

REGULAR MEETING – SEPTEMBER 8, 2009

The regular meeting of the Common Council of the City of Marshall was held on September 8, 2009 in the Council Chambers of the Marshall Municipal Building, 344 West Main Street. The meeting was called to order at 5:30 P.M. by Mayor Byrnes. In addition to Byrnes the following Council Members were present: Hulsizer, Doom, Sanow, DeCramer, Boedigheimer and Ritter. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/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 deletion of item 4b, which is consideration to declare approximately 200 recycle containers as surplus property.

APPROVAL OF THE MINUTES:

Sanow moved, DeCramer seconded, that the minutes of the regular meeting held on August 28, 2009 and the minutes of the special meeting held on August 31, 2009 be approved as filed with each member and that the reading of the same be waived. All voted in favor of the motion.

PRESENTATION TO THE SOUNDS OF SUMMER COMMITTEE:

Mayor Byrnes took this opportunity to recognize the Members of the Sounds of Summer Committee for the outstanding leadership and for their time, commitment and dedication. A Certificate of Appreciation was presented to each member of the committee, which included: Russ Labat, Marc Klaith, Alecia Engler, Lauren Halgerson, Kim Leach, Tira Louwagie, Paula Nemes, Carol Purrington, Riann Rave and Cindy Rosa. Russ Labat and Marc Klaith took this opportunity to thank the City Staff for their help and support.

PUBLIC HEARING – A. CONSIDERATION OF RESOLUTION ADOPTING A PRELIMINARY BUDGET FOR 2010; B. CONSIDERATION OF RESOLUTION ADOPTING 2010 PRELIMINARY 2009 TAX LEVY COLLECTABLE IN 2010 AND SETTING BUDGET PUBLIC MEETINGS::

This was the date and time set for the 2010 Budget Public Hearing. Ben Martig, City Administrator, provided a power point presentation on the 2010 Preliminary Budget and Tax Levy. Mr. Martig indicated that the total levy may go down but cannot go up. He also indicated that the Tax Rate remains at 49.026, which is the same as 2009. Sanow moved, Ritter seconded, that the public hearing be closed. All voted in favor of the motion.

Sanow moved, Doom seconded, the adoption of RESOLUTION NUMBER 3293, SECOND SERIES and that the reading of the same be waived. Resolution Number 3293, Second Series is a resolution Adopting a Preliminary Budget for the General Fund of the City of Marshall for the year 2010. The preliminary budget for the General Fund provides for revenues of \$10,542,567 and expenditures of \$10,542,567 of which the revenues are supported with a General Fund Tax Levy of \$3,398,775. All voted in favor of the motion.

Sanow moved, Doom seconded, the adoption of RESOLUTION NUMBER 3294, SECOND SERIES and that the reading of the same be waived. Resolution Number 3294, Second Series is a resolution Adopting a Preliminary Tax Levy for the Year 2010. The proposed levy is in the amount of \$4,666,667 of which \$2,739,006 is the General Fund Portion of the

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Levy; a Debt Service Levy of \$52,537 for 1996 Storm Sewer Improvement; \$148,470 for 2006 "C" Storm Sewer Improvement; \$205,859 for 2002 "A" Airport Improvements; \$27,947 for 2002 "B" Parkway Improvements; \$185,500 for 2000 G. O. Public Improvement; \$75,411 for 2005 "A" G. O. Public Improvement; \$34,851 for 2006 "B" G. O. Public Improvement; \$132,821 for 2007 "C" G. O. Public Improvement; \$113,558 for 2007 "D" G. O. Equipment Certificates; \$74,299 for 2008 "B" G. O. Public Improvements; \$90,549 for 2008 G. O. Equipment Certificates; and \$150,000 for 2009 G. O. Public Improvement Bonds. A Special Levy in the amount of \$41,913 for PERA Employer Contribution; and a Special Levy in the amount of \$119,677 for the Economic Development Authority. The Public Budget Hearing shall be held at 6:00 P.M. on December 2, 2009, with a continuation of the Public Budget Hearing, if necessary, on December 9, 2009 at 6:00 P.M. and a Final Public Budget Hearing to consider adoption of the final budget on December 22, 2009 at 6:00 P.M. All voted in favor of the motion.

