

REGULAR MEETING – MAY 12, 2009

The regular meeting of the Common Council of the City of Marshall was held on May 12, 2009 in the Professional Development Room at Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:39 P.M. by Mayor Byrnes. In addition to Byrnes the following members were present: Hulsizer, Doom, Sanow, Reynolds and Ritter. Absent: Boedigheimer. 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; Lorna Sandvik, City Assessor; Thomas M. Meulebroeck, Finance 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 item 12a, which is to accept the resignation of Council Member Reynolds and consider a resolution declaring a vacancy in the common council and providing for a special election.

APPROVAL OF THE MINUTES:

Reynolds moved, Sanow seconded, that the minutes of the special meeting held on April 27, 2009 and the minutes of the regular meeting held on April 28, 2009 be approved as filed with each member and that the reading of the same be waived. All voted in favor of the motion.

PUBLIC HEARING – CRIMINAL BACKGROUND CHECK ORDINANCE:

This was the date and time set for a public hearing on the Criminal Background Check Ordinance. Rob Yant, Director of Public Safety, indicated that the Bureau of Criminal Apprehension (B.C.A.) has established guidelines for use of the criminal information system within the State of Minnesota based on Federal Bureau of Investigation national standards. These guidelines have become more specific on applicable utilization of the system. The system provides personal criminal history in Minnesota and the primary application is for criminal investigations. Minnesota statute also mandates a criminal history for all applicants for a position leading to employment as a licensed peace officer before the applicant may be employed.

Numerous cities in Minnesota, including Marshall, have utilized the State system to conduct background checks on employees or for certain licenses and permits. The State has implemented a requirement for municipalities to approve a local ordinance adopted by the Mayor and City Council in order to allow local law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal background checks. A recent audit of the Marshall Police Department's records by the B.C.A. indicated that these uses were being done but without the required ordinance being available. Therefore, the Police Department has ended all non-criminal background checks utilized for city operational purposes. An ordinance must be adopted for the resumption of criminal history checks for non-law enforcement city employment and for city licenses.

Reynolds moved, Sanow seconded, that the public hearing be closed. All voted in favor of the motion.

Reynolds moved, Sanow seconded, the adoption of ORDINANCE NUMBER 610, SECOND SERIES and that the reading of the same be waived. Resolution Number 610, Second Series is an ordinance Relating to Criminal History Background for Applicants for City Employment, Appointment to City Boards and Commissions and City Licenses. This ordinance

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provides for the Police Department to provide criminal history checks for non-law enforcement city employment and for city licenses. All voted in favor of the motion.

APPROVAL OF CONSENT AGENDA – A. REQUEST FOR STREET CLOSURE FROM LYON COUNTY HISTORICAL SOCIETY; B. LG220 APPLICATION FOR EXEMPT PERMIT FOR HOLY REDEEMER CATHOLIC CHURCH FOR A RAFFLE ON SEPTEMBER 27, 2009; C. LG220 APPLICATION FOR EXEMPT PERMIT FOR SOUTHWEST MINNESOTA STATE UNIVERSITY FOR A RAFFLE ON JULY 10, 2009; D. TEMPORARY ON-SALE LIQUOR LICENSE FOR SOUTHWEST MINNESOTA STATE UNIVERSITY FOR JUNE 7, 2009 AT SMSU; E. 3.2 PERCENT MALT LIQUOR LICENSE FOR THE MARSHALL BASEBALL ASSOCIATION FOR MAY 15, 2009 TO SEPTEMBER 15, 2009 AT LEGION FIELD; F. 3.2 PERCENT LIQUOR LICENSE FOR THE MARSHALL SOFTBALL ASSOCIATION FOR JUNE 1, 2009 TO OCTOBER 31, 2009 AT THE SOFTBALL COMPLEX; G. TRANSIENT MERCHANT LICENSE FOR THE COUNTRY STOP TO SELL PRODUCE AT THE DAIRY QUEEN PARKING LOT AT 1206 EAST COLLEGE DRIVE; H. AUTHORIZATION TO DECLARE BICYCLES AS SURPLUS PROPERTY; I. CONSIDER REQUEST FROM MARSHALL DOWNTOWN BUSINESS ASSOCIATION FOR CRAZY DAYS ON JULY 16, 2009; J. CONSIDER REQUEST FROM SOUNDS OF SUMMER PLANNING COMMITTEE FOR PARADE ON AUGUST 22, 2009; K. CONSIDER REQUEST FROM SMSU FOR HOMECOMING PARADE ON OCTOBER 10, 2009; L. CONSIDERATION OF APPROVAL BILLS/PROJECT PAYMENTS:

Per the request of Council Member Sanow item a, which is the request for street closure from the Lyon County Historical Society be removed from the consent agenda.

