

REGULAR MEETING – AUGUST 13, 2013

The regular meeting of the Common Council of the City of Marshall was held on August 13, 2013 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:30 P.M. by Mayor Robert Byrnes. In addition to Byrnes the following members were in attendance: Jennie Hulsizer, Larry Doom, Glenn Bayerkohler, John DeCramer, and Ellayne Conyers. Absent: Mike Boedigheimer. Staff present included: Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Cathy Lee, Executive Assistant; Sheila Dubs, Human Resource Coordinator; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk. Others in attendance included: Cal Brink, CEO Marshall Area Chamber of Commerce.

The Pledge of Allegiance was recited at this time.

**APPROVAL OF AGENDA:**

It was the general consensus of the council that the agenda be approved as presented.

**CONSIDER APPROVAL OF THE MINUTES OF THE SPECIAL MEETING HELD ON JULY 23, 2013, THE MINUTES OF THE REGULAR MEETING HELD ON JULY 23, 2013, THE MINUTES OF THE SPECIAL MEETING HELD ON JULY 30, 2013 AND THE MINUTES OF THE BUDGET SPECIAL MEETING HELD ON JULY 30, 2013:**

Member (**Jennie Hulsizer**) moved, Member (**Larry Doom**) seconded to approve the ORIGINAL motion 'that the minutes of the special meeting held on July 23, 2013, the minutes of the regular meeting held on July 23, 2013, and the minutes of the special meeting held on July 30, 2013 be approved as filed with each member and the minutes of the budget special meeting held on July 30, 2013 be approved as corrected and that the reading of the same be waived'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

**PUBLIC HEARING - CONSIDER APPROVING THE CONTRACT FOR PRIVATE DEVELOPMENT AND BUSINESS SUBSIDY AGREEMENT BETWEEN THE CITY, HRA, BEVERAGE WHOLESALERS, INC. AND R&R INVESTMENTS, LLC AND THE PURCHASE AGREEMENT FOR THE SALE OF PROPERTY BETWEEN HRA AS SELLER AND R&R INVESTMENTS, LLC, AS BUYER:**

This was the date and time set for a public hearing on the Contract for Private Development and Business Subsidy Agreement between the City of Marshall, HRA, Beverage Wholesales, Inc., and R & R Investments LLC and the Purchase Agreement for the sale of property between HRA as Seller and R & R Investments, LLC as Buyer. Cal Brink, CEO Marshall Area Chamber of Commerce, indicated that he has been in discussions with representatives from Beverage Wholesalers, Inc. and R&R Investments, LLC regarding the relocation of their business to a new lot in the Sonstegard II Subdivision to the City of Marshall. The businesses have out grown their current distribution center and desire to move to a new facility so as to allow for the expansion of its beer distribution business. Discussions have come to a conclusion and the negotiated documents are submitted to Council and HRA for consideration and approval. The significant terms of the CPD/BSA are as follows: City/HRA Obligations are: A.) HRA shall sell Lot 2, Block 2, Sonstegard II Subdivision, City of Marshall, Lyon County, Minnesota to R&R Investments, LLC for purchase price of \$175,000. This sales price is a write-down of \$206,000 from the current appraised value; B.) The value of the special assessments in support of the construction of public utilities on said property in the amount of \$1,249,333.45 will not be

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imposed against the property. Total special assessments will be waived and not collected from new owner; and C.) Water Area Charge (WAC) in the amount of \$19,401.79 will be waived. Beverage Wholesalers, Inc. and R&R Investments Obligations are: A.) R&R Investments, LLC will purchase Lot 2, Block 2, Sonstegard Subdivision II from HRA for the write-down price of \$175,000. R&R Investments, LLC will lease said premises to Beverage Wholesalers, Inc.; B.) Purchaser will construct a 45,000 square foot building for warehouse, administrative and back-room operations; and C.) Beverage Wholesalers, Inc. will retain 12 full-time and 3 part-time employees for a minimum of five years. Beverage Wholesalers, Inc. shall pay average of wage and benefits in the amount at least \$12.45 per hour.

Randy Christianson, president of Beverage Wholesalers, indicated that Beverage Wholesalers is a company that distributes alcoholic beverages to licensed retailers in Minnesota. Mr. Christianson indicated that their company has outgrown the warehouse space it currently leases in Marshall and would like to build a bigger facility.

Council Member Bayerkohler was concerned with the City of Marshall offering large subsidies to some businesses and not others. He was concerned with government picking winners and losers.

