

## REGULAR MEETING – JULY 14, 2009

The regular meeting of the Common Council of the City of Marshall was held on July 14, 2009 in the Council Chambers of the Marshall Municipal Building. The meeting was called to order at 5:33 P.M. by Mayor Byrnes. In addition to the Mayor the following members were present: Hulsizer, Doom, and Sanow. Absent: Boedigheimer and Ritter. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Harry Weilage, Director of Community Services; Kim Jergenson, Engineer Technician; Shane Waterman, Assistant City Engineer; Dale Howe, Building Official; Rob Yant, Director of Public Safety; 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 10 h; which is Consideration of a 3.2 Percent Malt Liquor License for the VFW Post for July 25, 2009 at the Lyon County Fair Grounds.

### **APPROVAL OF MINUTES**

Doom moved, Sanow seconded, that the minutes of the regular meeting held on June 23, 2009 and the minutes of the special meeting held on June 29, 2009 be approved as filed with each member and that the reading of the same be waived. All voted in favor of the motion.

### **SPECIAL RECOGNITION-KATHY BRESSON:**

At this time Marshall Police Officer Kathryn Bresson #214 was presented with a "Life Saving Award" for her efforts on June 15, 2009 which saved the lives of five adults and two children from a structural fire at their residence.

Rob Yant, Director of Public Safety, indicated that on June 15, 2009 at approximately 5:46 am, while on routine patrol Officer Kathryn Bresson smelled a strong odor of smoke in the air. After driving around the area she found smoke coming from a residence at 509 W. Saratoga Street. Officer Bresson drove around the alley and could see the rear upstairs bedroom had a large amount of smoke coming out of it and the room was bright orange in color. She radioed dispatch for assistance and to send the Fire Department. Officer Bresson identified herself and entered the residence. She was able to awaken five adults who were sleeping on the main floor and then went upstairs and was able to locate two children. Everyone was led over to the parking lot across the street. Officer Bresson and the other officer on duty, Matt Loeslie, then directed traffic and assisted the Marshall Fire Department when they responded. The fire was extinguished.

### **AWARDING WILLIAM H. BLOEDOW A "MERITORIOUS SERVICE AWARD":**

At this time William H. Bloedow was presented with a "Meritorious Service Award" for his efforts on June 1, 2009.

Rob Yant, Director of Public Safety, indicated that on June 1, 2009 at approximately 10:45 am, officer's received report of an unknown problem at 904 W. Main Street. Dispatch was unable to determine the problem because of a language barrier. Officers arrived at that location and were waived over by William H. Bloedow. Mr. Bloedow had come across a man who was lying on the ground on his back trapped underneath a vehicle that appeared to have been up on

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the jack for repairs. Family and friends had reportedly been trying to get the vehicle off the man for approximately ten minutes. Mr. Bloedow was able to move the vehicle off of the man and called 9-1-1. North Memorial Ambulance Service was called to the scene and Mr. Bloedow assisted EMS and police personnel in getting the injured man into the ambulance.

**FIRE DEPARTMENT SCHOLARSHIPS – RECOGNITION OF AWARD RECIPIENTS:**

Rob Yant, Director of Public Safety, indicated that the Marshall Fire Department Scholarship Trust Fund was originated on 12/31/97 with an anonymous donation of \$3,000.00. In accordance with the implementation process adopted by the City Council (original-1998; amended-2002), the City Administrator or his/her designee have complete authority in awarding the scholarship. The City Administrator has appointed the Ways and Means Committee to be the named designee. Two applications were received and considered by the Ways and Means Committee for scholarship awards. The committee selected both applicants to be recipients of the award. The essays are posted on the City website.

At this time the 2009/10 Marshall Fire Department Scholarship recipients were recognized. They each will receive a scholarship award of \$500.00. The two recipients of this scholarship are:

Jordan Jacobson

School: St. Cloud Technical College

Field of study: Plumbing

Josh Carter

School: Southwest Minnesota State University

Field of study: Exercise Science

**PUBLIC HEARING - PROJECT Y44: LEGION FIELD ROAD IMPROVEMENT PROJECT – PUBLIC HEARING ON ASSESSMENTS AND CONSIDER RESOLUTION ADOPTING ASSESSMENT:**

This was the date and time set for a public hearing on the Legion Field Road Improvement Project Y44. Glenn Olson, Director of Public Works/City Engineer, indicated that this project includes proposed reconstruction of the existing street, sanitary sewer replacement, watermain replacement, and miscellaneous items from Kendall Street to West Main Street (T.H. 68). The proposed improvements include the installation of sidewalk along the west side of Legion Field Road and the installation of curb and gutter along the east side of the street as needed.