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

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 Application for Exempt Permit – LG220 for Holy Redeemer Catholic Church for a raffle to be held at Holy Redeemer Catholic Church, 503 West Main Street, Marshall, Minnesota on September 27, 2009 and that the 30 day waiting period be waived.

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 Application for Exempt Permit – LG220 for Southwest Minnesota State University for a raffle to be held at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota on July 10, 2009 and that the 30 day waiting period be waived.

The approval of a Temporary On-Sale Liquor License for Southwest Minnesota State University Foundation to be used on June 7, 2009 at Southwest Minnesota State University. The fee for this license is \$30.00.

The approval of a Temporary 3.2 Percent Malt Liquor License for the Marshall Baseball Association to use from May 15, 2009 to September 15, 2009 at Marshall Legion Field. The fee for this license is \$200.00.

The approval of a Temporary 3.2 Percent Malt Liquor License for the Marshall Softball Association to use from June 1, 2009 to October 31, 2009 at the Marshall Softball Complex. The fee for this license is \$250.00.

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The approval of a Transient Merchant License for The Country Stop to use at the Dairy Queen parking lot located at 1207 East College Drive. The fee for this license is \$315.00.

Authorization be granted to the Department of Public Safety to dispose of surplus bicycles. These bicycles will be donated to a positive program within Marshall, sold by the Police Department or crushed for money. Determination would be by the condition of the bike and the easiest most cost effective way to dispose of.

The approval of the request of the Marshall Downtown Business Association to close Main Street from College Drive (intersection of T.H. 19 & T.H. 59) north to North 5th Street; North 3rd Street from Main Street to Lyon Street; and South 4th Street from Main Street to the alley behind Bot Appliance on Thursday July 16, 2009 from 6:00 A.M. to 6:00 P.M. for the Annual Crazy Days activities contingent upon the approval of MN/DOT.

Authorization be granted for street closure form 2:00 P.M. to 5:00 P.M. for the Sounds of Summer Parade on Saturday, August 22, 2009. Line-up begins at 2:00 P.M. on Jewett Street and East Lyon Street to Bruce Street. The parade route begins at Bruce Street and proceeds down to East Main Street (TH 59) in a Northwestern path to downtown Marshall and ending at 5th and 6th Streets contingent upon the approval of MN/DOT.

A public hearing will be held on May 26, 2009 on the private use of public streets and parking lots for the Sounds of Summer.

Mr. Labat requested the closure other streets, which will be provided to the Department of Public Works/City Engineer and Department of Public Safety. Sanow moved, Ritter seconded, approval of the closure of additional streets for Sounds of Sumner events contingent upon review by the Department of Public Works/City Engineer and Department of Public Safety. All voted in favor of the motion.

Authorization be granted for street closure from 9:00 A.M. to 12:00 P.M. for Southwest Minnesota State University Homecoming Day Parade on Saturday, October 10, 2009. Line-up would begin at Jewett Street and East Lyon Street to Bruce Street, proceeding to East Main Street (T.H. 59) northwest to downtown Marshall and ending at 5th and 6th Streets contingent upon the approval of MN/DOT.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 65032 through 65214.

All voted in favor of the motion.

Council Member Sanow questioned what the advantage is, to have Thursdays on Third on Third Street rather than the Downtown Park. Ellayne Conyers indicated that the vendors and public have indicated that the sound is better on Third Street. She also indicated that the main purpose of using Third Street is to bring people to Downtown Marshall. Sanow moved, Doom seconded, the approval of the request for Street Closure for "Thursdays on Third" beginning June 18, 2009 through September 24, 2009 from 5:00 P.M. to 9:00 P.M. All voted in favor of the motion.

M.A.T. BUS GARAGE EXPANSION – APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE ADVERTISEMENT FOR BIDS:

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Glenn Olson, Director of Public Works/City Engineer indicated that Western Community Action recently constructed the Marshall Area Transit Bus and Dispatch Facility on land owned by the City in the Street Department area. At that time funds were limited and the facility was built with funds available. Since that time additional funds became available and approval was granted by MnDOT to fund additional bus storage space just across the gravel access road from this dispatch facility. The estimated cost of the additional garage is \$240,000 including design and inspection costs. The City is the contractual agent for Western Community Action. Western Community Action has reviewed the plans and specifications and is recommending approval of them and recommends the City proceed with the advertisement.

