

REGULAR MEETING – JANUARY 2, 2007

The regular meeting of the Common Council of the City of Marshall was held on January 2, 2007 in the Council Chambers of the Marshall Municipal Building. The meeting was called to order at 5:30 P.M. by Mayor Byrnes. In addition to Byrnes the following members were present: Hulsizer, Doom, Sanow, Reynolds, Boedigheimer and Ritter. Absent: none. Staff present included: Michael Johnson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Harry Weilage, Director of Community Services; Sheila Dubs, Assistant City Administrator; Thomas M. Meulebroeck, Financial Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF THE AGENDA:

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

APPROVAL OF THE MINUTES:

Reynolds moved, Boedigheimer seconded, that the minutes of the regular meeting held on December 18, 2006 be approved as presented and that the reading of the same be waived. All voted in favor of the motion.

PUBLIC HEARING – QUIET TITLE ACTION ISSUES ASSOCIATED WITH LOT 1, BLOCK 1, COLLEGE FOUNDATION ADDITION – A. ADOPTION OF ORDINANCE FOR DISPOSITION OF CITY OWNED REAL PROPERTY; B. ADOPTION OF ORDINANCE FOR THE VACATION OF EASEMENT:

This was the date and time set for a public hearing on the Quiet Title Action issues associated with Lot 1, Block 1, College Foundation Addition. City Attorney Dennis Simpson indicated that the City of Marshall was recently involved in a Quiet Title Action wherein title to property described as Lot 1, Block 1, College Foundation Addition, City of Marshall, Lyon County, Minnesota, was quieted in the name of the present owner William LaBelle. Part of the Quiet Title Action authorized the City to install a new sanitary sewer line along the Southerly property line. The City also acquired Public Utility Easement regarding the installation and maintenance of said sanitary sewer line. During the course of the negotiations regarding the installation of new sanitary sewer line and new easement, it came to light that there was an old existing sanitary sewer line and public sanitary sewer easement running in a North/South and the Easterly direction. The Settlement Agreement involving the City of Marshall and subsequent Court Order incorporating the Settlement Agreement requires the City of Marshall to transfer the old existing Sanitary Sewer Line to the present property owner. That property owner has a right to continue using the sanitary sewer line as a private line. The Settlement Agreement and Court Order also indicated that an existing 30 foot sanitary sewer easement would be vacated. Sanow moved, Doom seconded, the public hearing be closed. All voted in favor of the motion.

Doom moved, Reynolds seconded, the adoption of ORDINANCE NUMBER 562, SECOND SERIES, and that the reading of the same be waived. Ordinance Number 562, Second Series is an ordinance providing for the Disposition of City Owned Real Property as Required by Marshall City Charter Section 12.05. This ordinance provides for the City of Marshall to transfer the old existing Sanitary Sewer Line to the present property owner. This Sanitary Sewer Line runs in a North/South direction on Lot 1, Block 1, College Foundation, and then continues Easterly on vacated portion of State Street. All voted in favor of the motion.

REGULAR MEETING – JANUARY 2, 2007

Doom moved, Reynolds seconded, the adoption of ORDINANCE NUMBER 563, SECOND SERIES and that the reading of the same be waived. Ordinance Number 563, Second Series is an ordinance providing for the Vacation of an Easement as required by Marshall City Charter Section 12.06. This ordinance provides for the vacation of an existing 30 foot sanitary sewer easement located in Lot 1, Block 1, College Foundation Addition. All voted in favor of the motion.

PUBLIC HEARING – TO CONSIDER THE REQUEST OF WESTERN MENTAL HEALTH CENTER, INC., TO REZONE 104 CARROW STREET FROM AN R-2 ONE TO FOUR FAMILY RESIDENCE DISTRICT TO A B-1 LIMITED BUSINESS DISTRICT:

This was the date and time set for a public hearing to rezone 104 Carrow Street from an R-2 One to Four Family Residence District to a B-1 Limited Business District. Glenn Olson, Director of Public Works/City Engineer, reviewed the request to rezone 104 Carrow Street. He indicated that Western Mental Health Center intends to use this property for professional offices in the future. The dwelling immediately north is a single family dwelling located in a B-3 General Business District. The 104 Carrow Street lot is 150' wide. The two family dwelling immediately south is in an R-2 One to Four Family Residence District. Western Mental Health Center owns the property to the west that fronts on East College Drive. Mary Harrelson, owner of 105 Carrow Street, was concerned with a road off a Carrow Street to the Western Mental Health property. Kurt Reedstrom, Executive Director, indicated that there is no intent to put in a road. Sanow moved, Reynolds seconded, that the public hearing be closed. All voted in favor of the motion.