Mr. Olson also reviewed the City of Marshall Assessment Policy and Thomas M. Meulebroeck, Finance Director, reviewed the procedure for deferring assessments. It was also indicated that anyone wishing to appeal their assessment are required to provide a written appeal at the Council meeting.

Comments on Project Y44 Legion Field Road Improvement included:

Susan Gorecki, 1001 Paris Road, provided a petition signed by 90% of the property owners who are opposed to the project.

George Jacob, 115 South 10<sup>th</sup> Street, wanted to know why his estimate was \$5,000 and the actual amount is \$6,000. Mr. Olson indicated that the actual cost is based on the bids and prices have increased since the project was first proposed.

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Jason Doll, 220 Legion Field Road, indicated that he did not get a notice letting him know when the project would be starting and he was concerned about the contractors working past 8:00 p.m. in a residential area.

Mr. Olson indicated that they have pre-construction meetings for the contractors and residents at which time all of necessary information was provided to the residents. Mr. Olson also indicated that the contractors were told to shut down by 8:00 P.M. unless they have an emergency or rain is coming and they need to complete something.

There was a concern about the location of sidewalks and questions about street lights. Shane Watermann, Assistant City Engineer, indicated that the sidewalks will be lined up with sidewalks currently in the area and questions on street lights should be referred to Marshall Municipal Utilities.

Randy Eberling, 224 Legion Field Road, indicated that a fire hydrant was installed in his yard and his sprinkler system was torn up. Mr. Eberling wanted to know who was responsible for the repairs. Mr. Olson indicated that the contractor was responsible and he should talk to him.

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

Doom moved, Hulsizer seconded, the adoption of RESOLUTION NUMBER 3252, SECOND SERIES and that the reading of the same be waived. Resolution Number 3252, Second Series is a resolution Adopting the Assessment Roll for the Legion Field Road Improvement Project Y44, setting the interest rate at 5.8% and the assessment being paid in equal annual installments extending over a period of 10 years. All voted in favor of the motion.

**PUBLIC HEARING - PROJECT Y26: HERITAGE PLACE IMPROVEMENT PROJECT (JACQUELINE'S ADDITION) – PUBLIC HEARING ON ASSESSMENTS AND CONSIDER RESOLUTION ADOPTING ASSESSMENT:**

This was the date and time set for a public hearing on the Heritage Place Improvement Project Y26. Glenn Olson, Director of Public Works/City Engineer, indicated that the property owners of 100% of the real property abutting on Heritage Place, have petitioned the City for the installation of a new street, sidewalk, curb and gutter, and associated items pursuant to Minnesota Statutes Chapter 429.

Comments on Project Y26 Heritage Place Improvement included:

Joanne Gould, 412 North 7<sup>th</sup> Street, indicated that the assessment was too high, that Mr. Schilling does not have adequate snow removal on the sidewalk near her house and tenants park cars on the street to hamper snow removal. She also indicated that because of this her driveway has been damaged by the salt from the street. Ms. Gould was also concerned that Mr. Schilling does not mow the area and there is a problem with snakes.

John Thooft, 414 North 7<sup>th</sup> Street, was also concerned that the assessment was too high.

Ron Schilling, representative from Alluvus LLC, indicated that the original petition had requested that the interest rate for these assessments not be over 6% and that the assessments be spread over 20 years. Mr. Olson indicated that he would check on this.

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Council Member Sanow indicated that he remembered Mr. Schilling requesting more than 10 years, but could not remember the exact number of years.

Council Member Doom indicated that prior to the development of Heritage Place there was not reason for any improvements beyond 412 and 414 North 7<sup>th</sup> Street.

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

Sanow moved, Doom seconded, that the adoption of the assessment roll for Heritage Place Improvement Project Y26 be tabled to the July 28, 2009 City Council meeting to allow staff time to review the stipulations made by Mr. Schilling when he petitioned for this improvement project. All voted in favor of the motion.

**PUBLIC HEARING - PROJECT Y31 (139-131-02) WINDSTAR STREET FROM SCOTT STREET TO TH 59 PUBLIC HEARING ON ASSESSMENTS AND CONSIDER RESOLUTION ADOPTING ASSESSMENT:**

This was the date and time set for a public hearing on the Windstar Street Improvement Project Y31. Glenn Olson, Director of Public Works/City Engineer, indicated that the street improvements under this project include granular base, asphalt base, asphalt surfacing, sanitary sewer, watermain, storm sewer, storm water detention pond, sidewalk and miscellaneous work associated with the street construction.

