

## CITY COUNCIL PROCEEDINGS

### AGENDA ITEM

June 24, 2013

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on June 24, 2013 at 6 p.m. in the City Council Chambers.
2. Moment of Silence for our men and women serving in the Armed Forces.
3. Councilmember present were Goerger, Gohman, Hontos, Johnson, Lewis, Libert, and Masters.

### Special Recognition:

4. Proclamation in recognition and celebration of the 25<sup>th</sup> year of the Liberty Savings Bank Block Party.
5. Presentation of 2013 Historic Preservation Awards and Century Homes.
  - The Historic Preservation Awards were given to: A) Everything Old is New Again – St. Cloud Remembered Facebook Page by John Lund; B) A Preservation Success!...”Main Street to Eighth Street” A Lewis Family Celebration; and C) Preserving Downtown Assets is a Family Affair...The Barths.
  - The 2013 Home Recognition Awards went to: A) Historic Name: Lahr Family – 528 7<sup>th</sup> Avenue North – current homeowner Cecelia Dwyer; and B) Original Owner: Joseph Marsolek – 223 11<sup>th</sup> Avenue North – current homeowner Paul & Tammie Froland.

### Consent Agenda:

6. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
7. **APPROVAL OF THE MEETING MINUTES OF THE REGULAR CITY COUNCIL MEETINGS HELD MAY 20, 2013.** REQUESTED ACTION: Approved.
8. **APPLICATION FOR TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE WHITNEY SENIOR CENTER FOR EVENTS TO BE HELD ON JULY 13-14 AND OCTOBER 10, 2013.** ACTION TAKEN: Approved.

9. **APPLICATION FOR A VALET PARKING LICENSE FOR PRESTIGE PARKING AND VALET. ACTION TAKEN: Approved.**
10. **APPLICATION FOR A TOBACCO LICENSE FOR SUNRISE LIQUOR, LLC, DBA SUNRISE LIQUOR, 20 14<sup>TH</sup> AVE. NE. ACTION TAKEN: Approved.**
11. **APPLICATION FOR A TOBACCO LICENSE FOR SMOKIN' MONKEY, INC. DBA SMOKIN' MONKEY, 64 33<sup>RD</sup> AVE. S. ACTION TAKEN: Approved.**
12. **APPLICATION FOR A TOBACCO LICENSE FOR MEGAVAPES, INC. DBA MEGAVAPES, 822 WEST ST. GERMAIN. ACTION TAKEN: Approved.**
13. **APPLICATION FOR TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE PARAMOUNT ARTS RESOURCE TRUST FOR EVENTS TO BE CONDUCTED AT 912 WEST ST. GERMAIN ON JULY 11 AND AUGUST 23, 2013. ACTION TAKEN: Approved pending receipt of favorable review by the Police Department and a certificate of liquor liability insurance covering each event.**
14. **RESOLUTION SUPPORTING AN APPLICATION FOR STATE BONDING FUNDS FOR THE COMPLETION OF THE RIVER'S EDGE CONVENTION CENTER EXPANSION PROJECT. ACTION TAKEN: Approved. Resolution was adopted and assigned number 2013-6-77.**
15. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH STEARNS COUNTY TO SHARE A JUSTICE ASSISTANCE GRANT (JAG) IN THE AMOUNT OF \$29,110. ACTION TAKEN: Approved. Resolution was adopted and assigned number 2013-6-78.**
16. **RESOLUTION OF THE CITY OF ST. CLOUD, MINNESOTA DECLARING THAT THE CITY WILL ADOPT THE PERFORMANCE MEASURES DEVELOPED BY THE STATE OF MINNESOTA FOR 2013 RESULTS. ACTION**

TAKEN: Approved. Resolution was adopted and assigned number 2013-6-79.

