

REGULAR MEETING – FEBRUARY 10, 2009

The regular meeting of the Common Council of the City of Marshall was held on February 10, 2009 in the Professional Development Room at Marshall Middle School, 401 South Saratoga Street. 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, Boedigheimer and Ritter. Council Member Reynolds arrived at 5:55 P.M. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Shane Waterman, Assistant City Engineer; 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 with the addition of a Change Order with TSP, Inc. This will be item 11-B; and the Final Payment Application to TSP, Inc., will be item 11-C.

**APPROVAL OF MINUTES:**

Sanow moved, Doom seconded, that the minutes of the regular meeting held on January 27, 2009 and that the minutes of the special meeting held on February 3, 2009 be approved as presented and that the reading of the same be waived. All voted in favor of the motion.

**CONSENT AGENDA – A. APPROVAL OF CONSENT AGENDA; B. TEMPORARY ON-SALE LIQUOR LICENSE FOR THE AMERICAN LEGION TO BE USED AT THE NATIONAL GUARD ARMORY ON MARCH 14, 2009; C. TEMPORARY ON-SALE LIQUOR LICENSE FOR THE MARSHALL AREA CHAMBER OF COMMERCE FOR MARCH 5, 2009 AT 300 WEST MAIN STREET; D. CONSIDER AUTHORIZATION OF OUT-OF-STATE TRAVEL FOR JASON BUYSSE; E. CONSIDERATION OF APPROVAL BILLS/PROJECT PAYMENTS:**

Per the request of Council Member Doom item d, which is the consideration of out-of-state travel for Jason Buysse was removed from the consent agenda.

Sanow moved, Doom seconded, that the following consent agenda items be approved:

The approval of a Temporary On-Sale Liquor License for the American Legion Post 113 to be used at the Minnesota National Guard Armory on March 14, 2009. The fee for this license is \$30.00.

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on March 5, 2009 at Ralco Nutrition, 300 West Main Street. The fee for this license is \$30.00.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 63962 through 64131.

All voted in favor of the motion.

REGULAR MEETING – FEBRUARY 10, 2009

Council Member Doom indicated that tuition, meals and lodging costs for Jason Buysse to attend the “High Risk Event Planning – Level 1” training course at the Iowa Law Enforcement Academy in Camp Dodge, Iowa would be covered by federal funds. The only cost to the city would be for travel and wages for Officer Buysse. Doom moved, Sanow seconded, the approval of out-of-state travel be approved for Jason Buysse to attend the “High Risk Event Planning – Level 1” training course at the Iowa Law Enforcement Academy in Camp Dodge, Iowa from April 6, 2009 through April 10, 2009. All voted in favor of the motion.

**CONSIDERATION OF APPROVAL OF AMENDMENTS TO ASSET TRANSFER AGREEMENT AND MEMBERSHIP TRANSFER AGREEMENT OF THE SALE OF HOSPITAL TO AVERA:**

Dennis Simpson, City Attorney, reviewed the change to the Asset Transfer Agreement which is a revision to Section 5.2(c), requiring the Buyer (WMMC) to pay any transactional taxes imposed upon the transfer of property and the change to the Membership Transfer Agreement which is the inclusion of a new Exhibit 3.1(b) illustrating the affects of the projected defeasance costs on the transaction.

Ritter moved, Doom seconded, that the proper city personnel be authorized to enter into the Asset Transfer Agreement and the Membership Transfer Agreement as amended. All voted in favor of the motion.

**CONSIDERATION OF ADOPTION OF ORDINANCE TO APPROVE THE SALE OF REAL PROPERTY OF THE SALE OF THE HOSPITAL TO AVERA:**

Ritter moved, Doom seconded, the adoption of ORDINANCE NUMBER 605, SECOND SERIES and that the reading of the same be waived. Ordinance Number 605, Second Series is an Ordinance Approving the Sale of City Owned Real Property as Required by Marshall City Charter Section 12.05. This ordinance provides for the sale of Weiner Memorial Medical Center campus and adjacent property. All voted in favor of the motion.