Comments on Project Y31 Windstar Street Improvement included:

Council Member Sanow asked if the City covers the cost of any assessment that is deferred. Mr. Olson indicated that this would come from the Municipal State Aid Fund and when the assessment is no longer deferred the Municipal State Aid Fund would be reimbursed.

Craig Holland, 1500 East Main Street, indicated that 7 years ago he protested the annexation because he was concerned with the huge tax increase and the assessments. Mr. Holland indicated that when the annexation took place the City Administrator at that time indicated that they would see a cost savings. It was indicated that the cost for city services would be cheaper than they were currently paying. Mr. Holland indicated that he hoped the savings in these services would off-set the increase in property taxes. He indicated that he just received assess to water and sanitary sewer services, but is not interested. He also indicated that the road improvements are needed for his benefit.

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

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3253, SECOND SERIES and that the reading of the same be waived. Resolution Number 3253, Second Series is a resolution Adopting the Assessment Roll for Windstar Street Improvement Project Y31, setting the interest rate at 5.8% and the assessment being paid in equal annual installments extending over a period of 10 years. All voted in favor of the motion.

**PUBLIC HEARING – CARR ESTATES THIRD ADDITION – A. PUBLIC HEARING AND APPROVAL OF PRELIMINARY PLAT; B. ADOPTION OF FINAL PLAT OF CARR ESTATES THIRD ADDITION; C. GRANT OF UTILITY EASEMENT IN CARR ESTATES THIRD ADDITION:**

This was the date and time set for a public hearing on Carr Estates Third Addition. Glenn Olson, Director of Public Works/City Engineer, indicated that the owner of the property is continuing to develop this area for residential use and has agreed to sell/donate a portion of the property to the City for a new City park south of T.H. 23. As the property has not been platted before, the property needs to be subdivided prior to sale of individual lots. Doom moved, Sanow seconded, the public hearing be closed. All voted in favor of the motion.

Sanow moved, Doom seconded, the approval of the Preliminary Plat of Carr Estates Third Addition; the adoption of RESOLUTION NUMBER 3254, SECOND SERIES, which is Approval of the Final Plat of Carr Estates Addition; and that the proper city personnel be authorized to enter into a Grant of Utility Easement with Robert and Phyllis Carr for an easement along the south and east side and along the south and west side of Carr Estates Third Addition. All voted in favor of the motion.

Mayor Byrnes called for a 5-minute recess at 7:05 P.M.

**PUBLIC HEARING – MOVE IN DWELLING AT 601 HERITAGE PLACE:**

This was the date and time set for a public hearing on the request from Ron Schilling, Alluvus, LLC, to move a dwelling into a residential district at 601 Heritage Place from 3446 255<sup>th</sup> Avenue, Marshall, Minnesota. Glenn Olson, Director of Public Works/City Engineer, indicated that a request for this move was decided on August 18, 2008. At that meeting the City Council denied the request until the three most recent homes were completed. This request was heard again on October 20, 2008, and was declined.

Mr. Olson indicated that this one story, three bedroom dwelling with attached garage is estimated to have been constructed in 1961. There is 1288 S.F. on the first floor. The dwelling has been examined by the Building Official and found to be in reasonable condition to move and in reasonable compliance with the MN State Building Code.

Comments on this request included:

Mary Smith, 1400 Carlson Street, indicated that she has rented from Mr. Schilling for the past 7 years and he is a good landlord. She also indicated that she will be moving into this house when everything is complete.

Suzanne Crain, tenant at 605 Heritage Place, indicated progress has been slow, but is a good landlord and responds quickly when items need repair. Ms. Crain also indicated that this development has received so much attention that she feels like she is living in a circus sideshow.

Mr. Schilling indicated that he has been working on getting the life safety issues completed and all of the issues had been addressed. Mr. Schilling was issued a Permanent Certificate of Occupancy for 612 Heritage Place today.

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John Thooft, 414 North 7<sup>th</sup> Street, indicated that he has made some complaints about issues in the area and when they were addressed by Mr. Olson, the items were taken care of. Mr. Thooft indicated that Mr. Schilling should be given one month to complete all of the items from last fall before this request is approved.

Mr. Schilling indicated that the warehouse area has items that do not belong there, but once the development is completed this area will be cleaned up.