Sanow moved, Reynolds seconded, that the proper city personnel be authorized to advertise for bids for the M.A.T. Bus Garage Expansion. These bids will be received on Jun 4, 2009. All voted in favor of the motion.

CONSIDER INTRODUCTION OF THE RURAL SERVICE DISTRICT ORDINANCE:

Lorna Sandvik, City Assessor, indicated that in 1966, the Common Council for the City of Marshall divided the city into two separate taxing districts referred to as the "Rural Service District" and the "Urban Service District" for the purpose of property taxes. The Rural Service District consists of parcels of land which are unplatted, rural in character, and are not developed for commercial, industrial, or urban residential purposes and for these reasons, are not benefited to the same degree as other lands by municipal services financed by general taxation. An amendment to the ordinance is necessary in order to transfer parcels of land meeting the criteria for inclusion from the Urban Service District into the Rural Service District, and to transfer parcels currently taxed in the Rural Service District which no longer meet the criteria into the Urban Service District.

Sanow moved, Reynolds seconded, the introduction of an ordinance Amending First Series Ordinance Numbers 328, 419, 440, 530 and 533, Establishing and Amending Previous Rural and Urban Service Districts for the City of Marshall, Minnesota and call for a public hearing to be held on June 23, 2009. The motion also approves that the proposed Ordinance be published in summary form before the public hearing. All voted in favor of the motion.

AUTHORIZATION TO DECLARE TWO RIFLES AS SURPLUS PROPERTY:

Rob Yant, Director of Public Safety indicated that the Police Department has 2 rifles that were purchased for use for members of the Department assigned to the Brown, Lyon, and Redwood County (B.L.R.) Emergency Response Unit (E.R.U.). These rifles would be exchanged for another rifle and equipment by a member of the Department who is on the B.L.R.'s E.R.U. However, these rifles have been upgraded by rifles paid for by the Taskforce itself and are not currently being used by either the E.R.U. or the Marshall PD. Officer Jason Kopitski is a member of this team and has found a local dealer that is willing to trade these two rifles for a sniper rifle and some supporting equipment for approximately the value of the two rifles. This is a rifle that Officer Kopitski could use and would be added to the E.R.U.'s resources with no direct cost to either the Police Department or the Taskforce but would still be owned by the City. Officer Kopitski had contacted three dealers about this. One was not interested in the rifles, one was more expensive, and one proposed an even exchange and this is what is being recommended. This exchange is supported by the E.R.U. Commander (MPD Detective) Jody Gladis.

Kjergaard Sports has proposed this exchange. The exchange would be to offer \$380 for each rifle for a total of \$760.00. With our trade, they would give the Department a Remington

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700 SPS Tactical rifle, valued at \$598.00; Burris 30 MM Tactical rings, valued at \$59.95; and a Harris Bipod, valued at \$90.00. This would be a total of \$747.95 plus tax.

Ritter moved, Sanow seconded, that the Marshall Police Department be authorized to dispose of two rifles. These rifles would be exchanged with Kjergaard Sports as proposed. All voted in favor of the motion.

AUTHORIZATION TO APPLY FOR THE EDWARD BYRNE GRANT:

Rob Yant, Director of Public Safety indicated that the Federal Government has allocated \$19,145.00 in the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program for either the City of Marshall or to be jointly applied for between the City of Marshall and Lyon County. Mr. Yant is requesting authorization to apply for these funds for the City of Marshall in a single rather than joint application as the application process is simplified with a single applicant. It is Mr. Yant's intent to make application to solicit this funding to pay for equipment needed for drug enforcement within the 3 counties of the taskforce. A similar award was made to Redwood Falls/Redwood County and they were also allocated funds for this purpose. No allocation was made to New Ulm/Brown County. There are substantial restrictions on what these funds may be used for and equipment is one of the most distinctive. These funds may be spent over 4 years from the time of the award and could fill in some important funding gaps during this time. There is no match requirement. Receiving these funds would supplement the limited funds available for drug enforcement efforts within our taskforce area.

Doom moved, Reynolds seconded, that the proper city personnel be authorized to apply for the Edward Byrne Grant and enter into a Memorandum of Understanding with Lyon County for the Recovery Act: Justice Assistance Grant (JAG) Program Award. All voted in favor of the motion.