Sanow moved, Doom seconded, the adoption of ORDINANCE NUMBER 564, SECOND SERIES and that the reading of the same be waived. Ordinance Number 564, Second Series is an Ordinance Amending Chapter 86 of the City Code Relating to Zoning. This ordinance to rezones 104 Carrow Street from an R-2 One to Four Family Residence District to a B-1 Limited Business District. All voted in favor of the motion.

APPROVAL OF CONSENT AGENDA – A. RESOLUTION DESIGNATING OFFICIAL DEPOSITORIES FOR 2007; B. RESOLUTION DESIGNATING OFFICIAL NEWSPAPER FOR 2007; C. LG 220 APPLICATION FOR EXEMPT PERMIT FOR HOLY REDEEMER CHURCH & SCHOOL FOR A RAFFLE; D. LG 220 APPLICATION FOR EXEMPT PERMIT FOR SMSU FOUNDATION FOR A RAFFLE; E. RENEWAL OF TRANSIENT MERCHANTS LICENSE FOR TNT FIREWORKS – CLERK FIREWORKS; F. RENEWAL OF TRANSIENT MERCHANTS LICENSE FOR TAP ENTERPRISES; G. TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE PRAIRIE HOME HOSPICE; H. BILLS/PROJECT PAYMENTS; I. BUILDING PERMITS:

Council Member Boedigheimer requested that item F, renewal of Transient Merchant License for TAP Enterprises be removed from the consent agenda.

Reynolds moved, Ritter seconded, that the following consent agenda items be approved:

The adoption of RESOLUTION NUMBER 2902, SECOND SERIES, and that the reading of the same be waived. Resolution Number 2902, Second Series is a resolution Appointing the Official Depositories for the City of Marshall City Funds for the year 2007.

The adoption of RESOLUTION NUMBER 2903, SECOND SERIES and that the reading of the same be waived. Resolution Number 2903 Second Series is a resolution Designating the Marshall Minnesota “Independent” as the Official Newspaper for the City of Marshall.

REGULAR MEETING – JANUARY 2, 2007

BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Applications for Exempt Permit –LG 220 for Holy Redeemer Church and School for a raffle to be held at the Holy Redeemer School, 501 South Whitney Street on February 3, 2007 and that the 30 day waiting period be waived for each of these applications.

BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Applications for Exempt Permit –LG 220 for Southwest Minnesota State University Foundation for a raffle to be held at the SMSU R/A Facility, 1501 State Street on February 23, 2007 and that the 30 day waiting period be waived for each of these applications.

The approval of a Transient Merchants License for TNT Fireworks – Clark Fireworks for the calendar year 2007 at a fee of \$300.00 contingent upon receipt of their bond.

The approval of a Temporary On-Sale Liquor License for Prairie Home Hospice to be used at Southwest Minnesota State University Conference Center, 1501 State Street, on January 27, 2007 and January 28, 2008, which is the snow date. The fee for this license is \$60.00.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 54239 through 54419.

All voted in favor of the motion.

The following building permits previously approved by the Building Official were confirmed:

| | Applicant | Location Address | Description of Work | Valuation |
|----|-----------------------------|-------------------------|----------------------------|------------------|
| 1. | Daniel & Donna Calvin | 804 Silvervine Drive | Replace Windows | \$5,500 |
| 2. | Hy-Vee WEITZ Construction | 904 East Main Street | Repair Store Front | \$9,000 |
| 3. | Bladholm Construction, Inc. | 219 West Main Street | Interior Remodel | \$7,500 |

Council Member Boedigheimer was concerned about the Transient Merchant License for TAP Enterprises, Inc., the agenda packet did not include a complete copy of their application. He was informed that TAP Enterprises, Inc., sells tools at the National Guard Armory. Boedigheimer moved, Sanow seconded, the approval of a Transient Merchant License for TAP Enterprises Inc., for the calendar 2007 at a fee of \$300.00. All voted in favor of the motion.

