

## REGULAR MEETING – JULY 28, 2009

The regular meeting of the Common Council of the City of Marshall was held on July 28, 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. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Mark Hanson, EDA Director; Lorna Sandvik, City Assessor; Shane Waterman, Assistant City Engineer; 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 number 17a; which is to set a date for a special meeting to canvas the ballots from the August 4, 2009 Special Election.

### **APPROVAL OF THE MINUTES:**

Doom moved, Sanow seconded, that the minutes of the regular meeting held on July 14, 2009 and the minutes of the special meeting held on July 22, 2009 be approved as filed with each member and that the reading of the same be waived. All voted in favor of the motion.

### **RESOLUTION OF APPRECIATION FOR CAROLE SNYDER:**

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3259, SECOND SERIES and that the reading of the same be waived. Resolution Number 3259, Second Series is a resolution expressing the City of Marshall's Appreciation to Carole Snyder, City of Marshall Appraiser. City Assessor Lorna Sandvik read the resolution. Carole took this opportunity to thank everyone for their help and support for the past 24 plus years of employment with the City of Marshall. All voted in favor of the motion.

### **PUBLIC HEARING – TIGER PARK SECOND ADDITION – A. CONSIDER APPROVAL OF PRELIMINARY PLAT; B. CONSIDER RESOLUTION ADOPTING THE FINAL PLAT OF TIGER PARK SECOND ADDITION:**

This was the date and time set for a public hearing on the Preliminary Plat of Tiger Park Second Addition. Glenn Olson, Director of Public Works/City Engineer, indicated that the City is working with the Schwan's Development Corporation for the subdivision of Outlot F of Tiger Park Addition for the purpose of the establishment of areas to be used for potential Amateur Sports Area development. Lot 1, Block One and Lot 2, Block Two are the intended areas for development for the Amateur Sports Complex. The remaining areas of the subdivision would be retained by the Schwan's Development Corporation for commercial development. Boedigheimer moved, Doom seconded, that the public hearing be closed and the approval of the Preliminary Plat of Tiger Park Second Addition. All voted in favor of the motion.

Doom moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3260, SECOND SERIES and that the reading of the same be waived. Resolution Number 3260, Second Series is a resolution Approving the Final Plat of Tiger Park Second Addition. All voted in favor of the motion.

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**PUBLIC HEARING – HUDSON AVENUE ADDITION – A. CONSIDER APPROVAL OF PRELIMINARY PLAT; B. CONSIDER RESOLUTION ADOPTING THE FINAL PLAT OF HUDSON AVENUE ADDITION:**

This was the date and time set for a public hearing on the Preliminary Plat of Hudson Avenue Addition. Glenn Olson, Director of Public Works/City Engineer, indicated that the City is working with a property owner within the subdivision in order to subdivide a portion of unplatted property. The City is including unplatted adjacent property to remove the entire area from metes and bounds descriptions. Doom moved, Sanow seconded, that the public hearing be closed and the approval of the Preliminary Plat of Hudson Avenue Addition. All voted in favor of the motion.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3261, SECOND SERIES and that the reading of the same be waived. Resolution Number 3261, Second Series is a resolution Approving the Final Plat of Hudson Avenue Addition. All voted in favor of the motion.

**CONSENT AGENDA – A. CONSIDERATION OF RESOLUTION AMENDING THE RURAL SERVICE DISTRICT; B. PROJECT Y41 TIGER LAKE EXPANSION PROJECT – CONSIDER RESOLUTION APPROVING TMDL GRANT APPLICATION; C. PROJECT W09 WWTF CHEMICAL FEED IMPROVEMENTS PROJECT – ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION; D. AMENDMENT TO RESOLUTION CONDITIONAL USE PERMIT, CAROL JENKINS DAYCARE FACILITY; E. CONSIDERATION OF APPROVAL BILLS/PROJECT PAYMENTS:**

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

The adoption of RESOLUTION NUMBER 3262, SECOND SERIES and that the reading of the same be waived. Resolution Number 3262, Second Series is a resolution Amending the Rural Service District.

The adoption of RESOLUTION NUMBER 3263, SECOND SERIES and that the reading of the same be waived. Resolution Number 3263, Second Series is a resolution Authorizing the City of Marshall Minnesota to Submit a Total Daily Loan (TMDL) Grant Application to the Minnesota Public Facilities Authority (PFA) and to Authorize City Officials to Execute a Grant Agreement on Behalf of the City of Marshall for the Tiger Lake Storm Water Management Pond Expansion Project.