17. **BEAVER ISLAND TRAIL PHASE 4 PROFESSIONAL SERVICES AGREEMENT.** ACTION TAKEN: Hontos/Masters moved approval. Motion carried unanimously.
18. **RESOLUTON APPROVING MNDOT AGENCY AGREEMENT FOR THE BEAVER ISLAND TRAIL PHASE 4 IMPROVEMENTS.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2013-6-80.
19. **APPROVE AN AGREEMENT WITH SRF CONSULTING GROUP FOR THE LAKE WOBEGON REGIONAL TRAIL PLANNING STUDY.** ACTION TAKEN: Approved.
20. **APPROVAL OF CHANGE ORDER #17 FOR THE WASTEWATER TREATMENT FACILITY REHABILITATION, UPGRADE AND EXPANSION PROJECT.** ACTION TAKEN: Approved.
21. **A) RESOLUTION AMENDING THE WESTWOOD PARKWAY PLANNED UNIT DEVELOPMENT (PUD) TO CHANGE THE DENSITY OF SINGLE FAMILY HOMES AND INTERIOR SIDE YARD SETBACK WITHIN WESTWOOD PARKWAY PLAT 10.**  
**B) ORDINANCE VACATING ALL INTERIOR SIDE YARD DRAINAGE AND UTILITY EASEMENTS, EXCEPT FOR THE EASEMENTS FOUND ON LOTS 3, 4, 5, AND 6 OF WESTWOOD PARKWAY PLAT 10.**  
ACTION TAKEN: Reading and public hearings were set for July 15, 2013. Item B was signed proposed ordinance number 2013-12.
22. **ORDINANCE AMENDING ARTICLE 19 – OFF-SITE DEVELOPMENT STANDARDS, SECTION 19.4 – SIDEWALK IMPROVEMENTS, TO CREATE A COMPREHENSIVE AND FULLY INTERCONNECTED PUBLIC PEDESTRIAN**

**SYSTEM CONSISTENT WITH THE COMPREHENSIVE PLAN AND COMPLETE STREETS POLICY.** ACTION TAKEN: Reading and public hearing set for July 15, 2013. Assigned proposed ordinance number 2013-13.

23. **ACCEPT PROPOSAL TO TRANSPORT MUNICIPAL SOLID WASTE.** ACTION TAKEN: Approved.

24. **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR 2013 BITUMINOUS RESURFACING IMPROVEMENTS, CONTRACT 2013-16.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2013-6-81.

25. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A MINNESOTA DEPARTMENT OF TRANSPORTATION GRANT AGREEMENT FOR AIRPORT IMPROVEMENTS RELATING TO SECURITY UPGRADES AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Johnson/Lewis moved approval. Motion carried unanimously. Resolution was adopted and assigned number 2013-6-82.

26. **A) RESOLUTION ACCEPTING LOW BID RECEIVED FROM RICE CONSTRUCTION IN THE AMOUNT OF \$1,323,900 FOR THE CONSTRUCTION OF A STORAGE HANGAR AT THE ST. CLOUD REGIONAL AIRPORT.**

**B) RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER A MINNESOTA DEPARTMENT OF TRANSPORTATION GRANT AGREEMENT FOR AIRPORT IMPROVEMENTS RELATING TO THE ST. CLOUD REGIONAL AIRPORT HANGAR PROJECT.**

ACTION TAKEN: Approved. A) Resolution was adopted and assigned number 2013-6-83. B) Resolution was adopted and assigned number 2013-6-84.

**Open Forum:**

Joe Kucan, owner of

**Public Hearings:**

27. **APPLICATION FOR THE TRANSFER OF AN OFF-SALE INTOXICATING LICENSE FROM JM PEQUOT, LLC DBA SUNRISE LIQUOR TO SUNRISE LIQUOR, LLC, DBA SUNRISE LIQUOR, 20 14<sup>TH</sup> AVE. NE.**

Gregg Engdahl, City Clerk, presented the application and noted that the application has undergone departmental reviews and is recommended for approval. Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Hontos/Masters moved approval. Motion carried unanimously.

28. **APPLICATION FOR SEASONAL OUTDOOR SALES OF LIQUOR FOR THE VFW POST 428, 9 18<sup>TH</sup> AVE. N.**

Gregg Engdahl, City Clerk, presented the application and noted that the application has undergone departmental reviews and is recommended for approval pending receipt of a certificate of insurance extending coverage to the outdoor service area. City Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Robert Lenarz, VFW Post 428, addressed the City Council and described a visual of the property. Libert/Johnson moved approval. Motion carried unanimously.

29. **APPLICATION FOR A WINE AND 3.2 PERCENT MALT LIQUOR LICENSE FOR CENTRAL PERK, LLC DBA CENTRAL PERK WINE AND COFFEE BAR, 912 WEST ST. GERMAIN STREET.**

Gregg Engdahl, City Clerk, presented the application and noted that the application has undergone departmental reviews and is recommended for approval pending receipt of a favorable review by the Police Department and a certificated of occupancy from the Building Safety office. Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Lewis/Masters moved approval. Motion carried unanimously.