CONSIDER ADOPTION OF ORDINANCE CHANGING THE NAME OF AND RENAMING THOROUGH-FARE NOW DESIGNATED AS ARTILLERY DRIVE IN THE CITY OF MARSHALL TO TIMMERMAN DRIVE:

Doom moved, Sanow seconded, the adoption of ORDINANCE NUMBER 565, SECOND SERIES and that the reading of the same be waived. Ordinance Number 565, Second Series is an Ordinance Changing the Name Of and Renaming Thorough-Fare Now Designated as Artillery drive in the City of Marshall to Timmerman Drive. All voted in favor of the motion.

AVERA MARSHALL REGIONAL MEDICAL CENTER – BEHAVIORAL HEALTH PROJECT:

Mary Maertens, Interim President/CEO; and Sharon Williams, Financial Director, were in attendance at the meeting to review the Behavioral Health Unit at Avera Marshall. They indicated that they have received bids for Phase I and are recommending that the bid be awarded to Doom & Cuypers, Inc. They also provided information describing Phase 2 of the project which includes construction on the basement or ground floor level of the medical center. No action is required on Phase 2 at this time. Reynolds moved, Sanow seconded, the contract for Phase I of the Behavioral Health Unit at Avera Marshall be awarded to Doom & Cuypers, Inc., in the amount of \$717,780.00. All voted in favor of the motion.

CONSIDER RESOLUTION APPROVING FINAL PLAT OF JACQUELINE'S ADDITION:

Glenn Olson, Director of Public Works/City Engineer, reviewed the Final Plat of Jacqueline's Addition. Mr. Olson indicated that Mr. Schilling has proposed a four-acre development with rental houses. Schilling will not have a paved street but said he will have a crushed concrete or crushed granite private road. The road will not have curb and gutter, but Mr. Olson indicated that the design accounts for drainage from rain storms. The developer has agreed to the following items subsequent to the direction by Council from the Preliminary Plat hearing held on December 18, 2006:

1. All street and/or roadway easements and storm sewer system shall remain under private ownership and maintenance until such time these items have been improved according to City specifications, have been approved by the City Engineer, and accepted by the City Council. This agreement is included both in the Development Contract and the Protective Covenants which will be recorded with the Subdivision Plat.
2. Sanitary sewer elevations have been lowered to accommodate at least partial basements.
3. Storm sewer calculations for inlet/culverts and overland flow to receiving area have been provided.
4. A First Development Contract contains information concerning construction of any infrastructure intended to be transferred to the City for future ownership and maintenance.
5. Easements have been provided for utilities as requested by Marshall Municipal Utilities.
6. The developer has field-verified existing storm sewer location depths and size.
7. The title opinion has been provided and has been reviewed and approved by the City Attorney.
8. Payment of all fees has been received according to the First Development Contract for Jacqueline's Addition and according to the current Resolution Approving Specific Fees to be Charged by the City of Marshall (Resolution Number 2806, Second Series).

Comments from the council and city staff included:

1. Council Member Sanow was concerned with emergency vehicles being able to access this area due to the layout of the street.
2. It was indicated that the road would be 36" wide with crushed concrete or crushed granite. There would also be a public right-of-way on these roads. Mr. Olson indicated that the right-of-way would be available for emergency vehicles.

REGULAR MEETING – JANUARY 2, 2007

3. Because this road is private the city will not be responsible for snow removal or maintenance.
4. City code requires that any house that is moved into this area must be inspected and must meet city/state codes.
5. There was also a concern with lots being less than 70' wide. Mr. Olson indicated that if the street side of a lot is less than 70' wide it is required that the lot be 70' wide at the house set back location.

Boedigheimer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 2904, SECOND SERIES and that the reading of the same be waived. Resolution Number 2904, Second Series is a resolution Approving the Final Plat of Jacqueline's Addition. The motion is contingent upon the lot width requirements being met. All voted in favor of the motion, except Sanow and Hulsizer who voted no

DOWNTOWN LANDSCAPING PLANS FOR HIGHWAYS NO. 68 RECONSTRUCTION PROJECT – GREENSPACE COMMITTEE:

Harry Weilage, Director of Community Services, indicated that during the past six months, the Greenspace Committee has carefully considered a variety of landscaping plans and amenity options that are cost effective, serving to enhance Marshall's downtown, and create a pedestrian-friendly experience. The Committee has submitted the Downtown Landscaping Plan to Mn/DOT for inclusion in the project.