Acknowledgement of Final Payment Application with Robert L. Carr Co., of Marshall, Minnesota in the amount of \$16,680 for the WWTF Chemical Feed Improvement Project W09 from account number 602-90581-5530.

The adoption of RESOLUTION NUMBER 3264, SECOND SERIES and that the reading of the same be waived. Resolution Number 3264, Second Series is a resolution Amending the Conditional Use Permit for Carol Jenkins to operate a Daycare Facility on property owned by Grace Life Church at 305 Camden Drive.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 65932 through 66116.

All voted in favor of the motion.

**CONSIDERATION OF RESOLUTION ADOPTING SPECIAL ASSESSMENTS RELATED TO HERITAGE PLACE IMPROVEMENT PROJECT Y26 (JACQUELINE'S ADDITION):**

Dennis Simpson, City Attorney, indicated that at the September 4, 2007 City Council meeting the City Council adopted a Resolution Declaring Adequacy of Petition for Heritage Place Improvement Project Y26. This petition included a repayment schedule of 20 years with a simple interest rate of 6.1%.

Mr. Simpson indicated that following the public hearing on the assessment hearing held on July 14, 2009 the Adoption of the Special Assessments for Project Y26 was tabled to the July 28, 2009 meeting to allow staff time to review the stipulations made by Mr. Schilling when he petition for this improvement project. After staff review of the stipulations of the petition, it is recommended that the special assessments be paid over a 20-year period at the current rate of 5.8%.

It was the general consensus of the council that Consideration of a Resolution Adopting Special Assessments related to Heritage Place Improvement Project Y26 be removed from the table.

John Thooft, 414 North 7<sup>th</sup> Street, was concerned with the amount of his assessment. He indicated that he should only pay for ½ of the South side and not pay for any part of the East Side – this should be assessed to Ron Schilling. He was also concerned about getting credit for Curb and Gutter. Glenn Olson, Director of Public Works/City Engineer, indicated that he did receive this credit.

JoAnn Gould, 412 North 7<sup>th</sup> Street, indicated that they are not able to pay for the special assessment. She indicated that they have two options which include letting the house go back or appeal for help. She indicated that they would be paying \$100 per month for this special assessment. Thomas M. Meulebroeck, Finance Director, indicated that the special assessment would be approximately \$1,022 for the first year, \$885 for the second year, and would continue to decrease each year.

Mr. Thooft indicated that according to a realtor he does not receive any benefit for road and sidewalk on 3 sides of his property.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3265, SECOND SERIES and that the reading of the same be waived. Resolution Number 3265, Second Series is a resolution Adopting the Assessment for Heritage Place Improvement Project Y26 with the assessment for the street portion for John Thooft, 414 North 7<sup>th</sup> Street, and Robert Gould, 412 North 7<sup>th</sup> Street, be reduced by ½ and that the other assessments not be changed. The City of Marshall will pay for the additional ½ of the street assessment from the 429 Fund. All voted in favor of the motion.

**JACQUELINE'S ADDITION / HERITAGE CIRCLE UPDATE – RON SCHILLING:**

Ron Schilling was in attendance at the meeting to provide the City Council with an update on the progress in Jacqueline Addition. Mr. Schilling provided a power point presentation with pictures showing all of the issues and concerns that he needed to address. Mr. Schilling indicated that all of the items have been taken care of within the past two weeks. Mr. Schilling indicated that most of these items were cosmetic issues and not life safety items. Mr.

Schilling also indicated that within the past 26 months his crew has rehabilitated 11 houses in Jacqueline's Addition.

Mr. Schilling indicated that at the last City Council meeting he has requested a permit to move a dwelling into 601 Heritage Place. There was a motion to approve this request which failed due to a tie. Mr. Schilling indicated that there is a full council he would like the council to bring this motion back and reconsider the request to move the home to 601 Heritage Place.

Doom moved, Ritter seconded, that we put Heritage Place on the agenda for the next meeting in August. Council Member Sanow was concerned that we have ordinances in place that says it has to be introduced and then we have to have a Public Hearing. Legally he didn't think we could just throw it on the next agenda. He asked that Dennis check this out to make sure we were following the correct procedures. Sanow indicated that they need to follow the legal process. All voted in favor of the motion, except Hulsizer who voted no.