**CONSIDERATION OF EXTENSION OF MARSHALL/LEGISLATIVE ASSOCIATES, INC. (LAI) AGREEMENT FOR 2009:**

Rob Yant, Director of Public Safety, reviewed the Agreement between the City of Marshall and Legislative Associates Inc., (LAI) for 2009 to allow Ed Cain to continue with lobbying efforts for the expansion of the M.E.R.I.T. Center. The cost for this agreement would be \$1,500 per month which includes lobbying efforts at both the state and federal level. Council Member Boedigheimer was concerned with how this would be paid for since it was not budgeted for. Boedigheimer was also concerned about not getting regular updates from Mr. Cain.

Sanow moved, Doom seconded, that the proper city personnel be authorized to enter into an agreement between the City of Marshall and Legislative Associates Inc., (LAI) for 2009 to allow Ed Cain to continue with lobbying efforts for the expansion of the M.E.R.I.T. Center. The cost for this agreement would be \$1,500 per month which is to be paid out of the M.E.R.I.T. Center account. All voted in favor of the motion.

**CONSIDERATION OF APPROVAL OF THE NIGHT CAP GRANT:**

Rob Yant, Director of Public Safety, reviewed the grant from the State of Minnesota, Department of Public Safety for the Operation Night CAP Grant. This grant provides reimbursement for officer's overtime and benefits up to \$2,200. Doom moved, Ritter seconded, that the proper city personnel be authorized to enter into an agreement with the State of Minnesota Department of Public Safety for the Operation Night Cap Grant in the amount of \$2,200. This grant is effective October 1, 2008 and will expire on September 30, 2009. All voted in favor of the motion.

**CONSIDERATION OF APPROVAL TO PURCHASE EQUIPMENT FOR THE CAT TEAM – A. AUTHORIZATION TO PURCHASE DECONTAMINATION SYSTEM AND GENERATOR; B. AUTHORIZATION TO PURCHASE SC-EL3 SYSTEM AND CABLE REEL:**

Rob Yant, Director of Public Safety, addressed the two pieces of equipment that the CAT Team is interested in purchasing. The first piece of equipment is a Decontamination system and generator and the second piece of equipment is a SC-EL3 Hazmat wireless video system and a SC-E13 – ECR antenna extension cable reel. Both of these items will be paid for out of the 2007 Homeland Security Grant in the amount of \$75,000. Rob indicated that they did receive 2 quotes for this equipment and are recommending the lower quote for each. Doom moved, Ritter seconded, that the proper city personnel be authorized to purchase a Decontamination system and generator from TVI Corporation in the amount of \$27,083.17 and a SC-EL3 Hazmat wireless video system and a SC-E13 – ECR antenna extension cable reel from Metro Fire in the amount of \$18,053.72. All voted in favor of the motion.

**CONSIDER FINAL CHANGE ORDER AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION FOR THE 2008 STREET RECONSTRUCTION PROJECTS (Y04, Y06, Y35, Y36, Y37, Y38, Y47):**

Ritter moved, Reynolds seconded, the approval of Change Orders with R & G Construction Co., in the amount of \$38,842.86 and the acknowledgement of the final payment in the amount of \$84,277.82 for the following projects:

	Change Order	Final Payment
Y04 Arbor Court	\$ 9,670.19	\$15,013.78
Y06 Nuese Lane	10,255.79	24,973.72
Y35 Morningside Circle	2,712.69	5,362.99
Y36 Horizon Circle	2,740.19	5,521.44
Y37 Sunset Circle	972.40	5,971.84
Y38 Emerald Court	(1,860.80)	2,896.40
Y47 DeSchepper Court	<u>14,352.40</u>	<u>24,537.65</u>
Total	\$38,842.86	\$84,277.82

The change orders are the result of the final measurements and changes in item quantities during construction. All voted in favor of the motion.

