of the Ordinance states that its purpose is to protect the public health, safety and welfare of the community at large and the residents of rental dwellings to ensure that such housing is decent, safe and sanitary and to ensure that it is operated and maintained so as not to become a nuisance to the neighborhood, an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community; and

WHEREAS, section 9-11-1 of the Ordinance also states that owners and operators of rental housing are engaged in a business enterprise that entails certain responsibilities, including taking reasonable steps to ensure that the citizens of the city who occupy such units may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure and sanitary; free from noise, nuisance or annoyance; and free from unreasonable fears about the safety of persons and security of property; and

WHEREAS, in order to accomplish those purposes, the Ordinance makes it unlawful to operate a rental dwelling within the community without first obtaining a license from the City; and

WHEREAS, the property located at 1954 Malvern Street (the “Property”) is a duplex which is operated as a two-unit rental dwelling; and

WHEREAS, the Property is owned in fee by Giese Rice Creek, LLC (the “Owner”), whose business address is 9551 Marshall Road, Eden Prairie, Minnesota; and

WHEREAS, for calendar years 2010 and 2011, the rental dwelling license (the “License”) for the Property was held by the Owner; and

WHEREAS, for calendar year 2012 the License has been in the name of Allan Giese; and

WHEREAS, the License provides for two rental units (the “Upper Unit” and the “Lower Unit”) on the first and second floors of the dwelling, respectively; and

WHEREAS, section 9-11-6A of the Ordinance makes the Owner responsible for violations of the duties and obligations of the Ordinance regarding rental dwellings even if the

duty or obligation is also imposed by Ordinance on the tenant or even if the Owner, by agreement, has imposed the duty or obligation on the tenant; and

WHEREAS, section 9-11-10A of the Ordinance requires that the Owner ensure that tenants conduct themselves in a manner so as not to cause a property to be disorderly; and

WHEREAS, a property is considered disorderly under the Ordinance if the conduct of a tenant violates any of 11 specified provisions of state statute or city ordinance; and

WHEREAS, sections 9-11-10 C, D and E of the Ordinance provide for formal notice from the City to the Owner for first, second and third violations, respectively, of the prohibition against use of the Property in a disorderly manner; and

WHEREAS, on January 14, 2012, officers of the St. Anthony police department (the "Police") under an agreement for police services between the cities of Lauderdale and St. Anthony, responded to a radio call regarding a loud party in the Lower Unit which resulted in the arrest of two visitors on outstanding warrants, the details of which incident are contained in Police incident report 12000370; and

WHEREAS, on March 20, 2012, the Police witnessed an argument in the driveway between the tenant of the Lower Unit and 7 to 8 individuals that arrived at the Property in vehicles, the details of which incident are contained in Police incident report 12002382; and

WHEREAS, on May 10, 2012, the Police responded to a call from a neighbor regarding an assault at the Property which resulted in taking a victim to the hospital, the details of which incident are contained in Police incident report no. 12003805 (the "First Violation"); and

WHEREAS, the First Violation involves disorderly conduct in violation of Ordinance sections 9-11-10 A 7 and 10; and

WHEREAS, by letter dated May 10, 2012, Heather Butkowski, the Lauderdale city administrator (the "City Administrator"), notified the Owner that this incident constituted the First Violation of the Ordinance; and

WHEREAS, in response to a previous notice from the City Administrator regarding a second violation and as required by Ordinance section 9-11-10 D, the Owner submitted a written report dated May 16, 2012 (the "Management Plan") detailing the actions taken and proposed to be taken by the Owner to prevent further disorderly use of the Property; and

WHEREAS, on June 16, 2012, the Police responded to a radio call regarding a heated argument outside near the Property, the details of which incident are contained in Police incident report 12005202;

WHEREAS, on June 24, 2012, the Police responded to a radio call regarding a disturbance in the front yard of the Property (the "Second Violation"), the details of which incident are contained in Police incident report no. 12005442; and

WHEREAS, the Second Violation involves disorderly conduct in violation of Ordinance sections 9-11-10 A 7 and 10; and

WHEREAS, by letter dated July 16, 2012, the City Administrator notified the Owner that this incident constituted the Second Violation of the Ordinance; and

WHEREAS, on July 15, 2012, the Police responded to a radio call regarding loud music from the Property which resulted in a citation of the tenant of the Lower Unit and observation by the Police of the possession of illegal drugs in the Lower Unit, the details of which incident are contained in Police incident report no. 12006091 (the "Third Violation"); and