CONSIDERATION OF CONSENT RESOLUTION WITH CHARTER COMMUNICATIONS:

Dennis Simpson, City Attorney, indicated that on July 7, 2003 the City Council for the City of Marshall adopted a cable television franchise ordinance for Charter Communications (Charter). The ordinance serves two purposes. First, it is intended to provide for and specify the means to obtain the best possible cable television services for the public by providing requirements for cable television with respect to technical standards, customer service obligations and related matters. Secondly, the ordinance grants a non-exclusive franchise to Charter to operate and maintain cable television system within the City and contains specific requirements for Charter to do so. One of those requirements is that the ordinance imposes a franchise fee of 5% of annual gross revenues of payment from Charter to the City.

On March 27, 2009, Charter voluntarily began a Chapter 11 bankruptcy reorganization process. As you may well know, Chapter 11 process is specifically designed to enable companies to continue to operate while they develop and implement financial restructuring plans. Charter believes that it has reached sufficient financial agreements or concessions with its major investors and bond holders and is preparing for the completion of Chapter 11 reorganization process.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3226, SECOND SERIES and that the reading of the same be waived. Resolution Number 3226, Second Series is a resolution of Consent to Charter Restructuring. All voted in favor of the motion.

CONSIDERATION OF APPROVAL OF THE AMENDED RESOLUTION VACATING THE ALLEY AND STREET:

Doom moved, Reynolds seconded, the adoption of RESOLUTION NUMBER 3227, SECOND SERIES and that the reading of the same be waived. Resolution Number 3227, Second Series is a resolution Vacating an Alley and Street in the City of Marshall. This resolution provides for the vacating of the 16-ft. alley located south of Blocks 6 & 7, Morningside Heights Addition and north of Lot 2, Block One, Weiner Memorial Addition from the easterly right-of-way line of South Hill Street to the westerly right-of-way line of South Bruce Street, and South Minnesota Street from the south right-of-way line of Charles Avenue to the north line of the aforementioned. All voted in favor of the motion.

CONSIDER TERMINATING THE MMUA SAFETY TRAINING AGREEMENT:

Ben Martig, City Administrator indicated that the City currently is involved in a joint contract with MMUA for coordination of a safety program. The city currently pays \$19,085.17 annually for these services. Mr. Martig indicated that he has been evaluating the safety program and indicated that it is appropriate to make a change due to concern over performance as well as to better utilize our training funds. The employee safety committee supports this change. The city will continue to have a safety program and will be evaluating the appropriate staff and use of consultants effective at the end of the agreement in September.

Reynolds moved, Doom seconded, that the proper city personnel be authorized to terminate the MMUA Safety Training agreement with MMUA effective September 30, 2009. All voted in favor of the motion.

CONSIDERATION TO PURCHASE FINANCIAL PLANNING TOOLS:

Ben Martig, City Administrator indicated that he has been reviewing various software models to incorporate expanded financial planning in the city. Mr. Martig indicated that he has worked with the Strategic Insights PlanIt in the past. It is a useful tool for both planning as well as budget presentations. Thomas M. Meulebroeck, Finance Director/City Clerk, has been involved in this review as well. These are very cost effective options for the city and allow management flexibility to implement these ourselves. Many other model or consulting options would be considerably more expensive. These items will not only improve our financial planning capabilities but also will strengthen our bond rating review. The City of Marshall is looking at changing bond rating agencies for an improved rating and they will require a formal capital plan in order to upgrade. Additionally, bond rating trends are moving to more emphasis on the management planning and policies which will be improved with these investments.

Reynolds moved, Ritter seconded, that the proper city personnel be authorized to purchase Capital Equipment Planning software and the approval of a license agreement with Strategic Insights, Inc., in the amount of \$718.88 and Long-Range Financial Planning model of \$5,000 with an estimated data loading cost of \$1,200.00. This will be paid from account number 101-40821-3311 Finance/Clerk/Treasurer General Professional Services. All voted in favor of the motion.

CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS:

Per the recommendation of Mayor Byrnes, Sanow moved, Doom seconded, and was unanimously approved that the following appointments be made to the various boards and commissions:

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- Human Rights Commission – Kenneth D. Wilson be appointed for a term to expire on May 31, 2012
- Utilities Commission – David Grong be reappointed for a term to expire on May 31, 2014

CONSIDER RESIGNATION OF CITY COUNCILPERSON AND ADOPT A RESOLUTION DECLARING A VACANCY IN THE COMMON COUNCIL AND PROVIDING FOR A SPECIAL ELECTION:

Sanow moved, Doom seconded, the receipt of the resignation of Michael Reynolds effective May 31, 2009. All voted in favor of the motion, except Reynolds who abstained.