30. **CONSIDERATION OF RESOLUTION ORDERING SEBERGER**

## **NEIGHBORHOOD IMPROVEMENTS.**

Steve Foss, City Engineer, presented the resolution. Council President Goerger opened the public hearing. The following individuals testified:

- |                 |  |
|-----------------|--|
| Bob Spaeth      | 210 19 ½ Ave. N. – Questioning whether all of his trees in his boulevard that were planted approximately 10 years ago will be removed because of the widening of the road. If so, will the City replace what trees were taken?   |
| Dale Field      | 322 21 <sup>st</sup> Ave. N. – He would like the project scaled back to the basics like the replacement of sewer and water. He does not want new sidewalks added.  |
| Jacob Schwartz  | 351 20 <sup>th</sup> Ave. N. – He is concerned with his driveway if the City puts in new sidewalk along his property. He is also concerned with how many trees will be removed due to the sidewalk.  |
| Kimberlee Allen | 1940 1 <sup>st</sup> St. N. – She questioned whether there would be a boulevard with the new sidewalk going in on the west side of her property. She also questioned that is the City takes her property will her taxes be lowered?  |
| Deen Reller     | 223 23 <sup>rd</sup> Ave. N. – Spoke in support of the improvements.   |
| Brenton Netz    | 34 21 <sup>st</sup> Ave. N. – He stated that the property taxes should go toward paying for the improvements. He didn't like the fact that he got the bill in the mail with the public hearing notice and doesn't feel he should pay two years before the project is started.  |
| Sandy Maselter  | 214 22 <sup>nd</sup> Ave. N. – She objected to the sidewalks being installed on 21 <sup>st</sup> and 24 <sup>th</sup> Ave. N. on 2 <sup>nd</sup> St. N. as she feels there is not enough room in that area. She is also opposed to repaving the alley as owners have gravel driveways with will just ruin the paved alley. |
| Bob Shanks      | 210 23 <sup>rd</sup> Ave. N. – He questioned where his property taxes were going.  |

Mark Skare	46 20 <sup>th</sup> Ave. N. – He commented on how much truck traffic goes along his residential road instead of using the service road.
Lavanne Shanks	210 23 <sup>rd</sup> Ave. N. – She commented that the City should not do all of the improvements at once since it costs so much to the property owners. She had multiple questions of the Engineer regarding the utility lines in the area.
Roberta Block	136 20 <sup>th</sup> Ave. N. – She expressed concern of the cost of the improvements.
Mary Jane VanderWeyst	404/408 23 <sup>rd</sup> Ave. N. – She questioned whether the railroad will pay their share of the improvement costs and whether they will be hooking up to the City sewers.
Scott Chilson	53 20 <sup>th</sup> Ave. N. – He questioned whether the estimated assessment was set in stone or if it may change.
Eric Malinen	105 23 <sup>rd</sup> Ave. N. – He questioned if staff could lay out all the options that would reduce the cost of the improvements. If it was feasible the City could put in on the website or in the newspaper for residents to see.
Bob Anderson	444 25 <sup>th</sup> Ave. N. – He questioned whether they are going to replace the alley or determine whether it needs to be replaced. He stated that his alley is in fairly good condition.
Jim Schwartz	424 14 <sup>th</sup> Ave. N. – He agrees that the street have to be done by maybe not all at once. He questioned whether parking will still be available once the streets are narrowed. The cost is a big factor and he doesn't want to see more vacant homes in the area because they could not afford the assessments.
Chuck Athmann	515 Pinecone Road – He is the co-owner of Al's Repair Service and his main concern is keeping traffic flow so that it does not hurt his business.
Dan Mondloch	223 19 ½ Ave. N. – He supports the project but does feel the concern of the other property owners

regarding the cost so he would be supportive of the project if they reduced some parts of it.

Andy Theis

151 19 ½ Ave. N. – He lives on the corner of 22<sup>nd</sup> Ave. and 2<sup>nd</sup> St. N. He questioned whether he would have to pay for the alley since his driveway does not touch the alley.

Chuck Winkelman

205 19 ½ Ave. N. – He supports the project. There are some owners that have service lines failing to their homes and this will start happening to more homes. He suggested the low income stabilization process for those owners that are struggling. He doesn't want to see the project split into pieces. The neighborhood association has meetings the second Tuesday of each month for anyone who wants to attend and express concerns.

Vern Podlasek

350 21<sup>st</sup> Ave. N. – He stated that the City should not do the improvements unless there is money for the project instead of assessing the owners. He does not feel the project needs to be done as his area is still in good shape.

Council President Goerger closed the public hearing. Also included in the record were:

Marty Heine

13 24<sup>th</sup> Ave. N. – All Star Trophy. Sent an email questioning the life span of alleys and commented that his alley was done in 2002 and is being used by semi trucks which have been ruining the alley.