**CONSIDER RESOLUTIONS ADOPTING DEFERRED ASSESSMENTS – PROJECT Y31 (139-131-02) WINDSTAR STREET FROM SCOTT STREET TO TH 59:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Project Y31 Windstar Street from Scott Street to TH 59. He indicated that the proposed improvements under this project includes granular base, asphalt base, asphalt surfacing, sanitary sewer, watermain, storm sewer, storm water detention pond, sidewalk and miscellaneous work associated with the street construction. Craig Holland questioned how much of the assessment that is not being deferred is for watermain. Olson indicated that the portion not being deferred is for street and driveway and not for watermain improvements. Mr. Holland also indicated that the road improvements benefit the developer of this area and not him.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3266, SECOND SERIES and that the reading of the same be waived. Resolution Number 3266, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-605-008-6 in the amount of \$123,447.30 to be deferred until the following conditions occur:

- A. Street Assessment – upon subdivision of this property, or access to Windstar Street from the north side of Windstar Street \$123,447.30 ( 20 year maximum).

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If neither subdivision of the property nor access to Windstar Street from the north side of Windstar Street has been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described in the resolution. All voted in favor of the motion.

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Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3267, SECOND SERIES and that the reading of the same be waived. Resolution Number 3267, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-152-016-0 in the amount of \$42,394.22 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$3,761.96
- B. Sanitary Sewer Assessment – time of connection \$5,670.33
- C. Street Assessment – upon subdivision of property or rezoning \$32,961.93

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If neither subdivision nor rezoning are completed within 20 years from the date of this resolution, the Street Assessment deferral will terminate with no Street Assessment due. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3268, SECOND SERIES and that the reading of the same be waived. Resolution Number 3268, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-001-0 in the amount of \$30,905.62 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$15,741.67

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3269, SECOND SERIES and that the reading of the same be waived. Resolution Number 3269, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-002-0 in the amount of \$30,765.07 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$15,601.12

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said

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assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3270, SECOND SERIES and that the reading of the same be waived. Resolution Number 3270, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-003-0 in the amount of \$37,652.05 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$22,488.10

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3271, SECOND SERIES and that the reading of the same be waived. Resolution Number 3271, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-004-0 in the amount of \$30,905.62 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$22,787.19

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

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Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3272, SECOND SERIES and that the reading of the same be waived. Resolution Number 3272, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-005-0 in the amount of \$33,829.07 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$18,665.12

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3273, SECOND SERIES and that the reading of the same be waived. Resolution Number 3273, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-006-0 in the amount of \$44,669.46 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$6,549.53
- B. Sanitary Sewer Assessment – time of connection \$8,614.42
- C. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$29,505.51

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3274, SECOND SERIES and that the reading of the same be waived. Resolution Number 3274, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-008-0 in the amount of \$19,959.31 to be deferred until the following conditions occur:

- A. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$19,959.31

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or

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their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3275, SECOND SERIES and that the reading of the same be waived. Resolution Number 3275, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-009-0 in the amount of \$20,856.59 to be deferred until the following conditions occur:

- A. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$20,856.59

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3276, SECOND SERIES and that the reading of the same be waived. Resolution Number 3273, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-140-010-0 in the amount of \$13,833.55 to be deferred until the following conditions occur:

- A. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$13,833.55

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.



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Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3277, SECOND SERIES and that the reading of the same be waived. Resolution Number 3277, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-886-010-0 in the amount of \$18,187.25 to be deferred until the following conditions occur:

- A. Street Assessment – upon sale, development or the property requires access to the property from the street within the project area \$18,187.25

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. If none of the conditions for street assessment have been affected within 20 years of the date of this resolution, the street assessment will be spread as per the conditions described above. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3278, SECOND SERIES and that the reading of the same be waived. Resolution Number 3278, Second Series is a resolution Adopting A Deferred Assessment. This resolution provides for the Street Assessment for Parcel No. 27-152-013-0 in the amount of \$8,707.07 to be deferred until the following conditions occur:

- A. Water Assessment – time of connection \$3,822.86
- B. Sanitary Sewer Assessment – time of connection \$4,884.21

At the time that the owners have accomplished all or any of the conditions, the City will then terminate the deferral of said portions of the assessment and shall have the right to collect said assessment. Once the conditions for assessment indicated have been affected by the Owners or their successors and assigns, said assessment shall be spread in equal principal installments over a period of ten (10) years and shall bear interest at a rate of five and eight-tenths percent (5.8%) from the date of the occurrence of the event qualifying the assessment. No interest shall be charged on said assessment until notice of termination of the deferred assessment has been served on the Owners of the described property by the City. All voted in favor of the motion.