CONSENT AGENDA – A. TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE TO USE AT ADVANCE OPPORTUNITIES, 1401 PETERSON STREET ON OCTOBER 1, 2009; B. DECLARE APPROXIMATELY 200 RECYCLE CONTAINERS AS SURPLUS PROPERTY (THIS WAS REMOVED); C. AUTHORIZATION TO ACCEPT FEDERALLY FUNDED EQUIPMENT FOR THE POLICE DEPARTMENT THROUGH THE CEDAP PROGRAM; D. CONSIDER RESOLUTION AUTHORIZING EXECUTION OF A GRANT FOR ENFORCING UNDERAGE DRINKING LAWS (EUDL); E. PROPOSED SIGNAGE FOR HYDROSWING DOORS AT 1632 WEST COLLEGE DRIVE; F. AUTHORIZATION TO ADVERTISE FOR BIDS FOR A FARM LEASE; G. PROJECT Y58 2009 BITUMINOUS CHIP SEALING PROJECT – CONSIDER CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION; H. APPROVAL OF BILLS/PROJECT PAYMENTS:

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

Approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at Advance Opportunities, 1401 Peterson Street on October 1, 2009 for a fee of \$30.00.

The proper city personnel be authorized to accept the Commercial Equipment Direct Assistance Program (CEDAP) Award. This grant is for a Stedi-Eye Gyro Stabilized Binocular. This binocular removes 99% of all vibration from body hand shake, vehicle motion or any type of movement. This also has night vision capability.

The adoption of RESOLUTION NUMBER 3295, SECOND SERIES and that the reading of the same be waived. Resolution Number 3295, Second Series is a resolution Authorizing Execution of Agreement Between the City of Marshall, Minnesota State Patrol and Minnesota Department of Public Safety for a grant contract with the State of Minnesota for \$880.00 for Enforcing Underage Drinking Laws (EUDL). This resolution provides for the proper city personnel to execute agreements as are necessary to implement the grants approved between August 15, 2009 to August 15, 2012 for Safe and Sober; NightCap, HEAT, Motorcycle Task Force and EUDL.

The approval of signage for Hydroswing Doors on the front of the airport hangar at 1632 West College Drive (former Red Baron Hangar).

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The proper city personnel be authorized to advertise for farm leases for the “Sonstegard property” and the 5 acres adjacent to the Sonstegard property.

The approval of Change Order No. 1 (final) for a decrease in the amount of \$2,457.83 and acknowledgement of the final payment application in the amount of \$2,358.79 for the Bituminous Chip Seal Project Y58.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 66474 through 66637.

All voted in favor of the motion.

PRESENTATION BY TAYLOR GRONAU – SMSU STUDENT BODY PRESIDENT:

Taylor Gronau, SMSU Student Body President, was in attendance at the meeting to introduce himself to the City Council. Mr. Gronau indicated that will be working with the students on completing the census forms. He also indicated with the increase in the number of students, parking is an issue that needs to be resolved. He indicated that he would have someone attend the City Council meetings on a regular basis and invited the Mayor and Council Members to stop out anytime.

RESOLUTION AND ESCROW AGREEMENT WITH AVERA MARSHALL REGIONAL MEDICAL CENTER:

Sharon Williams, Vice President Finance and Information Services for Avera Marshall Regional Medical Center, was in attendance at the meeting to review the resolution for redemption and repayment of bonds that were issued by the City to finance Avera Marshall Regional Medical Center and the proposed escrow agreement. Ms. Williams indicated that these documents are necessary to proceed with the upcoming planned Transfer of Membership on November 2, 2009.