Derek Stroeing

51 21<sup>st</sup> Ave. N. – Sent an email with concerns of the sidewalk extension from 22<sup>rd</sup> Ave. N. to Cooper Ave. N. which affects his driveway if it gets added and that the sidewalk will be close to his house.

Linda Rolland

430 23<sup>rd</sup> Ave. N. – Sent letter regarding the hardship of payment for the improvements and requested the City to consider doing only parts of the improvements.

Steve Foss, City Engineer, responded to some of the concerns addressed. He stated that approximately 2/3 of the project is being borne by the community through property taxes with only 1/3 being assessed to the property owners. The project is being undertaken



because of the tax levy increase which was approved by the voters at the last election. The City completes the project first and bills the owners afterward. The project is planned to start in 2014 and finish in 2015. He also mentioned that the assessment rates will not change. He explained the assessment stabilization program and how the owners can qualify for the reduction in their assessments. Staff has tried to keep the cost down as much as possible. Steve Foss noted that the only cost to really scale back would be the sidewalks, but those savings are minimal. The sewer lines need to be repaired as they are from the 1920s or 1930s. The council discussed sidewalks and when to include them in road project. They are considering creating an ordinance that would make sidewalks part of all road construction projects. Mr. Foss proposed creating a 'working committee' from the neighborhood that addresses some of the issues of the neighbors. Councilmember Hontos requested that the individuals testifying tonight be responded to and that the City Council is notified that some sort of neighborhood meeting be scheduled. Council President Goerger asked that if you meet with this 'committee' before the project to discuss the specifics of the project that another meeting be scheduled (with public notice) to present the 95% plan. Steve Foss noted that they will work with subcommittees and then hold an advertised public meeting on the plan. Libert/Masters moved approval. Motion carried unanimously by roll call vote. Resolution was adopted and assigned number 2013-6-85.

**Old Business:**

31. **RESOLUTION AMENDING THE DISTRICT SQUARE PLANNED UNIT DEVELOPMENT (PUD) TO CONSTRUCT A 43,000 SQ. FT. OFFICE BUILDING. (LOCATION: 628 ROOSEVELT ROAD) (DPA-2013-01)**

Matt Glaesman, Community Development Director, reviewed the resolution and noted that the Planning Commission held a public hearing and recommended approval of the PUD amendment. The council considered the proposal earlier this month but wanted to see a better buffer between the building and the neighborhood. Mr. Glaesman presented the revised site plan and landscaping plan. Additional information was provided regarding water main relocation. Mr. Glaesman noted that the site plan has been revised by removing the ring road which allows for more green space. Lewis/Masters moved

approval of the resolution as revised. Motion carried unanimously. Resolution was adopted and assigned number 2013-6-86.

**Special Public Hearing:**

32. **RENEWAL OF LIQUOR LICENSES FOR MCRUDY'S AND RUMRUNNERS.**

Councilmember Lewis recused herself from both the discussion and the vote on this matter. Matt Staehling, City Attorney, addressed the Council on the liquor license renewal applications submitted by MCS Food Ventures (McRudy's Pub) and Henry Ross Corporation (RumRunner's Spirits and Brew Club). Their licenses will be expiring on June 30, 2013. Mr. Staehling noted that the City Administration recommends that these liquor license applications not be renewed. The applicants Brad Ireland and Erick Sandrock were present and represented by Attorney Steve Bader – Rajkowski Hansmeier Law Firm.

Matt Staehling, City Attorney, made a brief presentation outlining the various violations (both recent and over the last ten years) for each establishment. He provided two packets of information to the City Council – McRudy's City Ordinance Violations and Rum Runner's City Ordinance Violations. He also provided Mr. Bader with a copy of these. He proceeded to review the violations. Some violations included: in March, the city fined RumRunners \$750 for serving to someone under 21 and in April fined the bar \$1,500 for being over its occupancy limit. In April the city also denied RumRunners' request for an amusement device license – the bar had two citations for operating without a license. Mr. Staehling spoke of the many issues city departments confronted when working with the owners and employees of the bars. He also expressed concern that these establishments and their promotions target underage individuals. Gregg Engdahl, City Clerk, provided background information regarding McRudy's and Rumrunners' financial obligations and their delinquencies in payments on various accounts. He highlighted that both businesses are listed as being delinquent on their taxes with the MN Department of Revenue, which prevents them from purchasing liquor. Both also have had unpaid utility bills and their liquor liability insurance is being cancelled effective July 1, 2013. In addition, both businesses have had non sufficient funds checks when paying