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

Doom moved, Byrnes seconded, that Mr. Schilling be allowed to move a dwelling into 601 Heritage Place from 3446 255<sup>th</sup> Avenue, Marshall, Minnesota with the condition that the warehouse area be cleaned up and the other houses be completed. Council Member Sanow indicated that Mr. Schilling has always had excuses for each issue the city as brought up and often does not address concerns until the city applies leverage, such as, conditions before he can move the next house in. Council Member Hulsizer indicated that Mr. Schilling needs to complete the issues before this request can be approved. The question was called. Voting in favor of the motion were: Doom and Byrnes. Voting no were: Sanow and Hulsizer. The motion failed.

**CONSENT AGENDA – A. 3.2 PERCENT MALT LIQUOR LICENSE FOR THE VFW POST FOR THE MONTH OF AUGUST TO USE AT THE LYON COUNTY FAIR; B. TEMPORARY ON-SALE LIQUOR LICENSE FOR THE MARSHALL LYON COUNTY LIBRARY FOUNDATION FOR SEPTEMBER 10, 2009 TO USE FOR A WINE TASTING EVENT AT THE WALNUT GROVE MERCANTILE, 1501 EAST LYON STREET; C. PRELIMINARY PLAT OF TIGER PARK SECOND ADDITION – INTRODUCE PLAT AND CALL FOR PUBLIC HEARING; D. PRELIMINARY PLAT OF HUDSON AVENUE ADDITION – INTRODUCE PLAT AND CALL FOR PUBLIC HEARING; E. TEMPORARY ON-SALE LIQUOR LICENSE FOR THE MARSHALL AREA CHAMBER OF COMMERCE FOR AUGUST 5, 2009 AT MICHAEL THOMAS DDS, 401 JEWETT STREET; F. AUTHORIZATION TO DECLARE MOTOR VEHICLES AS SURPLUS PROPERTY; G. CONSIDERATION OF APPROVAL OF BILLS/PROJECT PAYMENTS; H. 3.2 PERCENT MALT LIQUOR LICENSE FOR THE VFW POST FOR JULY 25, 2009**

Council Member Sanow asked for a clarification on the approval of bills since he is the owner of C & C Cleaning Company.

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

A Temporary On-Sale Liquor License for Mongeau-Tholen VFW Post 742 for the month of August to be used during the Lyon County Fair on August 5 - 9, 2009. The fee for this license is \$50.00.

A Temporary On-Sale Liquor License for the Marshall Lyon County Library Foundation to use on September 10, 2009 at a Wine Tasting Event at Walnut Grove Mercantile, 1501 East Lyon Street. The fee for this license is \$30.00.

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The introduction of the preliminary plat of Tiger Park Second Addition and call for a public hearing to be held at 5:30 P.M. on July 28, 2009.

The introduction of the preliminary plat of Hudson Avenue Addition and call for a public hearing to be held at 5:30 P.M. on July 28, 2009.

A Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on August 5, 2009 at Michael Thomas DDS, 401 Jewett Street. The fee for this license is \$30.00.

Authorization be granted to the Department of Public Safety to declare vehicles as surplus City property. These vehicles will be auctioned using the State's On-Line auction process. Vehicles that don't look valuable or that don't receive the minimum bid will be taken to Becker Iron & Metal for disposal.

A Temporary On-Sale Liquor License for Mongeau-Tholen VFW Post 742 for July 25, 2009 for the Toys for Tots Event at the Lyon County Fair Grounds. The fee for this license is \$30.00

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 65695 through 65931.

All voted in favor of the motion.

**SPECIAL EVENT PERMIT FOR THE SOUNDS OF SUMMER:**

On May 26, 2009 the City Council adopted a resolution Declaring the Sounds of Summer as a Community Festival. The Sounds of Summer is scheduled for Thursday, August 20, 2009 through Sunday, August 23, 2009. This resolution provides an option for a holder of a retail intoxicating liquor license to apply for a Special Event Permit which would allow them to serve intoxicating liquor off their premises. By approving this Special Event Permit the Gambler will be allowed to serve alcohol in the Whitney Parking Lot in a fenced area from 5:00 P.M. to 11:30 P.M. The Marshall Sounds of Summer and the Gambler will be providing the necessary insurance certificates.

Doom moved, Sanow seconded, the approval of a Special Event Permit for the Marshall Festivals Inc., dba Marshall Sounds of Summer and approval for the Gambler to serve alcohol in the Whitney Parking Lot in a fenced area from 5:00 P.M. to 11:30 P.M. on Saturday, August 22, 2009 contingent upon receipt of the necessary insurance certificates. All voted in favor of the motion.

Council Member Sanow thanked everyone involved with this event and Russ Labat from the Sounds of Summer thanked the City Council and City Staff for all of their help.