WHEREAS, the Third Violation involves disorderly conduct in violations of Ordinance sections 9-11-10 A 3, 7 and 10; and

WHEREAS, by letter dated August 3, 2012, the City Administrator notified the Owner of the Third Violation and of a hearing to be held by the city council pursuant to section 9-11-10 E of the Ordinance; and

WHEREAS, pursuant to section 9-11-10 E 2 of the Ordinance, the City is authorized to revoke, suspend or decline to renew the License for all or any part or parts of the Property; and

WHEREAS, on August 16, 2012, the city council opened a hearing (the "Hearing") to consider whether the License for all or any part or parts of the Property should be suspended, revoked or not renewed; and

WHEREAS, at the Hearing, the city council considered the written materials in the council meeting packet, which included copies of the Police incident reports for the First, Second and Third Violations; Police incident reports regarding three additional incidents which occurred at the Property on January 14, 2012, March 20, 2012 and June 16, 2012; a memorandum from the city attorney; the City Administrator's letters to the Owner regarding the First, Second and Third Violations; the Owner's May 16, 2012 Management Plan; and a copy of the Ordinance; and

WHEREAS, at the Hearing, the city council heard testimony from the Owner's representatives, including the Owner's attorney and the manager of the Property, from the tenants of the Lower and Upper Units, and members of the public and considered the comments of the City Administrator and city attorney; and

WHEREAS, following dialogue with the Owner's representatives and the City Administrator and city attorney and discussion among themselves, the city council continued the Hearing to September 13, 2012; and

WHEREAS, on September 13, 2012, the city council received additional testimony from \_\_\_\_\_ and reviewed additional written material including information about a Police call to the Property on August 20, 2012 involving loud music from the Lower Unit and contact



with a male who identified himself as a resident, the details of which incident are contained in Police incident report 12007427 and which has subsequently resulted in a criminal complaint against the tenant of the Lower Unit.

NOW, THEREFORE, after careful consideration of all written materials submitted and the oral testimony offered at the Hearing, the city council makes the following findings:

1. The Owner has obtained a License and operates the Property as a two-unit rental dwelling under the License and pursuant to the Ordinance;
2. The Owner has no legal authority to operate the Property as a rental dwelling except under the License issued by the City pursuant to the Ordinance;
3. Conduct has occurred which has resulted in the Property being used in a disorderly manner in violation of the Ordinance, including the First, Second and Third Violations as well as the additional incidents which occurred on January 14, 2012, March 20, 2012, June 16, 2012 and August 20, 2012;
4. The Police incident reports show a consistent lack of willingness by residents and visitors to cooperate with the Police when called to the Property, which lack of cooperation impedes effective police work and endangers all residents of the Property and of the community as a whole;
5. The Police incident reports regarding the First, Second and Third Violations as well as those concerning the additional four incidents at the Property since January 14, 2012 are credible and have not been impeached in any substantive manner by any written evidence or oral testimony presented at the Hearing;
6. The Owner has failed in its duty under the Ordinance and in spite of the promises and representations made in the Management Plan to ensure that the Property is not used in a disorderly manner;
7. Conduct has repeatedly occurred on the Property which causes it to be a nuisance to the neighborhood and which may foster blight, deterioration and a disincentive to reinvest in the community;
8. The City council, having conducted the Hearing and considered all evidence and testimony presented, hereby acts in a quasi-judicial capacity in this matter.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the city council of the city of Lauderdale as follows:

[Choose One]

1. The Owner's License for (one or both units) of the Property is hereby revoked effective \_\_\_\_\_.

2. The Owner's License for (one or both units) of the Property is hereby suspended until \_\_\_\_\_.
3. The Owner is hereby notified that the License for (one or both units) of the Property will not be renewed beginning January 1, 2013 unless prior thereto the Owner presents compelling evidence which the city council, in its sole and exclusive discretion, deems credible and sufficient to ensure that the use of the Property will cease to be disorderly.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the city council of the city of Lauderdale that the City Administrator send the Owner an executed copy of this resolution and that city staff and consultants, including but not limited to the City's criminal and civil attorneys, be authorized and directed to take all actions necessary or convenient to effect the intent and purpose of this resolution.

Dated: \_\_\_\_\_, 2012.

\_\_\_\_\_  
Jeffrey E. Dains, Mayor

ATTEST:

\_\_\_\_\_  
Heather Butkowski, City Clerk-Administrator