Mayor Byrnes called for a 5-minute recess at 6:50 P.M.

**DISCUSSION OF THE LIBRARY PROJECT:**

Ben Martig, City Administrator, provided an update on the Library project which included financing alternatives, project cost summary, the Carr donation and conditions, project timeline if approved and procedures, and other items. Mr. Martig indicated that he needed direction from the Council to move forward from here. Mr. Martig provided a power point presentation which included a review of the June presentation, the proposed amended project budget, financing options, project management, further analysis and policy considerations.

Council Member Sanow indicated that anyone who says that Marshall does not need a new library has not been in the current library in the past 5 years. He also indicated that he is in favor of Carr being the general contractor but not in favor of using any proceeds from the sale of the hospital. Council Member Ritter agreed.

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Members of the Library Board indicated the possibility of selling the existing library building. They indicated that in 2006 the library was assessed at \$550,000 but they are not sure where the market is now. They also did not know how long it would take to sell the building or if there would be anyone interested in buying the current library. The City Assessor has done some comparables and indicated that the value was within reason.

Council Member Boedigheimer and Doom indicated that they want a public vote on the proposed library. Council Member Boedigheimer also indicated that if the library is built in two phases the library would be back to the City Council for more money for phase two. Mr. Boedigheimer indicated that vote of the public should include both phases. He also indicated that the interest on the \$2 million from the sale of the hospital should not be counted on. City Attorney Dennis Simpson indicated that the closing on the sale of the hospital is scheduled for November 2, 2009 and does not see any reason that this will be delayed.

Council Member Doom indicated that he is not in favor of using any money from the sale of the hospital.

Council Member Sanow indicated that there was not much public support when Independence Park was developed or when the YMCA was built, but in the long run both of these items are a great asset to the City.

Mayor Byrnes indicated that he is in favor of the \$5 million Library using the donation from Robert L. Carr, other funding sources such as Build American Bonds and a portion of the interest from the proceeds of the hospital sale.

Council Member Hulsizer questioned what criteria members of the council use to determine what projects should be decided by a referendum.

It was indicated that there is support from the community to go forward with this project.

Dennis Simpson, City Attorney, indicated that according to his memo dated September 7, 2007 he did not find any case law or state law which would prevent Carr from factoring his \$2 million in his bid. Mr. Simpson indicated that he would need to review laws and cases to be sure that there have not been any changes since 2007.

**M.A.T. BUS GARAGE EXPANSION PROJECT – A. REJECTION OF BIDS RECEIVED JUNE 4, 2009; B. CONSIDER APPROVAL OF AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH TSP, INC.**

Glenn Olson, Director of Public Works/City Engineer, indicated that Western Community Action previously 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 Mn/DOT 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. Ron Halgerson, TSP Inc., indicated that bids were received on June 4, 2009 and the low bid was \$231,000. Western Community Action is recommending the rejection of all bids as the bids were more than the project estimate.

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Western Community Action is also recommending approval of amendments to the Additional Services Amendment to Owner-Architect Agreement for the M.A.T. bus storage facility. The original contract amount was \$29,000. This amendment results in a contract increase of \$8,600 and a total contract cost of \$37,600. Funding for this amendment is to be paid from Account #804-41923-5520 (WESCP Bus Facility-Transit-Buildings & Building Improvements and be reimbursed by WESCAP).

Ritter moved, Sanow seconded, that the bids received on June 4, 2009 for the M.A.T. bus garage expansion project be rejected. All voted in favor of the motion.

Sanow moved, Ritter seconded, that the proper city personnel be authorized to enter into a Professional Services Amendment to Owner-Architect Agreement with TSP Inc., resulting in a contract increase of \$8,600 to be reimbursed to the City from Western Community Action. All voted in favor of the motion.

### **SMALL CITIES GRANT EXTENSION:**

Mark Hanson, EDA Director, reviewed the contract between the City of Marshall and Western Community Action Agency, Inc., for the Small Cities Development Grant administration. The Small Cities Development Program helps finance commercial rehabilitation to improve code, health, and energy efficiency, as well as to beautify and enhance the city. Currently, we have a similar contract with Western Community Action to administer \$110,000 of these program funds. The City of Marshall allocated \$40,000 for the purpose of supporting rehabilitation efforts associated with the Small Cities Development Program on September 2, 2008. This grant was not approved; therefore this \$40,000 is available for other purposes.