Mr. Brink indicated that subsidies are only offered to manufacturing, industrial and distribution projects and not for retail. He indicated that Marshall benefits from the jobs retained by keeping businesses in town.

Council Member DeCramer indicated that the subsidies were being given to businesses that approached the city and wanted to work with the city.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the public hearing be closed'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'the adoption of RESOLUTION NUMBER 3920, SECOND SERIES, which is a resolution approving the Contract for Private Development and Business Subsidy Agreement by and between the City of Marshall, HRA, Beverage Wholesalers, Inc. and R & R Investments, LLC and the approval of the Purchase Agreement for the sale of property between HRA as seller and R & R Investments, LLC, as buyer'. Council Member Doom called the question. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Bayerkohler voting no.

**PUBLIC HEARING - CONSIDER APPROVAL OF THE CONTRACT FOR PRIVATE DEVELOPMENT INCLUDING LAND PURCHASES AND BUSINESS SUBSIDY AGREEMENT BETWEEN CITY/HRA AND RUNNING SUPPLY, INC:**

This was the date and time set for a public hearing on the Contract for Private Development including Land Purchases and Business Subsidy Agreement between the City of Marshall, HRA and Running Supply, Inc. Cal Brink, CEO Marshall Area Chamber of Commerce, indicated that he had been in ongoing discussions with Running's CEO Dan Hermann, regarding the terms and

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conditions of a CPD/BSA. An agreement has been reached and some of the major terms of the agreement are as follows: City/HRA Obligations are: A.) Transfer of Lot 4, Block 1, Sonstegard Subdivision I to Running's at no cost. Property value write-down is \$354,300; B.) Special Assessments to support construction of public utilities in the amount of \$1,001,909.21 will be waived and will be not collected from Running's; C.) Water Area Charge (WAC) in the amount of \$18,038.41 will be waived; and D.) EDA provides a CRIF loan in the amount of \$250,000 to Running's. If all business incentives are met, the loan is forgiven. Running Supply, Inc. Obligations are: A.) Running's will build an additional 70,000 square foot warehouse and office facility adjacent to their current warehouse facility. The additional property to be constructed will include concrete lot, truck parking pad, and loading and unloading areas; B.) Running's will retain 63 FTE positions and will create 7 FTE living wage positions. Benefits and wages must average \$12.45 per hour; C.) Jobs and wages will be maintained for a minimum period of five years; and D.) Running's will transfer to City, an undeveloped property lot adjacent to Pizza Ranch facilities in the J-C Boyer Addition to the City of Marshall. Property to be transferred is described as Outlot D, J-C Boyer Addition. Outlot D is being considered as a future relocation of the Marshall Municipal Liquor Store. Condition/Subsequent: A.) Upon the conclusion of the transfers of land, City has agreed to provide in-kind services of labor, machinery and the like with a value of up to \$50,000, for the beautification/enhancement of the old Running's warehouse property located on S. Highway 59.

Jeff Haukom, Running's Chief Financial Officer, provided information on the growth and expansion of Running's.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the public hearing be closed'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'the adoption of RESOLUTION NUMBER 3921, SECOND SERIES, which is a resolution approving the Contract for Private Development including Land Purchase and Business Subsidy Agreement (CPD/BSA) between the City of Marshall, HRA, and Running Supply, Inc'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Bayerkohler voting no.

**CONSIDER APPROVAL OF CONSENT AGENDA:**

Member (**Larry Doom**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the council approve the following consent agenda items'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 85213 through 85466.

BE IT RESOLVED, that the council approve the LG230 Application to Conduct Off-Site Gambling for Holy Redeemer Church to conduct a raffle on Saturday, September 14, 2013 at the Lyon County Fairgrounds, 504 Fairgrounds Road, Marshall, Minnesota.

**CONSIDER ON-SALE BREWER'S TAPROOM LICENSE AND SUNDAY ON-SALE BREWER'S TAPROOM LICENSE FOR BRAU BROTHERS BREWING CO., LLC:**

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the application from the Brau Brothers Brewing Co., LLC for an On-Sale Brewer's Taproom License. The Brau Brothers are requesting this license to be approved for their location at 910 East Main Street. Approval is specific to the address which is consistent with all on-sale liquor establishments. The applicant listed the ability of the patio and parking areas to be included for special events but the State Alcohol Enforcement Administrator has indicated it has to be a building and could be a patio if fenced. However, the action is not to include those details of location. There are other ways for Brau to achieve outdoor festival events through other liquor regulations but are not relevant to the on-sale brewer's taproom license currently requested and before the council for consideration.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'the approval of an On-Sale Brewer's Taproom License and Sunday On-Sale Brewer's Taproom License for 910 East Main Street, Marshall, Minnesota contingent upon receipt of a copy of their Brewers License from the Minnesota Department of Public Safety Alcohol & Gambling Enforcement Division and a certificate of insurance for Liquor Liability'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0** Abstain: **1**. The motion **Passed 5 – 0** with Bayerkohler abstaining.

