

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, June 27, 2023**

The regular meeting of the Common Council of the City of Marshall was held June 27, 2023, at City Hall, 344 West Main 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: Craig Schafer, Steve Meister, Amanda Schroeder, John Alcorn, See Moua-Leske and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney; Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Lauren Deutz, Economic and Development Director; Eric Luther, Liquor Store Manager; Scott Truedson, Wastewater Superintendent; and Steven Anderson, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

Consider Approval of the Minutes from the Regular Meeting Held on June 13, 2023

There were no amendment requests for the minutes held on June 13, 2023.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the minutes from June 13, 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Cannabis/Lower Potency Hemp Product Interim Ordinance

Administrator Hanson gave background information on the proposed interim ordinance. Attorney Whitmore continued that the topic has been talked about a couple of times now but briefly reiterated the Minnesota Legislature recently passed HF100/SF73 (the "Cannabis Act") which legalized the sale, transport, cultivation, and manufacturing of Cannabis and Hemp products in Minnesota. The Office of Cannabis Management (OCM) will be created effective July 1, 2023, and will perform expedited rulemaking. Under Minnesota Statute 462.355 subd. 4(a), as well as the City's general police powers in its Charter and state law, the Council has the authority to prohibit the retail sales of Cannabis products and lower potency hemp products, as well as the establishment of any Cannabis and hemp businesses within the City for up to one year from the adoption of the moratorium to allow Council time to conduct studies related to these businesses and sales. The City has no authority to prohibit the personal use or personal growing/cultivating allowed under the Act. Staff is recommending that the Council adopt the temporary interim ordinance prohibiting any business, person, or entity from offering for retail sale, wholesale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivering or commercial distribution of Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products, including the establishment or operation as a Cannabis Business or Lower Potency Hemp Business within the jurisdictional boundaries of the City of the City of Marshall. The City shall not process, or act on any application, site plan, building permit, or other zoning approval for a business, person, or entity proposing to engage in the sale of any Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products. This moratorium does not relate to the retail sale of Hemp Derived Topical Products, or Hemp Derived Fiber Products. The moratorium also does not relate to the sale of edible cannabinoid products as that term is defined in current statute, 151.72, subd. 1, in exclusive liquor stores.

Councilmember Lozinski asked for clarification that the interim ordinance and the repeal on the emergency moratorium would allow Tall Grass Liquor to begin selling edible cannabinoid products that also includes drinks. Moberg clarified that ordinances are effective once published which the earliest would-be July 1st. Councilmember Schafer asked if the repeal would be similar, and Attorney Whitmore also confirmed that it would be the same process for all ordinance effective dates.

Motion made by Councilmember Schafer. Seconded by Meister to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to adopt Ordinance 23-015 Prohibiting the Commercial Sale, Testing, Manufacturing, Commercial Cultivating, Commercial Growing, Transporting, Delivery, and Distribution of Cannabinoid Products. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Approval of the Consent Agenda

A request was made by Councilmembers Lozinski and Schafer to remove item number 5. Introduction of an Ordinance for the Request of the City of Marshall to Rezone Various London Road Properties from a B-1 Limited District and R-1 One-Family Residence District to R-4 Higher Density-Multi Family Residence District for further discussion.

- Repeal Emergency Ordinance No. 7-12-2022 on the Sale of Hemp Derived THC Food and Beverages
- Introduction of an Ordinance for the Request of Vesta, LLC to Rezone 1030 East Southview Drive
- Consider Request of Southwest Minnesota State University for Homecoming Parade (Saturday-October 14, 2023)
- Consider Approval for a Temporary On-Sale Liquor License for Visit Marshall -Prairie Jam
- Consider Approval of the Bills/Project Payments

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the remainder of the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Approval of Items Pulled from Consent

Introduction of an Ordinance for the Request of the City of Marshall to Rezone Various London Road Properties from a B-1 Limited District and R-1 One-Family Residence District to R-4 Higher Density-Multi Family Residence District

Jason Anderson briefly reviewed the purpose of the re-zone request. The re-zone was related to the Pre-Development Agreement item that EDA Director Deutz was going to present in a few minutes. The re-zone is north of Madrid Street and west of London Road. The Planning Commission held a public hearing on June 14th and feedback was taken from that which would be reflected in the presentation by Deutz during her agenda item. The main access would be located on Paris Road and would be extended to Channel Parkway by the developer to alleviate traffic on London Road.

Councilmember Lozinski asked about the strip of R-1 if that would be sold/developed later and would the lot sizes be large enough to accommodate homes. Anderson believed that the R-1 housing lots would not be sold at this time and city staff would ensure the lots were buildable. Councilmember Schroeder stated that during the public hearing the largest concern was re-zoning the entire area as R-4 and traffic. The Paris Road extension information was not available during the public hearing.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to introduce the Ordinance request to re-zone various London Road properties. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Request for an Interim Use Permit for Storage Container in a B-3 General Business District at 1300 Susan Drive

The property located at 1300 Susan Drive already has a storage container on its premises and this request was a result of the cities effort to address concerns that violate the outdoor storage ordinance. The Planning Commission after its public hearing recommended to approve the Interim Use Permit request with the following conditions:

1. That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Interim Use Permit in the event that any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default.
3. That this permit expires when the property changes ownership.
4. That this container meets all conditions of Sec. 86-248(f) dated 05-9-2023 (as attached) by August 31, 2023, including a fence, except side yard requirement.
5. That this container will have to be moved off required side yard when adjacent property is developed.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to approve the Interim Use Permit request at 1300 Susan Drive. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Pre-Development Agreement for Affordable Family Apartment Complex and Senior Independent Living Complex

Lauren Deutz has recently been in discussions with an established developer on the potential development of a 60-unit affordable family apartment complex and a 65-unit senior independent living complex on London Road. The developer will be applying for the MN Housing Tax Credit funding to support project costs which would allow the units to be at or below 50% AMI. Current proposed rental rates range from \$830 - \$1,283 plus utility allowance. The City's most recent Housing Study, completed in 2021, indicated a need for 75 shallow-subsidy units, and 128 deep-subsidy units through 2030. A Pre-Development Agreement (PDA) would give the developer the option to acquire the property for \$1 once the project is deemed feasible by the city. The developer is also required to complete the Paris Road extension and in turn, the City would provide \$500,000 in Pooled TIF funds to support the project. The PDA also supports the developer's application to MN Housing.