Ritter moved, Doom seconded, the adoption of RESOLUTION NUMBER 3296, SECOND SERIES and that the reading of the same be waived. Resolution Number 3296, Second Series is a resolution Authorizing the Redemption and Prepayment of Bonds Issued by the City to Finance Avera Marshall Regional Medical Center and Approving an Escrow Agreement with Respect Thereto. This resolution authorized the defeasance of the Series 2003 and Series 2006 Bonds as well as the redemption of the remaining principal amount of \$10,000 of the Series 1996 Bonds. All voted in favor of the motion.

CONSIDERATION OF BUILDING INSPECTION SERVICE CONTRACT WITH THE CITY OF GHENT:

Doom moved, Boedigheimer seconded, that the proper city personnel be authorized to enter into a Building Inspection Service Contract with the City of Ghent. This contract will provide all building code administration, and the City of Ghent will pay the City of Marshall a flat rate per round trip for travel, and be paid the fees for permits collected by the City of Ghent. The City of Ghent will use the same fee schedule as the City of Marshall for the permit. The City of Ghent will be billed on a monthly basis for this service. All voted in favor of the motion.

CONSIDER SMALL CITIES DEVELOPMENT PROGRAM LOAN SUBORDINATION REQUEST – JOE AND SIRIVUN EKTANITPHONG, 224 WEST MAIN STREET:

Dennis Simpson, City Administrator, indicated that Joe and Sirivun Ektanitphong were the original owners of property at 224 W. Main Street, Marshall, MN. They participated in a

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commercial building rehabilitation Small Cities Development Program (SCDP) and obtained a loan/grant in the original amount of \$35,000 for rehabilitation of that property. The original documents were dated July 25, 2006 and were subsequently recorded in the office of the Lyon County Recorded on December 20, 2006 and recorded as Document No. 168973.

Mr. Simpson indicated that the borrowers have requested that a subordination agreement regarding that original mortgage be provided by the City of Marshall. The borrowers are looking to expand their existing restaurant business into the vacant old bank building located at 228 W. Main Street. The borrowers have obtained an SBA loan and local bank loan for significant improvements to be done to the property. Primary lender is requesting that they be granted a first mortgage lien against said property thereby necessitating the request for the City of Marshall subordination of its SCDP mortgage. The subordination request has been submitted to Southwest Minnesota Housing Partnership which provides the servicing of the loans on behalf of the City of Marshall. SMHP is recommending a denial of the subordination request. That denial is based upon the fact that the owners transferred ownership of the building to a newly created limited liability company known as Thai Benchmark, LLC. The loan documents provide that at Paragraph 9 that if the real estate is sold, transferred, or otherwise conveyed, whether voluntarily or involuntarily, then the Borrower shall repay to the Lender the unforgiven amount of the loan. Technically the Borrower's have transferred the ownership from individual ownership in the name of Joe and Sirivun Ektanitphong as joint tenants and have now transferred that title to Thai Benchmark, LLC, a limited liability company.

Mr. Simpson indicated that he has reviewed the limited liability company documents as provided on behalf of Thai Benchmark, LLC. The only two members of that LLC are Joe and Sirivun Ektanitphong. Basically the LLC is an "alter ego" of Joe and Sirivun Ektanitphong. Based upon the recommendation of their attorney, they have transferred ownership from an individual ownership into a limited liability company. The limited liability company is made up of the same individuals who previously owned the property. Based upon the unique circumstances by this property transfer and further based upon the potential economic development for restoration of a vacant Main Street building, it is the recommendation of the City Attorney's office that the City waive the provision of the original mortgage, and further that the City grant subordination request. Ritter moved, DeCramer seconded, that the City of Marshall waives the provision of the original mortgage and further that the City grant the Subordination request. All voted in favor of the motion.