utility bills and property taxes. To date these fees have been paid. Lisa Schreifels, Health Director, provided information on their past health code violations which showed a gross negligence in terms of food safety, basic maintenance, and cleaning. She specifically spoke of mold in the ice machine and unsafe food standards held by both establishments. Steve Bader questioned whether these violations have been corrected to which Ms. Schreifels stated that most of them had. Chief Anderson, Police Chief, presented information regarding law enforcement/public safety concerns. Chief Anderson took a look at an itemized list of calls and presented that in the past five years the bars account for 35% of all minor alcohol consumption calls and 44% of all assault calls in the downtown. Bill Mund, Fire Chief, provided information regarding fire code violations – both recent and historic. He played a video which demonstrated the potential tragedy that can happen when an establishment is over their occupancy limit and there is a fire, fight, or some other panic issue. He mentioned that RumRunners has had multiple fines for being over the occupancy limit which is endangering all patrons/employees of the establishment. In addition, public safety has found the second floor emergency exit frozen shut which means there is only one exit from the building. They have been told on multiple occasions to fix the door. This issue was ignored.

Steve Bader, attorney for bar owners Brad Ireland and Eric Sandrock, addressed the City Council. He mentioned that the owners have owned McRudy's since 2000 and RumRunners since 2003. Mr. Bader commented on such items as past and current violations, licenses, etc. He stated that McRudy's has had five violations in 13 years – three violations for occupancy and two violations for underage sales. He also mentioned that Rumrunners has had four violations in ten years - three violations for underage sales and one violation for occupancy. He distributed a document for the City Council to view that demonstrated that a Bar "A" and a Bar "B" have equal and/or more violations than these two bars; however, they are not in a situation of losing their license or not having approval of their license granted. Mr. Bader commented that the city was unfairly targeting McRudy's and RumRunners. He also commented on the fact that the bar owners closed their doors earlier this month out of caution since they did not know if the city would renew their licenses.

Council President Goerger opened the public hearing. The following individuals testified:

- |                     |   |
|---------------------|---|
| Tom Matthews        | 315 3 <sup>rd</sup> Ave. S. Mr. Matthew's office is adjacent to Rumrunners. He commented on personally witnessing lots of littering Thursday – Sunday and very loud in the evenings. He spoke in opposition to their license renewal.   |
| Tyler Lydzen        | 3504 15 <sup>th</sup> St. N. He spoke in support of their license renewal. He sets up music shows and stated that McRudy's is a strong supporter of local music.  |
| Jen Sell Matzke     | 5748 233 <sup>rd</sup> St. She is an employee of SCSU – Assistant Dean of Students/Student Life and Development. She spoke to the work the university is doing with the City and the success they have had in lowering the high risk drinking rate. She spoke in opposition of their license renewal.                                 |
| Eric Peterson       | 724 9 <sup>th</sup> Ave. S. SCSU Student Association President. He spoke of the student's right to feel safe downtown and these bars to not contribute to a safe community. He spoke in opposition to the renewal of their liquor license.  |
| Father Nathan Kroll | 708 6 <sup>th</sup> St. S. Father Kroll is a member of the Orthodox Church located in the southside. Father Kroll spoke in opposition to the license renewal. He stated that the City Council is responsible for promoting community health and its future vision. Allowing businesses like this should not be a part of this vision. |

Council President Goerger closed the public hearing. Steve Bader, Attorney for applicants, presented his closing remarks. He touched on the fact that people are employed by these businesses and will lose their jobs. He also noted that the facts have shown that they have paid their fines and have no current violations. Matt Staehling, City Attorney, followed with his closing remarks and recommended denial. He commented that holding an intoxicating liquor license is not a right, it is a privilege; with this

privilege come responsibilities, which these two establishments ignore and/or lack. There was a lengthy discussion about the issues facing the bars. Councilmember Hontos commented that the evidence shows that they are an overburden to city staff and the community. This was a consensus of the Council and they all held the same opinion that these bars should not be allowed to operate. Johnson Libert moved approval of the liquor license for MCS Food Ventures (McRudy's Pub). Motion failed 0-6; Councilmember Lewis abstained. Johnson/Masters moved approval of the liquor license for HenryRoss Corporation (RumRunner's Spirits and Brew Club). Motion failed 0-6; Councilmember Lewis abstained.

**Adjournment:** There being no further business to discuss the meeting was adjourned at 10:16 p.m.

---

City Council President  
Jeff Goerger

---

Jennifer Burrows, Recording Council Secretary