Doom moved, Ritter seconded the adoption of RESOLUTION NUMBER 3228, SECOND SERIES and that the reading of the same be waived. Resolution Number 3228, Second Series is a resolution Declaring a Vacancy in the Common Council and Providing for a Special Election. This resolution declares a vacancy in the First Ward effective May 31, 2009. Filing for this position will open at 8:00 a.m. on Wednesday, May 27, 2009 and close at 5:00 p.m. on Tuesday, June 9, 2009. All voted in favor of the motion, except Reynolds who abstained.

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 on Monday; Regional Development Commission meets on Thursday
- Hulsizer Library Board met on Monday and accepted Wendy Wendt's resignation effective June 12, 2009. They also discussed Phase I of the proposed library.
- Doom Marshall Community Services Advisory Board discussed the Bike Safety to be held on May 20th at Middle School and on May 21st at the YMCA. August 4th is National Night Out.
- Sanow No report.
- Reynolds No report.
- Ritter Housing Commission met last week.

STAFF REPORTS:

Ben Martig, City Administrator, provided updates on the following items: the Cable Commission meeting needs to be rescheduled and there are several vacancies on the Cable Commission Board; Wendy Wendt, Library Director, has accepted a position in Grand Forks, North Dakota; on Friday, May 8, 2009 Ben will be attending a meeting in Mankato; he attended the City Managers Conference last week; there will be a Police Officers Union meeting next week; Springsted's Inc., is working on a number of projects for the City; there is a tentative meeting set for June 2, 2009 for the Library Board, Library Foundation, County Commissioners and City Council Members to discuss the proposed new library; the MERIT Center Lease is being worked on; Lyon County is discussing the possibility of installing a new phone system which will affect the Police Department; EDA is making progress on the organization structure; there was a meeting to discuss possible changes, expansion and/or new construction for the Liquor Store; Marketing Videos are being posted on DiscoverMarshall.com; the Insurance

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Advisory Committee needs to meet to discuss RFP's for health insurance; and EDA is working on plans for the old Middle School site.

Glenn Olson, Director of Public Works/City Engineer, indicated that there will be an Open House for Rich Herigon on May 28, 2009; there are some warranty issues with the work that was done on Nuese Lane; soil boring tests have been taken on the Middleton property and they should receive preliminary information this week. There was a concern with Skunk Hollow Road being designated by MN/DOT as an alternate route for Highway 23.

Dennis Simpson, City Attorney, provided an update on the Hospital sale. He also gave an update on the use and regulations of ATV's in the City of Marshall. Mr. Simpson indicated that according to the City of Marshall's current ordinance Morningside Heights will be allowed to use the ATV's to pull the carts that transport their residents around the City of Marshall.

COUNCIL MEMBER INDIVIDUAL ITEMS:

The City has received an update from Ed Cain on the MERIT Center.

REVIEW OF PENDING AGENDA ITEMS:

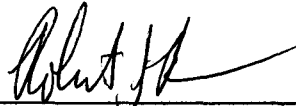
There were not questions on the pending agenda items.

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

	Applicant	Location Address			Description of Work	Valuation
1.	James Lozinski Construction Inc.	214	Carrow	Circle	Reroof	\$7,000
2.	Dennis Lozinski Construction	701	North	6th Street	Reroof	\$6,000
3.	Geske Home Improvement Co.	316	East	Main Street	Reside Garage	\$3,000
4.	Geske Home Improvement Co.	803		Elaine Avenue	Install Window	\$3,000
5.	Michael A. Anders & Stacey Gackstetter	607	West	Lyon Street	Reroof	\$3,700
6.	Starlite Partnership	1001		Indiana Jones Avenue	Reroof	\$7,000
7.	Rick Slagel Construction Inc	618		Elaine Avenue	Exterior Remodel, Garage	\$20,000
8.	Rick Slagel Construction Inc	305		Carrow Street	Reroof	\$5,000
9.	William F. Ziegenhagen	100	North	Highway 59	Exterior Remodel	\$50,000
10.	The Country Stop	1206	East	College Drive	Temporary Structure	\$0
11.	James Lozinski Construction Inc.	511	West	Marshall Street	Install Window	\$1,500
12.	Louise Olson & Joy Schak	807	West	Fairview Street	Warehouse	\$80,000
13.	Gary Vlaminck Construction	603	North	4th Street	Exterior Remodel	\$15,000
14.	Dennis Lozinski Construction	210	East	Main Street	Reroof	\$6,000
15.	James G. Jandl	502		Summit Street	Reroof	\$4,500

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Upon motion by Reynolds, seconded by Ritter, the meeting was adjourned at 7:00 P.M. All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:



Financial Director/City Clerk