AUTHORIZATION TO PURCHASE A SMART BOARD THROUGH THE D.A.R.E. PROGRAM:

Ben Martig, City Administrator, indicated that the DARE curriculum has been revised to integrate a Microsoft PowerPoint presentation format and "SMART Board" technology. School Resource Officer (SRO) Sara Vanleeuwe has asked about having a SMART board available in the Middle School for the teaching of DARE. The school won't assure this with the limited number of boards it has available. Mr. Martig indicated that DARE receives donations from the community to assist the program in its efforts. These funds have been more than what has been being spent on supporting materials recently and has grown. SRO Vanleeuwe has suggested that if those funds be used to buy and install a SMART board in the Middle School that the School District would then agree to have board available for every DARE class. The School District has agreed to this and priced the whole purchase to be \$3,000 or less. The School District would bill the City for the purchase and installation of a SMART board, projector and control with a total cost of \$3,000 or less. This would be paid from funds originated from private DARE funds and not City tax dollars. The School would provide the computer needed to operate the board

and assume all programming and maintenance costs for the unit. So there would be no ongoing cost to provide a SMART board for the teaching of DARE in the future. Boedigheimer moved, Ritter seconded, that approval be granted to provide donated funds from the DARE Program to the Marshall School District for the purchase of a SMART Board subject to the ongoing availability of this technology to be used for the DARE Program. All voted in favor of the motion.

CONSIDER LANDSCAPE ARCHITECTURAL SERVICES AGREEMENT WITH ERNST ASSOCIATES FOR MARSHALL CITY ENTRANCE:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall and Southwest Minnesota State University (SMSU) have been working on plans for excavation and creation of a future stormwater detention pond in the area owned by SMSU off East College Drive at the intersection of Highway 19 and 23. This northwest quadrant is bisected by three storm water ditches including a portion of a County ditch. Mr. Olson indicated that they are proposing to improve this northwest quadrant by development of a storm water pond incorporating future community identification signage (there is current signage in this area), university signage, and potentially some Marshall High School signage, along with two aeration fountains that would keep the pond area from becoming stagnant as well as providing an additional benefit of nice visual appearance to a major entryway to the City. The pond excavation would provide additional embankment materials for the grade rise on T.H. 23 for the installation of the pedestrian underpass helping minimize construction costs.

Mr. Olson indicated that a related improvement for the University related to site grading is that this quadrant would be the extension of the SMSU Marching Band practice area to allow them to create realistic marching programs on a full-sized field, as well as the opportunity for future a building site for the University either as a campus or private development option. The University is willing to allow the City to dedicate the site for this purpose. However, they are concerned about the appearance and support a concept drawing to assist with their acceptance of the plans to incorporate into their campus master plan. Future costs for development of all aspects would require future discussion and approvals. This action will allow for the possibility of the excavation materials and stormwater pond option to be made available with the construction projects scheduled for 2010.

Doom moved, DeCramer seconded, that the proper city personnel be authorized to enter into a Landscape Architectural Services Agreement with Ernst Associates for the Marshall City Entrance at the intersection of Highway 19 and 23 in the amount up to \$2,600. This will be paid from Account #450-62066-3312 (T.H. 23 Pedestrian Underpass Fund-Construction in Progress-Professional Services). Future costs of construction, landscaping and signage are not a part of this contract. All voted in favor of the motion.

T.H. 19 STORM WATER AND SIDEWALK REPLACEMENT PROJECT – CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZED ADVERTISEMENT FOR BIDS:

Glenn Olson, Director of Public Works/City Engineer, reviewed the T.H. 19 Storm Water and Sidewalk Replacement Project. This project consists of replacement of the storm sewer main and associated items along with the replacement of curb and gutter and sidewalk from the intersection of T.H. 19 (College Drive) and T.H. 59/68 (Main Street) southwest to just south of the Redwood River.