Mark indicated that the Small Cities Grant Extension is in the amount of \$40,000 for projects and administration. The administration fee is \$2,100 per unit/application. The projects will be following past guidelines for commercial improvements in the downtown district.

Council Member Sanow was concerned with the cost and wanted to know if this is something that city staff could do. Mr. Hanson indicated that he is not qualified to administer this grant. There was also a request of the council that Western Community Action provide the council with an update on the current grant.

Doom moved, Ritter seconded, that the proper city personnel be authorized to enter into a contract with Western Community Action Agency Inc., for the Administration of the Small Cities Development Grant. This grant provides for Western Community Action, Inc., to be paid \$2,100 per unit/project. All voted in favor of the motion.

### **VILLAGE DRIVE IMPROVEMENT PROJECT Y05 – CHANGE ORDER NO. 1:**

Glenn Olson, Director of Public Works/City Engineer, indicated that during construction, it was discovered that the private sewer service to Windsong Apartments was in poor condition and not functioning properly. Project staff solicited a cost for replacing the sewer service from the contractor. Upon receipt of the cost estimate, we discussed the options with the property owner. The property owner submitted a written request to proceed with the work and have the cost added to their final assessment for the project. Mr. Olson indicated that they also discovered that the Samuel Lutheran School Campus had a second 6-in. water service. This service was not included in the original project plans. Project staff and Marshall Municipal Utilities (MMU) negotiated the installation of the additional water service line on an hourly rate and MMU supplying the materials. All of the cost will be covered by MMU. Finally, in order to make the

connection of the new watermain to the existing watermain on Birch Street, it required some alternate fittings than scheduled in the plans. The cost of the new fittings will be covered by MMU.

Sanow moved, Doom seconded, the approval of Change Order No. 1 with GM Contracting, Inc., of Lake Crystal, Minnesota resulting in a contract increase in the amount of \$9,552.24 for a total contract cost of \$493,668.53 for Village Drive Improvement Project Y05. Of the additional cost, \$5,400 will be paid by special assessments and \$4,152.44 will be reimbursed by MMU. This will be paid from Account #498-62066-5570 (2009 Public Improvements-Construction in Progress-Infrastructure). All voted in favor of the motion.

**WEST REDWOOD / NORTH 4<sup>TH</sup> STREET IMPROVEMENT PROJECT Y50 – CHANGE ORDER NO. 2:**

Glenn Olson, Director of Public Works/City Engineer, indicated that due to the cold spring this year, the area sod farms were not able to provide the specified sod for the project in a timely manner. It was agreed to switch to hydro-seeding as an acceptable cost-effective alternate for turf restoration on the project.

Sanow moved, Ritter seconded, the approval of Change Order No. 1 with Gaub, Inc. of Lake Lillian, Minnesota resulting in a contract decrease in the amount of \$500.00 for a total contract cost of \$227,136.50 for the above-referenced project to be paid from Account #497-62066-5570 (2008 Public Improvements-Construction in Progress-Infrastructure). All voted in favor of the motion.

**LEGION FIELD ROAD IMPROVEMENT PROJECT Y44 – CROSSING SURFACE INSTALLATION AGREEMENT WITH BNSF RAILWAY COMPANY:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall is in the process of reconstructing Legion Field Road from Kendall Street north to West Main Street. Included in that project is a pedestrian crossing of the BNSF Railroad just north of Kendall Street. The City's contractor is responsible for the street and sidewalk installation up to the railroad crossing. The railroad is responsible for the installation of the crossing within and adjacent to the railroad tracks. This work must be accomplished by the railroad. This work is separate from the contract with the City's contractor.

Doom moved, Hulsizer seconded, that the proper city personnel be authorized to enter into the Crossing Surface Installation Agreement with BNSF Railway Company, which defines the work necessary at the crossing, as well as the estimated total cost of the crossing of \$15,478. This project cost is included in the total construction cost of the project and is necessary for the completion of the pedestrian crossing of the railroad tracks. Payment for this work will come from Account #498-62066-5570 (2009 Public Improvements-Construction in Progress-Infrastructure). All voted in favor of the motion.