**CONSIDER AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH TKDA FOR AIRPORT DEVELOPMENT:**

The City of Marshall requested qualifications from consulting airport architectural / engineering / planning firms to provide services associated with airport improvements, with the intent to retain the selected firm for five (5) years or until completion of the CIP items listed in the Request for Qualifications (RFQ). The airport improvements are listed in the City's current Capital Improvement Program. Two firms that submitted an RFQ included TKDA of St. Paul, and Bolton & Menk, Inc., from Mankato, who subsequently withdrew their RFQ.

Lyle Kratzke from TKDA was in attendance at the meeting and briefly talked about the services that they have provided over the past several years and what they will be providing under the proposed agreement. The Professional Services Agreement with TKDA defines the terms and conditions of their services and allows the use of individual authorizations for specific projects. The agreement defines the terms of TKDA's services to be provided and will remain in effect as long as the City wishes. Individual projects will require additional individual contracts to come before the Airport Commission and City Council for approval.

Boedigheimer moved, Sanow seconded, that the proper city personnel be authorized to enter into a Professional Services Agreement with TKDA for Airport Development subject to legal review by City Attorney Dennis Simpson. There is no cost associated with this general agreement. All voted in favor of the motion.

**CONSIDER CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION FOR PROJECT Y26: HERITAGE PLACE IMPROVEMENT PROJECT:**

Doom moved, Ritter seconded, the approval of Change Order No. 1 (final) with R & G Construction, Co., for an increase in the amount of \$8,353.37 and the acknowledgement of the final payment in the amount of \$37,836.89. The change order is the result of final measurements and changes in item quantities during construction. All voted in favor of the motion.

**M.A.T. BUS GARAGE PROJECT - A. CONSIDER CHANGE ORDER NO. 0454-GC-SIX (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION TO BLADHOLM CONSTRUCTION, INC.; B. CONSIDER CHANGE ORDER NO. 1 WITH TSP, INC.; C. CONSIDER FINAL PAYMENT APPLICATION TO TSP, INC:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 0454-GC-Six (Final) with Bladholm Construction, Inc., which results in a net decrease in the contract sum in the amount of \$4,500. Per a meeting with the contractor on January 21, 2009, it was mutually agreed that the general contractor would be assessed \$4,500 in liquidated damages for non-compliance with the specified Completion Schedule. Accordingly, the \$4,500 was then invoiced by TSP for supplemental services performed during the extended construction closeout period. Council Member Boedigheimer questioned why TSP should be paid any additional fees for this project. Mr. Olson indicated that this project was not completed on time, therefore TSP needed to provide additional services for inspections.

Doom moved, Sanow, seconded, the approval of Change Order No. 0454-GC-Six (final) for a decrease in the amount of \$4,500.00 and the acknowledgement of the final payment in the

REGULAR MEETING – FEBRUARY 10, 2009

amount of \$26,174.00 to Bladholm Construction, Inc., for the Marshall Area Transit (M.A.T.) Bus Garage Project. The change order is for liquidated damages for non-compliance with the specified Completion Schedule. All voted in favor of the motion, except Boedigheimer who voted no.

Doom moved, Sanow seconded, the approval of Change Order No. 1 (final) with TSP for an increase in the amount of \$4,500.00 for consultant services performed for the Marshall Area Transit (M.A.T.) Bus Garage Project. The change order is for supplemental services performed during the extended construction closeout period. All voted in favor of the motion, except Boedigheimer who voted no.

Doom moved, Sanow seconded, the acknowledgement of the final payment in the amount of \$4,500.00 for consultant services performed for the Marshall Area Transit (M.A.T.) Bus Garage Project. All voted in favor of the motion, except Boedigheimer who voted no.