**CONSIDER APPROVAL OF A TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE TO USE AT SOUTHWEST MINNESOTA STATE UNIVERSITY**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on October 30, 2013 at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota for a League of Minnesota Cities Regional meeting'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0** Abstain: **1**. The motion **Passed 5 – 0** with Bayerkohler abstaining.

**CONSIDER APPROVAL OF A TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE TO USE AT SOUTHWEST MINNESOTA STATE UNIVERSITY FOR A BUSINESS AFTER HOURS EVENT:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on September 24, 2013 at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota for Business After Hours event'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0** Abstain: **1**. The motion **Passed 5 – 0** with Bayerkohler abstaining

**PERSONNEL POLICY AMENDMENT: EXPANSION OF SICK LEAVE BENEFIT PER MINNESOTA LAW:**

Sheila Dubs, Human Resource Coordinator, indicated that on August 1, 2013, a new Minnesota law titled "Sick Leave Benefits; Care of Relatives" will expand the current legal provisions on employee sick leave and necessitate an amendment to the City of Marshall's Sick Leave personnel policy. On August 1, 2013, the new law will expand the current legal requirement to

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other specified relatives to also apply to: adult children, a spouse, sibling, parent, grandparent, and stepparent. The new law also permits cities to limit the use of accrued sick leave time to 160-hours in a 12-month calendar period for these relatives (excluding the employee and child). The law applies to sick leave used on or after August 1, 2013. Staff is advising to review and consider amendments to the language in the existing policy related only to the law changes.

Previously, Minnesota Statutes required that if a city provides sick leave to employees, then the city must also allow employees to use sick leave to care for their children on the same basis as the employee. Effective August 1, 2013 the law expands to include other relatives, but for these relatives, the city may limit the use of accrued sick leave time to 160 hours in a 12-month calendar period. The 160-hour limit does not apply to the employee's stepchildren, or to biological, adopted, or foster children who are under 18, or who are under 20 if still attending secondary school. The 160-hour imposed cap may be applicable to all other covered relatives except on time used to care for the employee's child or for the employee themselves.

The current City's sick leave policy provides for an employee to utilize their sick leave benefits for themselves, a spouse, his/her child, and parents. The City's current policy places no maximum on sick leave usage by an employee for spouse or parent. The Personnel Committee and Staff are recommending on a vote of 2-1 no maximum sick leave limit for an employee's children or spouse and that a limit of 160-hours (combined total) be imposed for the following relatives: sibling, parent, stepparent, and grandparent.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Motion to approve the Sick Leave Policy amendments to include all statutorily required relatives; with a 160-hour per calendar year combined usage limit on siblings, parents, stepparents, and grandparents'.

Member (**Glenn Bayerkohler**) moved, Member (**Jennie Hulsizer**) seconded to approve the **AMENDED** motion 'that the motion be amended to include an adult child under the 160 hour cap per calendar year and to define a "Child" as a stepchild, biological, adopted or foster child, either under 18 years of age or under 20 and if still attending secondary school per Minnesota Statute 181.940, subdivision 4'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **2**. The motion **Passed 4 – 2** with DeCramer and Doom voting no.

All voted in favor of the original motion as amended.

**CONSIDER RESOLUTION OF AUTHORIZATION TO EXECUTE MN/DOT GRANT AGREEMENT NO. 03904 FOR AIRPORT MAINTENANCE & OPERATION (SFY 2014-2015):**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Grant Agreement for Airport Maintenance and Operation. The agreement provides for the State to reimburse the City of Marshall for 2/3 of the eligible maintenance and operation costs not reimbursed by any other source, not to exceed \$76,256 of State aid for each State fiscal year 2014 and 2015 (July 1, 2013 June 30, 2015).