**T.H. 23 PEDESTRIAN UNDERPASS PROJECT Y59 – CONSIDER AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BOLTON & MENK, INC:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall entered into a professional services agreement for the design of a pedestrian underpass under T.H. 23. This contract included the design of a box culvert underpass with concrete headwalls, trail segments to transition to the existing grade, lighting, erosion control and turf establishment and other miscellaneous items.

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Upon review of the project, coordination with Mn/DOT's T.H. 23 resurfacing project for 2010, future development of the Tiger Park Addition area east of T.H. 23, and requirements by Mn/DOT and federal funding requirements, the first amendment to the contract included significant changes in the scope of work. Mn/DOT has required the City to provide full construction plans and specifications for the T.H. 23 roadway and adjacent frontage roads impacted by the installation of the pedestrian underpass, including a Value Engineering Study required by the State for estimated projects greater than \$25 million. The second amendment is necessary because Mn/DOT requires a structural engineer to design the retaining walls with total vertical heights over 12 feet. The proposed retaining wall construction was a tiered construction with three tiers totaling more than 12 feet.

Doom moved, Boedigheimer seconded, that the proper city personnel be authorized to enter into Amendment No. 2 to the Professional Services Agreement with Bolton & Menk, Inc., for the T.H. 23 Multi-Use Pedestrian Underpass Project for a total amended contract amount not to exceed \$184,080. All voted in favor of the motion, except Sanow who voted no.

### **REVIEW BUDGET AMENDMENT FOR LIBRARY:**

Ben Martig, City Administrator, indicating that staff is recommending a resolution to approve a budget amendment to the library contribution account 101-70437-7310 from \$537,550 to \$507,748 at the regular meeting of August 25, 2009. Delaying the decision until August 25 will provide the library the opportunity to discuss the budget adjustment at their August Board meeting. Staff intends to place the item under the consent agenda at the August 25, 2009 meeting if there is no prior formal objection from the Library Board. If there is objection, the item will be placed on new business and Ben will include supporting documentation from the Board.

Mr. Martig indicated that upon city council approval of the final budget, the property tax levy for the general fund operations was reduced so that there was no increase from 2008 to 2009. The City Council did not formally change the library contribution at that time. The final budgeted amount for the library contribution was \$537,550, an increase of 3.9% from 2008 to 2009. However, Mr. Martig did indicate to the Library Director in late January that a reduction could occur as the City was implementing wage freezes for employees, additional cost saving measures and use of general fund undesignated reserves to prepare for the additional Local Government Aid (LGA) unallotments that were being proposed by the Governor. No change would be recommended to the Library contribution until after the final decision had been made by the Governor.

Mr. Martig had periodic discussions with the former library director until her last working day that the City would likely be reducing the contribution as low as the funding level in 2008. His understanding is that the former Director and Board did implement cost saving measures including staff wage freezes, travel restrictions and others in preparation of lower revenues from the City and County. Additionally, the year end reserves for the library based on the 2008 audit was \$186,742, which was about 24% of their actual 2008 expenditures that could be a source to deal with some of the reductions if necessary.

The City has been notified in mid-June of the reductions in Local Government Aid in the amount of \$232,820 for 2009 and \$537,205 for 2010. The City has taken a number of steps to deal with these reductions this year. Mr. Martig believes it is reasonable and fair that the Library be required to take similar actions to deal with these reductions in State revenue as other municipal operations.

**CONSIDERATION OF APPROVAL OF WAGE SCHEDULE AMENDMENT:**

Ben Martig, City Administrator, reviewed the amended 2009 Wage Schedule for full-time, part-time and paid on-call City staff. The amended wage schedule lists revisions made as a result of a staffing reduction from a full-time to a part-time Appraiser position and a change in the wage rate paid to Hazardous Materials Technicians for *state responses* only. The state reimburses the City for state responses at the rate of \$75.00. The revised wage rate of \$67.07 reflects the actual wage rate paid to the employee. The difference (\$7.93) is the associated employee costs paid by the City (i.e., Medicare, FICA, and workers compensation insurance).

Mr. Martig indicated that the City's Appraiser will be retiring on July 29, 2009 and that City staff will be re-posting the Appraiser position as a part-time position. Prior to the City hiring a full-time City Assessor, the Director of General Services was responsible for the duties as City Assessor, as well as management of three (3) other departments within the Division. The current City Assessor believes this will achieve an appropriate staffing level for the City. Staff will evaluate this change from full-time to part-time in six (6) months to determine if/that the functions of the position are being met with the reduction in hours.