**CONSIDER AWARD OF PROPOSALS FOR PROFESSIONAL ENGINEERING SERVICES FOR ECONOMIC STIMULUS PROJECT - A. T.H. 23 MULTI-USE PEDESTRIAN UNDERPASS; B. MADRID STREET BRIDGE:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the proposals received for Professional Engineering Services for Economic Stimulus Projects. The first proposal is from Bolton & Menk, Inc., of Mankato, Minnesota to provide professional engineering services for design of the T.H. 23 Multi-Use Pedestrian Underpass economic stimulus project in the amount not to exceed \$69,800, subject to discussions with MN/DOT concerning the abilities to construct the project in coordination with the MN/DOT Resurfacing Project on T.H., 23, and subject to legal review by City Attorney Dennis Simpson.

The second proposal is from TKDA, Inc., of St. Paul, Minnesota to provide professional engineering services for design of the Madrid Street Bridge economic stimulus project in the amount not to exceed \$48,400, subject to legal review by City Attorney Dennis Simpson.

Mr. Olson indicated that the City has been in contact with various agencies including MN/DOT, FAA, MN/DOT Aeronautics, and Federal Legislators concerning the possibilities of economic stimulus projects that may be funded by the Federal or State governments within the next 90 to 180 days. One of the requirements of the proposals is that the project would be able to be constructed quickly allowing the money made available to provide a quick economic stimulus to the local area, state and country. In order to be able to utilize these funds the local agency must have the plans and specifications complete and ready to bid for construction in a short period of time.

Mr. Olson indicated that these two projects have been identified as priority items either by the Chamber Transportation Committee through their Transportation Study of T.H. 23 or the Airport Commission through their Airport Layout Plan and Capital Improvement Program. Both projects are important infrastructure items for the City of Marshall and the City would need this work to be done in any event.

REGULAR MEETING – FEBRUARY 10, 2009

Council Member Hulsizer requested an explanation of the economic stimulus that would be created through a pedestrian underpass. Mr. Olson responded that the T.H. 23 underpass would create jobs through the construction and design. Additionally, there is planning underway for expanded commercial growth in the area that will be enhanced by increased pedestrian traffic that would be created through the link of the University and High School. Specifically, there are potential future expanded shared facilities for amateur sports that draws from people from outside the region. Commercial development is being planned in conjunction with these future facilities.

Council Member Sanow asked how these fees would be paid for if the City did not receive the grant money. Mr. Olson indicated that this would be covered under the construction fund.

Doom moved, Boedigheimer seconded, that the proper city personnel be authorized to enter into a Professional Engineering Services Agreement with Bolton & Menk, Inc., of Mankato, Minnesota to provide professional engineering services for design of the T.H. 23 Multi-Use Pedestrian Underpass economic stimulus project in the amount not to exceed \$69,800, subject to discussions with MN/DOT concerning the abilities to construct the project in coordination with the MN/DOT Resurfacing Project on T.H., 23, and subject to legal review by City Attorney Dennis Simpson. All voted in favor of the motion.

Sanow moved, Ritter seconded, that the proper city personnel be authorized to enter into a Professional Engineering Services Agreement with TKDA, Inc., of St. Paul, Minnesota to provide professional engineering services for design of the Madrid Street Bridge economic stimulus project in the amount not to exceed \$48,400, and subject to legal review by City Attorney Dennis Simpson. All voted in favor of the motion.

**AUTHORIZATION TO ADVERTISE FOR BIDS FOR 2009 OVERLAY PROJECT (Y57) AND 2009 SEALCOAT PROJECT (Y58):**

Glenn Olson, Director of Public Works/City Engineer, indicated that approximately \$200,000 has been included in the City Street Department's 2009 budget for overlays and street improvements and approximately \$50,000 has been included in the City Street Department's 2009 sealcoating improvements. Actual overlays and sealcoating will be established after the bids are in and dollar amounts allocated to each project. Boedigheimer moved, Reynolds seconded, that the proper city personnel be authorized to advertise for bids for 2009 Bituminous Resurfacing Project Y57 and 2009 Sealcoating Project Y58. All voted in favor of the motion.