**CONSIDERATION OF REQUEST FOR WAIVER OF POLICE OFFICERS FEES FOR THE SOUNDS OF SUMMER EVENT:**

Ben Martig, City Administrator, indicated that the Marshall Festivals Inc., dba Marshall Sounds of Summer is requesting that the fee be waived for the Police Officers fees. A group of community leaders formed this past year to put together an independent group to restore a Sounds of Summer community festival for Marshall. A major part of these past festivals have

been weekend concerts, in which alcohol was available for concert goers as an amenity for the concert and a secondary revenue source. In the past the Chamber obtained the liquor license and then hired Police Officers to provide security for the events. The cost of the officers was figured into the business expenses and part of what was paid for from the funding which was a mixture of sponsorships, concert ticket sales, and the sales of the alcoholic beverages. All of these events went well because I believe that the police presence has been a major factor for there being no significant problems at any of these events.

This year the Sounds of Summer committee is made up entirely of volunteers and they attempted to put together an event as simply as possible. This year there is a planned Saturday concert which will be free of charge. It is planned to have alcohol sales but that the liquor license will be obtained and dispensed by Tom Percy through the Gambler's license. With no ticket revenue or alcohol sales profits the Sounds of Summer committee is wanting to have comparable Police personnel for this year's event, but provided by the City of Marshall as part of its contribution to providing this event for the community. Police personnel are being provided for the event's parade with no planned charge for those overtime costs, and this is an expense that was not figured into the current PD budget since there was no event last year.

Staffing would be done as in the past and as minimally as staff believed they could field officers safely. Three officers would come in after the conclusion of the parade, depending on exactly when the event began. Three additional officers would come in just before the main concert begins and stay until 1:00 am. If there was low attendance, staffing could be reduced once the main concert is under way.

Doom moved, Sanow seconded, approval to waive the Police Officers fee for the Sounds of Summer Event on August 22, 2009. All voted in favor of the motion.

**CONSIDER THE REQUEST OF PRAIRIE COMMUNITY SERVICES FOR A VARIANCE ADJUSTMENT PERMIT AT 1012 ESTHER CIRCLE:**

Glenn Olson, Director of Public Works/City Engineer, indicated that Prairie Community Services plans to construct a residential facility to serve ten persons at 1012 Esther Circle. The property is located at the intersection of North 4<sup>th</sup> Street, Darlene Drive, and Esther Circle in North Riverview Estates Addition. The property is located within the R-2 One to Four Family Residence District. A residential facility serving sixteen or fewer individuals is a permitted use within the district.

City Code requires 0.75 off-street parking spaces per bedroom for a residential facility. The ten bedroom facility requires eight off-street parking spaces. The applicant requests to provide four off-street spaces. The purpose of off-street parking is to provide space for staff, residents, and guests to minimize the effect of street parking on the neighborhood. City Code requires off-street parking in the R-2 District to be paved with concrete, bituminous, or pavers. The applicant requests to provide unpaved parking surface for off-street parking. The purpose of paving is to minimize dust that is inherent to unpaved surfaces tracking material onto the streets that will eventually go into the stormwater collection system, it is easier to maintain for snow removal where materials are gathered with snow and eventually end up in the stormwater collection system, and paved parking is required for accessibility for persons with disabilities that may use crutches or wheel chairs. City Code requires off-street parking to respect the twenty-five foot front yard. The purpose of the set back is to hold parking away from



the sidewalk for pedestrian safety, to permit traffic circulation within the parking lot, and to buffer the appearance of the parking lot for the aesthetics of the neighborhood.

The Planning Commission meeting denied the request of Prairie Community Services for a Variance Adjustment Permit for four off-street parking spaces in lieu of eight off-street parking spaces, a gravel surface in lieu of paved surface, and parking in the front yard in lieu of respecting the twenty-five foot front yard requirements.

Chad Meyer, Administrator of the project, was in attendance at the meeting and indicated that they would like to revise their request to include eight (8) off-street parking with four (4) parking spaces on each side of the facility. These parking spaces will be paved.

Doom moved, Sanow seconded, the approval of a Variance Adjustment Permit for Prairie Community Services at 1012 Esther Circle for eight (8) off-street parking spaces that will have a paved surface in the front yard in lieu of respecting the twenty-five foot yard requirements as required by City Code. All voted in favor of the motion.

#### **REVIEW OF FLOWER PLANTING:**

At the first City Council meeting in June, there was a question on perennials versus annuals flowers. Harry Weilage, Director of Community Services, indicated that when the summer flow presentation was made to the Council in June, there were a number of initiatives for the planting and display of flowers in Marshall downtown and parks. The proposal included starting to establish perennials in the newly named downtown parking lot islands. The reasoning behind this was that perennials are easy maintenance, with less of a recurring cost for those heavy traffic areas. That particular part of the proposal was not approved for funding by the Council. Mr. Weilage indicated that the allotted \$5,100 did not include enough money to start the perennial project, as those plants are more expensive than the traditional petunias that do so well in the hot summer climate and the environment of the urban landscape.