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Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3922, SECOND SERIES, which is the Resolution of Authorization to Execute Minnesota Department of Transportation Grant Agreement No. 03904 for Airport Maintenance and Operation, contingent upon City Attorney review and approval'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDER EXECUTION OF FAA TERMS AND CONDITIONS OF ACCEPTING AIRPORT IMPROVEMENT PROGRAM GRANTS:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the May 2013 FAA Terms and Conditions for Accepting Airport Improvement Grants. They have been modified from the April 2012 Terms and Conditions approved by Council on May 22, 2012. There are significant changes from the April 2012 Terms and Conditions. The principal changes are reflected in the following two areas: 1) current Advisory Circulars list has been updated and 2) new e-Invoice grant condition. The document has been provided to City Attorney Simpson for his review.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve the "FAA Terms and Conditions of Accepting Airport Improvement Program (AIP) Grants" dated May 2013, contingent upon City Attorney review and approval'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**PROJECT Y67: MARSHALL AIRPARK EAST – CONSIDER RESOLUTION AUTHORIZING EXECUTION OF MN/DOT GRANT AGREEMENT FOR MARSHALL AIRPARK EAST-RAMP AREA-PHASE II (SCHEDULE 2):**

Glenn Olson, Director of Public Works/City Engineer, reviewed MN/Dot Grant Agreement for the Marshall Airpark East Ramp Area – Phase II (Schedule 2). This Agreement will remain in effect until June 30, 2017. The agreement provides for project costs not to exceed \$610,015.50. The City Council and Airport Commission have previously committed to the development of the Marshall Airpark East including the Madrid Street bridge, roadway and utility improvements, and the development of aprons and taxiway to connect to the existing runways. This project is the last phase of the surface work necessary for aircraft usage in the Airpark East development area. Water and sanitary sewer mains are still necessary to be constructed under separate contract in the future in order to enable the area to be "shovel ready".

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3923, SECOND SERIES, which is the Resolution to Authorize to Execute Mn/DOT Grant Agreement No. 04508/A4201-91 for Airport Improvement Excluding Land Acquisition for Marshall Airpark East-Ramp Area-Phase II (Schedule 2) at the Southwest Minnesota Regional Airport'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**PROJECT Z01: WEST REDWOOD STREET / NORTH 3RD STREET / WEST MARSHALL STREET RECONSTRUCTION PROJECT – CONSIDER CHANGE ORDER NO. 3:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 3 for West Redwood Street / North 3<sup>rd</sup> Street / West Marshall Street Reconstruction Project for a contract increase related to tree clearing and grubbing.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council approves Change Order No. 3 with Kuechle Underground, Inc. resulting in a contract increase in the amount of \$900.00 and a total contract amount of \$716,539.48'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**COMMISSION/BOARD LIAISON REPORTS:**

Reports by the Mayor and Council Members of the various Boards and Commissions were presented at this time:

Byrnes        Regional Development Commission did not meet in August, but the Regional Revolving Loan Fund Committee will be meeting; SW MN Amateur Sports Center met earlier today.

Hulsizer     No report.

Doom        Personnel Committee items were acted on earlier in the meeting; SW MN Amateur Sports Center discussed building designs.

Bayerkohler Housing Commission met on August 12<sup>th</sup> and approved their budget for their fiscal year beginning October 1, 2013.

DeCramer    EDA will meet next week; Utilities Commission held a finance meeting and it was indicated that the water rates will increase.

Conyers      Community Services Advisory Board met last week and held their annual tour.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

Mayor Byrnes indicated that the Dedication of the Whitney Statute will be held on Sunday, August 18, 2013.

**STAFF REPORTS:**

Ben Martig, City Administrator, was not in attendance at the meeting. He is attending the final 2013 Marshall Blandin Foundation Leadership Program cohort and graduation ceremony at SMSU this evening along with a number of other local Marshall members. Mr. Martig appreciates the support of the Mayor and Council on attending including the need to be away for two council meetings over the course of the training.

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Glenn Olson, Director of Public Works/City Engineer, indicated that the Neighborhood Watch Signs will be installed on the 200 and 300 blocks of Donita Avenue and on David Drive. The bike path is nearing completion. Asphalt overlay on various streets will begin on August 19<sup>th</sup>, which is the first day of school. Staff will notify the bus company and schools. Several projects are nearing completion and new projects are just beginning.

Dennis Simpson, City Attorney, indicated that his staff is continuing to work on documents for various city projects.

**PENDING ITEMS:**

There were no questions on pending items.

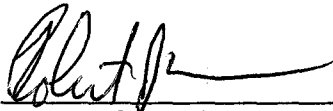
**INFORMATION ONLY:**

There were no questions on the information items.


**UPCOMING MEETINGS:**

There were no questions on the upcoming meeting list.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Adjourn meeting'. Upon a roll call vote being taken, the vote was: Aye: 6  
Nay: 0. The motion **Carried 6 - 0**

  
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Mayor of the City of Marshall

ATTEST:

  
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Finance Director/City Clerk