**CONSIDER RESOLUTION APPROVING PLANS & SPECIFICATIONS AND AUTHORIZE ADVERTISEMENT FOR BIDS FOR PROJECT Y05: VILLAGE DRIVE IMPROVEMENT PROJECT --**

Doom moved, Reynolds seconded, the adoption of RESOLUTION NUMBER 3195 SECOND SERIES and that the reading of the same be waived. Resolution Number 3195, Second Series is a resolution Approving Plans and Specifications and Ordering Advertisement for Bids for Village Drive Improvement Project Y05. The bids for these projects will be received on March 17, 2009. All voted in favor of the motion.

**COUNCIL MEMBER COMMISSION / BOARD LIAISON REPORTS:**

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

- Byrnes            EDA met earlier today and discussed several items.
- Hulsizer        Human Rights Commission meet was cancelled; Library Board reviewed the LGA cuts, donations and the Corporate Spelling Bee.
- Doom            Marshall Community Services Advisory Board met last week and discussed the Downtown Park and he indicated that there are several sport tournaments scheduled to be in Marshall over the next several weekends.
- Sanow           Cable Commission met and discussed the rate structure for their service and also the proposed studio design.
- Reynolds        No report.
- Boedigheimer Airport Commission items were discussed earlier in the meeting; Lyon County Enterprise Development did not meet; M.E.R.I.T. Center meeting was cancelled; Ways and Means Committee needs to schedule a meeting.
- Ritter           Housing Commission and EDA met.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that there would be an agreement with Springsteds on the TIF Districts available at the next council meeting; the budget books would be ready on Wednesday; there will be a closed session on February 24<sup>th</sup> to discuss union negotiations; he indicated that the format for Council Friday Updates is complete; the Personnel Committee needs to schedule a meeting; and he asked if the Council Members would be interested in forming a team for the Library Spelling Bee.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

Other items brought forth by the Mayor and Council Members included: reviewing what the needs are before hiring part-time summer help for Community Services; it was suggested that the city should consider the school, college and county when the by-laws are being formulated for the proposed sports facility; there was a brief discussion on Lyon County looking for a new EDA Director and maybe this could be a joint position between the City and County. Council Member Boedigheimer indicated that he and Council Member Ritter will follow up with a meeting with County Commissions on this position. Council Member Boedigheimer indicated that they adopted an ordinance restricting underage people in bars and is concerned that this is not being enforced at this time. Mr. Martig indicated that this is being worked on.

**REVIEW OF PENDING AGENDA ITEM:**

A presentation needs to be scheduled with the council on the Industrial Park Development Surface Water.

**BUILDING PERMITS – INFORMATION ONLY:**

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

Applicant	Location Address	Description of Work	Valuation
1. Michael T. Jewett	515 Central Avenue	Reroof	\$5,400

**INFORMATION ONLY:**

Other items included with the agenda packed for information purpose were: Certificates of Deposit and the Safety Committee Minutes.

**DETERMINATION BY CITY COUNCIL TO GO INTO CLOSED SESSION PURSUANT TO MINNESOTA STATUE 13D.05 SUBD. 3(B) TO DISCUSS PENDING LITIGATION RELATED TO MPCA VIOLATIONS:**

Ritter moved, Reynolds seconded, that the Council go into closed session pursuant to Minnesota Statute 13D.05 Subd. 3(B) to discuss pending litigation related to MPCA violations at 7:13 P.M. All voted in favor of the motion.

The Mayor called for a recess at this time.

The closed session began at 7:17 P.M.

The Council came out of closed session at 7:22 P.M.

Upon motion by Reynolds, seconded by Ritter, the meeting was adjourned. All voted in favor of the motion.

  
\_\_\_\_\_  
Mayor of the City of Marshall

ATTEST:

  
\_\_\_\_\_  
Financial Director/City Clerk