Council member Sanow indicated that the bid sheet for flowers did not include any perennials. Mayor Byrnes indicated that perennials cost more than annuals. Council Member Hulsizer indicated that there was no attempt made to get quotes for both perennials and annuals.

#### **PROJECT Y32: (139-131-03) WINDSTAR STREET FROM T.H. 59 TO CLARICE AVENUE / (139-132-01) CLARICE AVENUE FROM WINDSTAR STREET TO SUSAN DRIVE – CONSIDER CHANGE ORDER NO. 1:**

Doom moved, Sanow seconded, the approval of Change Order No. 1 with R & R Excavating, Inc., for Windstar Street and Clarice Avenue Project Y32 (139-131-03) in the amount of \$4,904.92, which will be paid from account no. 498-62066-5570. This change order is for storm sewer items due to MN/DOT requiring a change during the permitting process after the bid opening. The other items were due to design errors that were realized during construction. All voted in favor of the motion.

#### **PROJECT Y53: JUNIOR HIGH SITE HAZARDOUS MATERIAL ABATEMENT PROJECT – CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:**

Doom moved, Sanow seconded, the approval of Change Order No. 1 (Final) with M.A.A.C., Inc., for an increase in the amount of \$14,420.00 and the acknowledgement for the final payment in the amount of \$35,020.00 for the Junior High Site Hazardous Material Abatement Project Y53. The change order is a result of having to remove and dispose of old

asbestos-insulated steam lines that were discovered during the project. All voted in favor of the motion.

**PROJECT Y54: JUNIOR HIGH SITE DEMOLITION PROJECT – CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:**

Doom moved, Sanow seconded, the approval of Change Order No. 1 (Final) with M.A.A.C., Inc., for an increase in the amount of \$6,000 and the acknowledgement for the final payment in the amount of \$39,479.52 for the Junior High Site Demolition Project Y54. The original contract did not include the removal of the large trees along North 4<sup>th</sup> Street nor the removal of the concrete playground area along North 5<sup>th</sup> Street. Upon review of the final site grading and seeding, City staff recommended the removal of these items in order to enhance the final site grading and appearance of the available lot. The cost of the work was directly negotiated with the contractor. All voted in favor of the motion.

**PROJECT Y51: NORTH BIKE TRAIL IMPROVEMENT PROJECT – AUTHORIZATION TO ADVERTISE FOR BIDS – A. RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ORDER ADVERTISEMENT FOR BIDS; B. RESOLUTION APPROVING LICENSE AGREEMENT FOR CONSTRUCTION OF BIKE TRAILS ON RIGHT OF WAY AND APPROVING RIGHT OF WAY EASEMENT AND ALLOWING AUTHORIZATION TO EXECUTE:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the North Bike Trail Improvement Project Y51. This project consists of bituminous off-road and on-road bike and pedestrian trail construction and signage from T.H. 19/68 along T.H. 23 to 269th Avenue just north of the Southwest Minnesota State University Campus; shaping and bituminous paving for the existing off-road trail beginning at 269th Avenue west to Justice Park (Kossuth and North 7th Streets); shaping and bituminous paving for the existing off-road trail beginning at CSAH 7 along the Redwood River to the Wayside Park on T.H. 23 South; and finally, bituminous off-road trail construction along Country Club Drive from Southview Drive to South 4<sup>th</sup> Street.

The plans and specifications have been prepared by the City staff for the above referenced project. Upon authorization to advertise for bids, the project will be advertised per federally-funded project requirements. Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3255, SECOND SERIES and that the reading of the same be waived. Resolution Number 3255, Second Series is a resolution Approving the Plans and Specifications and Authorize Advertisement for Bids. Bids will be received on August 13, 2009 with a report to Council for recommendation of award on or before August 25, 2009. Council Member Sanow is not in favor of this project is the City has to borrow money to pay for this project. All voted in favor of the motion.

Glenn Olson, Director of Public Works/City Engineer, also reviewed the License Agreement for Construction of Bike Trails on Right of Way and a Right of Way Easement for the above-referenced project. City Attorney Dennis Simpson has reviewed and recommends execution of both documents.