Tim Trimble with Tapestry Companies talked about Tapestry Companies and their background with developing Senior Independent Living complexes and the application process with MN Housing. Deutz pointed out that to address Councilmember Lozinski's earlier question about the R-1 single family lots that the proposed division of land would provide lots that are larger than the average lot size along London Road. Councilmember Meister added that this development fits into the vision of the Parkway Addition.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the Pre-Development Agreement between the City of Marshall and RLIC Land Holdings, LLC. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Presentation of the 2022 City of Marshall Audit

Nancy Schulzetenberg of BerganKDV presented the City of Marshall's 2022-year end audit as well as comparable financial data and analysis. No findings were found in accordance with Government Auditing Standards and Minnesota Legal Compliance.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to accept the 2022-year end audit. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-002-2023: Bituminous Overlay on Various City Streets - Additional Paving at the Wastewater Facility

City project ST-002-2023 Bituminous Overlays included a parking lot and an access road at the Wastewater Treatment Facility (WWTF). Both surfaces dated back to the early 1990s. The WWTF has two additional areas that are being requested to be paved, one on the east side of the facility that is primary used as a truck turnaround and one west of the equalization basin, that have erosion issues. Due to favorable bid pricing, city staff would like to pave these areas at the same time as the bituminous overlay project. Wastewater’s 2023 overlay budget has sufficient funds to cover the estimated additional amount of \$29,831.89. The original budget for overlay at the WWTF was \$149,500. The estimated cost to the WWTF budget for overlay, including this additional work, is \$86,053.86.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to authorize additional paving at the Wastewater Treatment Facility. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Authorize Staff to Draft Final Lease Agreement with Adult Basic Education (ABE) Program Effective August 1, 2023 through July 31, 2024

Mayor Brynes prefaced that Councilmember Moua-Leske is the Coordinator for Adult Basic Education (ABE) and will not be participating in this agenda item. Administrator Hanson stated that SMSU Social Sciences Building is proposing reconstruction to accommodate alternate education space for Marshall School District that will begin August 1st and continue into next year. The Social Science building currently houses ABE and is expected to complete construction at the end of July 2024. ABE has sought out alternate locations and determined that City Hall space would be ideal for the interim. ABE is not directly under Marshall Community Services but have partnered for a long time. Staff are proposing to temporarily re-locate the EDA during the term of the lease agreement to accommodate ABE and in addition, achieve lease revenue for the City.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Lozinski. Voting Abstaining: Councilmember Moua-Leske. The motion **Carried. 6-0-1.**

Consider Appointments to Various Boards, Commission, Bureaus, and Authorities.

An interview was held prior to the regular council meeting and Mayor Brynes recommended that Jennifer Katz be appointed to the Public Housing Commission with a term that end May 31, 2025.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to appoint and affirm Jennifer Katz to the Public Housing Commission. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

Commission/Board Liaison Reports

Brynes	No report.
Schafer	Equipment review committee will be meeting on 6/28 and the Joint LEC Committee will meet on 6/29.
Meister	EDA: Officer nominations took place. Five lots on Vienna Circle were proposed to UCAP for development and discussion on the multi-family complex by Tapestry Companies.
Schroeder	EDA: Main Street Re-vitalization grant received over 30 applications. Planning Commission: Discussed the IUP at Susan Drive and the re-zone along London Road.

Alcorn No report.
Moua-Leske No report.
Lozinski No report.

Councilmember Individual Items

Councilmember Schafer wanted to inform citizens that Mayor Byrnes received the C.C. Ludwig Award from the League of Minnesota Cities which is the Leagues highest honor for elected officials. Schafer had also received a call from a concerned citizen regarding the alley behind the Post Office and the city is doing their best to help with the situation.

Mayor Brynes requested Scott Truedson, Wastewater Superintendent, to update the council on the positive response from MPCA regarding the Marshall's permit that had expired. Mayor Byrnes also mentioned that Administrator Hanson was elected to the LMC Board of Directors. The RAISE (Rebuilding American Infrastructure with Sustainability and Equity) grant submitted by MnDOT for the 2025 College Drive Project was approved and awarded.

City Administrator

New numbers/design were received on the Aquatic Center to get the project closer to the \$18.3mil that was authorized by legislature. There will be increased communication coming soon to inform citizens on the pool and possibly open house tours of the current facility to allow citizens to see firsthand the challenges of maintaining the current pool. The Parks Department was exploring options for the Legion Field site and pickle ball courts or courts of some sort are a possibility.

Director of Public Works/City Engineer

Anderson gave a brief update on the following: Annual MS4 public hearing, pre-construction meeting for the Parkway Addition Pond project, bid opening for the Ralco Parking Lot, pre-construction meeting for Channel Parkway, Highway 23 Water Main project, and sealing/overlay projects likely would not start until the fall.

City Attorney

No report.

Information Only

There were no questions on the Information Only items.

Upcoming Meetings

There were no questions on the Upcoming Meetings.

Adjourn

At 6:55 PM Motion made by Councilmember Alcorn, Seconded by Councilmember Meister to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

Attest:

City Clerk

Mayor