Mr. Olson indicated that there was a hole in the street that was repaired by MN/DOT at the intersection of T.H. 19 (College Drive) and T.H. 59/68 (Main Street). This repair plugged the storm sewer and created drainage problems at the intersection and with the adjacent business. In discussions with MN/DOT, they indicated it was the City's responsibility to repair the storm sewer as per previous agreements between MN/DOT and the City. The City is still investigating

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the appropriate previous maintenance agreements, but in the meantime the storm sewer needs to be repaired before rainfall causes significant damage to adjacent properties. The sidewalk along the southwest side of the Schwan's property adjacent to College Drive is in need of replacement due to elevation and condition problems. Schwan's has agreed to participate in the sidewalk replacement portion of the project on a 50/50 basis similar to the Main Street Project participation.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3297, SECOND SERIES and that the reading of the same be waived. Resolution Number 3297, Second Series is a resolution Approving Plans and Specifications and Ordering Advertisement for Bids. The bids for this project will be received at 10:00 A.M. on September 21, 2009. All voted in favor of the motion.

Mayor Byrnes called for a five-minute recess at 7:00 P.M.

AIRPORT 5-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP):

Glenn Olson, Director of Public Works/City Engineer, briefly reviewed the 5-Year Airport Capital Improvement Program (2011-2015). Mr. Olson indicated that this was reviewed and approved by the Airport Commission at their meeting on September 1, 2009. Boedigheimer moved, Ritter seconded, approval for the proper city personnel to submit the 5-year Airport Capital Improvement Program (2011-2015) report to the MN/DOT Office of Aeronautics. All voted in favor of the motion.

COUNCIL MEMBER COMMISSION / BOARD LIAISON REPORTS:

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

- Byrnes Regional Radio Board indicated that MN/DOT is in the process of putting up a tower; Hospital Board will meet on September 14, 2009; Regional Development Commission will meet on September 10, 2009.
- Hulsizer No report.
- Doom Marshall Community Services Advisory Board met but Doom was out of town.
- Sanow No report.
- DeCramer No report.
- Boedigheimer Airport Commission minutes are included in the agenda packet; M.E.R.I.T. Center Committee will meet on September 9, 2009.
- Ritter No report.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that Marc Klaith, Fire Chief issued an order to the Marshall Hotel building to be boarded up because of safety issues. Staff is reviewing the legal issues in regard to the bidding for the proposed Library; there will be a budget meeting on Tuesday, September 15, 2009 and a Ways and Means Committee meeting on September 9, 2009 to review the Purchasing Policy and Fixed Asset Policy. Information on Block 19 is included in the agenda packet.

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Glenn Olson, Director of Public Works/City Engineer, indicated that the low bidder for the Bike Trail Project has complied with The Disadvantaged Business Enterprise (DBE) requirement.

COUNCIL MEMBER INDIVIDUAL ITEMS:

Council Member Doom indicated that the issue in regard to a street repair has been resolved.

REVIEW OF PENDING AGENDA ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:

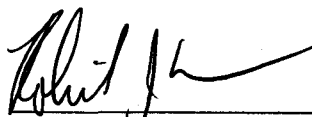
The following building permits previously approved by the Building Official were confirmed:

	Applicant	Location Address				Description of Work	Valuation
1.	Layle French Construction Inc.	103	West	Southview	Drive	Insulate Basement Walls	\$6,200
2.	James Lozinski Construction Inc.	107		Gray	Place	Replace Door	\$500
3.	Rick Slagel Construction Inc	619		Elaine	Avenue	Reroof	\$5,000
4.	Rick Slagel Construction Inc	603		Hawthorn	Drive	Reroof	\$5,000
5.	Rick Slagel Construction Inc	603	West	Southview	Drive	Reroof	\$5,000
6.	Dale Howe	901	South	4th	Street	Replace guard & railings	\$1,300
7.	George H. & Dolores M. Noyes	802	South	1st	Street	Reroof	\$3,150
8.	Joe & Carol Nelson	1211		Patricia	Court	Reroof	\$11,400
9.	Einstein Builders	911	West	Main	Street	Reroof	\$4,400
10.	Einstein Builders	108	West	Thomas	Avenue	Reroof	\$7,200
11.	Dan Schaefer Construction, Inc.	1101	South	1st	Street	Addition	\$25,000
12.	Kevin Lanoue Construction	111		Donita	Avenue	Reroof	\$7,300
13.	Kevin Lanoue Construction	209		Robert	Street	Reroof	\$6,500
14.	Westurn Roofing & Siding	624		Kathryn	Avenue	Reroof	\$7,800
15.	James Lozinski Construction Inc.	1001		Paris	Road	Reroof	\$8,000
16.	Jeff Gladis Construction	506		Kathryn	Avenue	Reroof	\$6,100
17.	Richard Louwagie Construction	102		Parkview	Drive	Reroof	\$5,500
18.	James C. Paradis	621		Donita	Avenue	Reroof	\$7,100
19.	Steven Klinkhammer	1105		Travis	Road	Reroof	\$3,500
20.	CAB Quality Construction LLC	1100		Silvervine	Drive	Reroof	\$5,000
21.	Gregory Matthys	111		E	Street	Garage	\$5,700
22.	Maple Street Construction LLC	601		Dogwood	Avenue	Reroof	\$8,000
23.	Kirk P. Hansen	602		Donita	Avenue	Replace Sheetrock, Window, Door	\$700

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24.	Einstein Builders LLC	106 West	Thomas Avenue	Reroof	\$6,000
25.	Alluvus	601	Heritage Circle	Dwelling & Garage	\$74,000
26.	Kirk P. Hansen	602	Donita Avenue	Reroof	\$5,500
27.	Juan Esparza	618	Donita Avenue	Reroof	\$3,000
28.	Alan J. Zant	114	E Street	Reroof	\$4,500
29.	James Lozinski Construction Inc.	300 West	James Avenue	Reroof	\$3,900
30.	James Lozinski Construction Inc.	620 West	Thomas Avenue	Reroof	\$7,800
31.	Jeff Gladis Construction	612	Elaine Avenue	Reroof	\$5,900
32.	William F. & Mary J. Schuna	616 West	Thomas Avenue	Reroof	\$5,400
33.	Aspen Exteriors, Inc.	608 West	Southview Drive	Reroof	\$4,800
34.	Kevin Lanoue Construction	803 South	2nd Street	Reroof	\$7,200
35.	Gary A. Sanow	606	Kathryn Avenue	Reroof and replace step	\$4,900
36.	Thomas & Connie Gruhot	701	Viking Drive	Addition and Reroof	\$30,000
37.	Lyle E. Moseng	703	Lawrence Street	Reroof	\$4,000
38.	James Lozinski Construction Inc.	902 South	1st Street	Reroof	\$7,000
39.	Einstein Builders	502	Viking Drive	Reroof	\$9,000
40.	Jeff Gladis Construction	405	Kathryn Avenue	Reroof	\$5,200
41.	Kesteloot Construction, Inc.	803 South	1st Street	Reroof	\$7,000
42.	Einstein Builders LLC	104 West	Thomas Avenue	Reroof	\$6,000
43.	James Lozinski Construction Inc.	1005	Woodfern Drive	Reroof	\$6,000
44.	Todd Smallfield	409 West	Thomas Avenue	Reroof	\$7,000
45.	James Lozinski Construction Inc.	209	DeSchepper Street	Reroof	\$8,600
46.	Curtis Buysse Construction	503 East	Lyon Street	Reroof	\$8,500
47.	Schlenner Construction Co.	609	Lawrence Street	Reroof	\$7,200

Upon motion by Doom, seconded by DeCramer, the meeting was adjourned at 7:20 P.M.
All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:



Financial Director/City Clerk