The License Agreement allows the City and its contractor's temporary access onto Southwest Minnesota State University property for the purpose of constructing the proposed bike trail improvements over and across University property. It further grants the City to construct a new parking lot of either gravel or recycled asphalt material on the University's property for up to 55 stalls to replace the on-street parking that will be lost as a result of the City's placement of the

bike trail along the State Street Campus road. The license Agreement will terminate upon completion of the proposed construction or December 31, 2009, whichever is sooner.

The Right of Way Easement provides the City a nonexclusive right of way easement for roadway and bike trail purposes over, under, and across certain University property. The City shall have the right of ingress and egress across the property for the purpose of constructing, maintaining, repairing and rebuilding a public roadway, including bike lane. While this right of way easement is in effect, the City shall have all obligations to maintain, repair and replace the roadway as part of the City's roadway network, including the scheduling of the roadway for capital improvement projects like any other City road. The right of way easement is perpetual for so long as the property is used as a public roadway and/or bike trail. If the property ever ceases to be used as a public roadway and/or bike trail, the easement will automatically terminate.

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3256, SECOND SERIES and that the reading of the same be waived. Resolution Number 3256, Second Series is a resolution Approving the License Agreement for Construction of Bike Trails on Right-of-Way and Approving Right-of-Way Easement and Allowing Authorization to Execute. All voted in favor of the motion.

**CONSIDERATION OF CITY ACQUISITION OF MIDDLETON PROPERTY:**

Dennis Simpson, City Attorney, indicated that the City of Marshall has previously commissioned a study to determine the City needs for stormwater storage. The recommendation from that study includes either an expansion of the Tiger Lake Pond or acquisition of additional property for the construction of additional pond in the Tiger Lake Area. City staff has been negotiating with John Middleton for the acquisition of his property, which is adjacent to the Tiger Lake property. City staff believes that the expansion of the current Tiger Lake pond is the most cost efficient and most practical solution to the stormwater storage issue. Therefore, the City continued negotiations for the acquisition of Middleton property. The property has been surveyed and appraised. The negotiations resulted in an agreement to acquire this property at an amount slightly above the appraised value.

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3257, SECOND SERIES and that the reading of the same be waived. Resolution Number 3257, Second Series is a resolution Authorizing Acquisition of the Middleton Property and Authorizing the Mayor and City Clerk/Finance Director to Sign the Appropriate Documents. By entering into the agreements, the City is obligated to acquire the Middleton property pursuant to the terms and conditions as negotiated. This will require the City to pay to John Middleton and/or Mid-Pane Gas Company a total purchase price of \$160,000. All voted in favor of the motion.

**CONSIDER APPOINTMENT TO BOARDS AND COMMISSIONS:**

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

- Human Rights Commission – Candice Conway be appointed for a term to expire on May 31, 2012

**INTRODUCTION OF ORDINANCE AMENDING THE SALARIES AND COMPENSATION OF THE MAYOR AND COUNCIL MEMBERS:**

In accordance with the City of Marshall City Charter, Section 2.07, the Mayor and City Councilmember's should discuss salary wage rate increases at the first council meeting in July. Section 2.07. Salaries read as follows: "Salaries of the Councilmember's and Mayor shall be discussed as an agenda item at the first council meeting in July of each year. After said discussions, the council shall set and determine said salaries in accordance with the applicable state law".

Based on past practice of the City Council, the Mayor and Councilmember's annual salaries were increased based on the percent used for 2009 (using the employee wage adjustment for 2009). The employees did not receive the wage adjustment in January 2009. Based on past practice, it is recommended that the Mayor and the Councilmember's salaries remain the same.

It was the general consensus of the Council that there be no change in the Mayor and Council Member's salaries for 2010.

**COUNCILMEMBER COMMISSION/BOARD LIAISON REPORTS:**

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

Byrnes        Fire Relief Association held their quarterly meeting earlier today and a copy of their audit was included in the agenda packet.

Hulsizer     No report.

Doom        Planning Commission items were acted on earlier in the Council meeting.

Sanow        Cable Commission discussed the study results from the SMSU Survey; the new studio is complete.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that they are in the process of painting Studio One; alternative funding sources for the bike trail will be researched. Ben informed the Council of Carole Snyder's resignation effective July 29, 2009. He indicated that her position will be replaced with a 20 hour part-time person to start with and see how things go. The Street Superintendent position has been filed with an interim. The City will be taking Request for Proposals for insurance services. Robert L. Carr has informed the City that he has placed a deadline of October 15, 2009 for his donation for the proposed new library. There will be a special Council meeting on July 22<sup>nd</sup> to review the City Audit and city staff will be meeting with Springsteds to discuss financial planning.