Council Member Boedigheimer questioned why fulltime police officers are paid more than the Assessor, but part-time police officers are not and Council Member Sanow questioned why on-call pay for Wastewater Operators was not included in the Wage Schedule.

Doom moved, Ritter seconded, that the approval of the Wage Schedule Amendment be tabled to the August 11, 2009 City Council meeting. All voted in favor of the motion.

**SCHEDULE SPECIAL MEETING TO CANVAS BALLOTS:**

Ritter moved, Boedigheimer seconded, that a special meeting be scheduled for August 6, 2009 at 5:00 P.M. in the Council Chambers to canvas the results of the Special Election scheduled for August 4, 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 Commission were presented at this time:

Byrnes            No report.

Hulsizer        Human Rights Commission met on July 27<sup>th</sup>; Library Board held phone interviews for three candidates for the Director.

Doom            No report.

Sanow           No report.

Boedigheimer No report.

Ritter           No report.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that staff is working with Terri Heaton on bonding and financing; there will be a discussion on Tax Increment Financing; a MMU Partnership Agreement meeting needs to be scheduled; the council will be receiving budget to actual reports on the operating funds on a semi-annual basis; budget meetings need to be

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scheduled; the Personnel Policy was presented to the City Quarterly Employee Committee and will be presented to the City Council on August 11, 2009.

Dennis Simpson, City Attorney, indicated that they closed on the Doom Trust Property and the 12-acre park donated by Robert L. Carr; the city now owns the property at 304 South 1<sup>st</sup> Street; the Hess/Jacob property is close to being finalized; 2/3 of the homeowners have signed the necessary papers for the Maple Street issue; the purchase of the Middleton Property is scheduled to close on September 1, 2009.

**COUNCIL MEMBER INDIVIDUAL ITEMS:**

Other items brought forth by the Mayor and Council Members included a discussion on the lots by the acquisition of property by the Marshall Public Housing for the properties adjacent to their complex on North 1<sup>st</sup> Street.

**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.        | Michael L. Boedigheimer         | 432              | Legion Field | Road   | Reside, Reroof      | \$18,000  |
| 2.        | Bob & Sandy Hagberg             | 1007             | Dano         | Circle | Four Unit Apartment | \$250,000 |
| 3.        | Jeffery S. & Suanna J. Anderson | 601              | Kathryn      | Avenue | Remodel Garage      | \$2,700   |
| 4.        | Tyler J. Grams                  | 1200             | South 4th    | Street | Reroof              | \$4,000   |
| 5.        | Eugene A. Pequin                | 306              | Rainbow      | Drive  | Shed                | \$5,000   |
| 6.        | Douglas D. Andries              | 1003             | Travis       | Road   | Basement Walls      | \$3,000   |
| 7.        | Ray Henriksen                   | 310              | South Hill   | Street | Reroof              | \$12,000  |
| 8.        | Rick L. Bloome                  | 602              | Roosevelt    | Street | Install Window      | \$900     |
| 9.        | Raymond S. Michael              | 506              | Windstar     | Street | Deck                | \$4,000   |
| 10.       | Pamela K. Neumann               | 615              | Winifred     | Drive  | Reroof              | \$7,000   |

**AUTHORIZATION BY CITY COUNCIL TO GO INTO CLOSED SESSION PURSUANT TO MINNESOTA STATUTE 13D.05 SUBD. 3(C)(3) TO ESTABLISH REAL-ESTATE FOR THE MOSCH / BLADHOLM PROPERTY:**

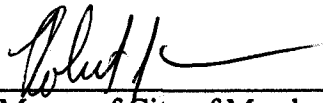
Sanow moved, Boedigheimer seconded, that the Council go into closed session at 8:38 P.M. pursuant to Minnesota Statute 13D.05 Subd. 3(c)(3) to establish real-estate for the Mosch / Bladholm Property. All voted in favor of the motion.

Those present at the closed session included: Mayor Byrnes, Council Members Hulsizer, Doom, Sanow, Boedigheimer and Ritter. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; and Thomas M. Meulebroeck, Finance Director/City Clerk.


The Council came out of closed session at 8:53 P.M.

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Upon motion by Doom, seconded by Sanow, the meeting was adjourned. All voted in favor of the motion.

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

ATTEST:

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