The Downtown Landscaping Plan incorporates a vision of the downtown from Sixth Street to College Drive that encourages more vitality and vibrancy in the downtown. The amenities will create a more desirable atmosphere for residents, workers, visitors and tourists. The plan includes amenities promoting traffic-slowing and pedestrian-friendly experiences. Custom planter boxes and seating walls filled with trees and plants/flowers will serve to retain an aesthetic quality and provide a place for pedestrians to rest or convene while enjoying shopping, dining and entertainment. The colored crosswalks and bollards will heighten awareness for motorists that they are in/entering the downtown where pedestrian traffic must be observed. Under this plan, downtown Marshall is taking positive steps towards a more vibrant and sustainable regional center.

Lyle Patzer, Elaine Nyquist and Renee DeAustin, members of the Greenspace Committee, provided a presentation on their Plan. They indicated that several amenity items were considered by the Committee but due to cost or other factors some were not selected for the final plan. These items were provided in the agenda packet for information only. Lyle indicated that the committee tried to keep the cost reasonable.

It was indicated that this plan did not include 3rd Street or South 4th Street. If the special assessment process is used to help fund the project then the property owners would be assessed 20% of the project.

Ray Alderman asked about salvaging items that would be removed from downtown. Glenn Olson, Director of Public Works/City Engineer, indicated that the Parks Department would be salvaging the pavers and that the remaining items would become the property of the contractor.

REGULAR MEETING – JANUARY 2, 2007

INSURANCE AD HOC COMMITTEE – CONSIDER RENEWAL OF WORKERS COMPENSATION INSURANCE FOR JANUARY 1, 2007:

Thomas M. Meulebroeck, Financial Director/City Clerk, reviewed the recommendation of the Insurance Ad Hoc Committee. They are recommending to renew the City's Work Comp Insurance effective January 1, 2007 with the League of Minnesota Cities Insurance Trust with a \$5,000 medical deductible and with a 2% managed care credit. The estimated annual premium is \$119,831 in comparison to \$132,772 for 2006. Sanow moved, Ritter seconded, that the City's Work Comp Insurance be renewed effective January 1, 2007 with the League of Minnesota Cities Insurance Trust with a \$5,000 medical deductible and with a 2% managed care credit. All voted in favor of the motion.

CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS:

Per the recommendation of Mayor Byrnes, Ritter moved, Boedigheimer seconded, that Kathleen Ashe and Aneesa Schaeffer be re-appointed to the Library Board for 3 year terms to expire on December 31, 2009. All voted in favor of the motion.

MAYOR AND COUNCIL MEMBER REPORTS:

Reports by the Mayor and Council Members of the various boards and commissions were presented at this time:

Byrnes No report.

Boedigheimer M.E.R.I.T. Center held an all day session with Interact.

Doom No report.

Hulsizer Was unable to attend the Human Rights Commission meeting.

Reynolds Hospital Board held a meeting earlier today; was unable to attend the Utilities Commission meeting.

Ritter Housing Commission and Public Improvement Transportation Committee have issues that will be coming forward.

Sanow No report.

COUNCIL MEMBER INDIVIDUAL ITEMS:

Other items brought forth by the Mayor and Council Members included: scheduling a Legislative and Ordinance Committee meeting along with the Planning Commission meeting on January 10th; Council Member Doom will not be at the next regular meeting; there was a concern that carbon monoxide detectors should be part of the building code.

REVIEW OF PENDING AGENDA ITEMS:

The agendas are being put together for the Joint EDA/City Council meeting on January 30th and for the Council Retreat on February 6th.

Glenn Olson, Director of Public Works/City Engineer, indicated that he has received the projected flood insurance rate map and there are several errors on the map.

REGULAR MEETING – JANUARY 2, 2007

The Special Assessment Litigation for North 6th Street and Hill / Marshall Streets have been completed for all but two parcels.

Upon motion by Ritter, seconded by Reynolds, the meeting was adjourned. All voted aye.

Mayor of the City of Marshall

ATTEST:

Financial Director/City Clerk