Glenn Olson, Director of Public Works/City Engineer, indicated that when MN/DOT filled a hole on East College Drive by the Bistro they also filled the drain tile causing a drainage issued on Main Street and College Drive. The City will need to work with MN/DOT to resolve this problem.

# REGULAR MEETING – JULY 14, 2009

Dennis Simpson, City Attorney, indicated that the Easement from the Railroad for the Corp of Engineers Project has not been approved and the City of Marshall does not have access to the money in the escrow account.

## COUNCILMEMBER INDIVIDUAL ITEMS:

Other items brought forth by the Mayor and Council Members included: a concern about weeds in the Camelot Square area; there was a concern about having adult supervision for the obstacle course at the National Night Out event scheduled for August 4, 2009; and the fireworks display was outstanding and well attended.

## REVIEW OF PENDING AGENDA ITEMS:

There were no questions on the pending agenda items.

## INFORMATION ONLY:

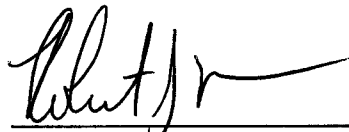
The following building permits previously approved by the Building Official were confirmed:

	Applicant	Location Address				Description of Work	Valuation
1.	Avera Marshall Regional Medical Center	300	South	Bruce	Street	Remodel Ground Floor	\$2,321,000
2.	Jules J. & Marlene Noyes	605		Parkside	Drive	Reroof	\$7,300
3.	Jason A. & Michelle L. Buss	418	South	2nd	Street	Garage	\$2,500
4.	Joshua Buysse	617	West	Thomas	Avenue	Exterior Remodel	\$6,100
5.	CDI of Marshall, LLP	305	North	Highway 59		Demolish Dwelling	\$0
6.	Carr Properties	400	North	Bruce	Street	Reroof	\$3,000
7.	Curtis Vogt	506		Jewett	Street	Reroof	\$2,300
8.	James R. Franson	503		Garden	Circle	Reroof	\$5,000
9.	Daniel J. Vogt	305	East	Thomas	Avenue	Deck	\$1,000
10.	Dru Larson Construction	403	North	A	Street	Replace Windows, Deck	\$4,500
11.	Mike Buysse Construction Inc.	105		Marlene	Street	Reroof	\$8,000
12.	Bryan G. Kraft & Sarah L. Toft	603		Hudson	Avenue	Replace Windows	\$4,600
13.	Floyd L. Schmidgall	1001		Pearl	Avenue	12 Decks	\$3,600
14.	Anda Construction Company	901		Pearl	Avenue	12 Decks	\$3,600
15.	Anda Construction Company	801		Pearl	Avenue	12 Decks	\$3,600
16.	Paul A. & Patti A. Almich	703		Marguerite	Avenue	Exterior Remodel	\$20,000
17.	Andrew Swope	100		Circle	Drive	Reroof	\$5,000
18.	James Lozinski Construction Inc.	904		Birch	Street	Reroof	\$8,600
19.	Kurtis VanKuelen	507		Impala	Court	Finish basement	\$2,000
20.	Daniel & Shannon Carrow	1112		Horizon	Drive	Garage Addition & Reroof	\$25,600
21.	Kathy Carity	300	North	A	Street	Repair basement walls	\$12,700
22.	Keith & Terrilyn Arends	308		Lawerence	Street	Install Window	\$800
23.	Paul & Krista Walerius	109		Kathryn	Avenue	Deck	\$1,500

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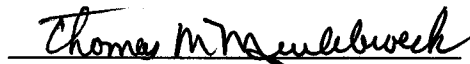
24.	Curtis Elliott VanMeveren	601		Kathryn	Avenue	Reroof	\$7,000
25.	Ronnie Ormberg	1109	West	Main	Street	Reroof	\$1,900
26.	True Value Home Center	800	East	Main	Street	Bathroom Addition	\$3,500
27.	Marshall Commercial Properties, LLC	113	North	3rd	Street	Interior Remodel	\$1,000
28.	Bladholm Construction, Inc.	300	South	Bruce	Street	Elevator Remodel	\$69,000
29.	Douglas R. & Cynthia D. Nuese	507		Donita	Avenue	Shed	\$3,500
30.	Tutt Construction, Inc.	203		Lucille	Street	Repair Foundation	\$40,000
31.	Robert J. Byrnes	502		Dogwood	Avenue	Replace Window	\$3,500
32.	Welu Construction, LLC	612		Kathryn	Avenue	Partial Residing	\$3,000

Doom moved, Hulsizer seconded, that the meeting be adjourned. All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:

  
Financial Director/City Clerk