

REGULAR MEETING – OCTOBER 13, 2009

The regular meeting of the Common Council of the City of Marshall was held on October 13, 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 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; Rob Yant, Director of Public Safety; Marc Klaith, Fire Chief; Dale Howe, Building Official; Ray Hendrickson, Assistant Fire Chief; Thomas M. Meulebroeck, Finance Director/City Clerk and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF AGENDA

It was the general consensus of the Council that the agenda be approved as presented.

APPROVAL OF MINUTES

Doom moved, Sanow seconded, that the minutes of the regular meeting held on September 22, 2009 and the minutes of the special meeting held on October 8, 2009 be approved as filed with each member and that the reading of the same be waived. All voted in favor of the motion.

PUBLIC HEARING – RELATED TO RESIDENTIAL MOVING PERMIT APPLICATION AT 600 HERITAGE CIRCLE:

This was the date and time set for a public hearing on the request to move a dwelling into a residential district at 600 Heritage Circle from 23961 487th Avenue, Jasper, Minnesota. Glenn Olson, Director of Public Works/City Engineer, indicated that this 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.

Mr. Schilling indicated that this house would not be moved in for several weeks, but they will be starting of the concrete work.

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

Boedigheimer moved, Ritter seconded, that Mr. Schilling be allowed to move a dwelling into a residential district at 600 Heritage Place from 23961 487th Avenue, Jasper, Minnesota with the following conditions:

1. The owner shall obtain all necessary permits including a Moving Permit from the Director of Public Works, a Building Permit, and an Electrical Permit from the Minnesota Department of Labor and Industry.
2. Complete all on site construction and required revision to the dwelling in conformance with City Code and obtain a Certificate of Occupancy within 180 days of approval.

All voted in favor of the motion, except Sanow and Hulsizer who voted no.

PUBLIC HEARING ON ORDINANCE AMENDING SECTION 86-163 OF THE CITY CODE OF ORDINANCES RELATING TO ACCESSORY BUILDING REGULATIONS:

This was the date and time set for a public hearing on an ordinance amending Section 86-163 of the City Code relating to accessory building regulations. Glenn Olson, Director of Public Works/City Engineer, indicated that Dale Howe, Building Official, researched other cities codes and reviewed construction methods for accessory building heights. Mr. Howe's recommendation is to revise the city code to permit one story accessory buildings of 15 feet in actual height. The revision would permit the construction of a double garage and 24 foot wide, 8 foot sidewall and garages with a 6:12 roof pitch. He is also recommending to limit the size of accessory buildings to a maximum of 1,000 square feet. Sanow moved, Doom seconded, the public hearing be closed. All voted in favor

of the motion.

Sanow moved, DeCramer seconded, the adoption of ORDINANCE NUMBER 614, SECOND SERIES and that the reading of the same be waived. Ordinance Number 614, Second Series is an ordinance Amending Chapter 86, Article VI, Section 86-163 of the Marshall City Code of Ordinances Amending Accessory Building Regulations. All voted in favor of the motion.

AWARD OF BIDS -PROJECT Y53: JUNIOR HIGH SITE HAZARDOUS MATERIAL ABATEMENT PROJECT – CONSIDER AWARD OF PROPOSAL FOR PETROLEUM LEAK LIMITED SITE INVESTIGATION (MPCA LEAKSITE #17483):

Glenn Olson, Director of Public Works/City Engineer, indicated that during the Demolition and Site Clean-up Project at the Former Marshall Junior High School a small petroleum leak was detected while removing the large fuel tank near the boiler building on the site. The leak is believed to be very small in nature and is likely some spillage while filling the tank when it was in use. The MPCA was contacted and visited the site at the time of the tank removal. MPCA Staff recommended the site have a Limited Site Investigation (LSI) conducted to ensure the full extent of the contamination was determined. City Engineering staff requested service proposals from two companies to fulfill the MPCA request for an LSI. Two proposals were received from:

Apex Environmental, Inc.
Parkers Prairie, Minnesota
\$7,476.50

West Central Environmental Consultants
Morris, Minnesota
\$8,960.50

Ritter moved, Sanow seconded, that the proposal for Petroleum Leak Limited Site Investigation be awarded to Apex Environmental, Inc., Parkers Prairie, Minnesota in the amount of \$7,476.50. This will be paid under the current project Y53 Junior High Site Hazardous Material Abatement Project Account No. 483-62066-5510. All voted in favor of the motion.

CONSIDER RESOLUTION TO AUTHORIZE TO EXECUTE MN/DOT GRANT AGREEMENT FOR AIRPORT IMPROVEMENT EXCLUDING LAND ACQUISITION AND AUTHORIZATION TO AWARD PROPOSAL (20-FT. MOWER FOR AIRPORT).

Boedigheimer moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3305, SECOND SERIES and that the reading of the same be waived. Resolution Number 3305, Second Series is a resolution providing Authorization to Execute Minnesota Department of Transportation Grant Agreement for Airport Improvement Excluding Land Acquisition. This resolution provides for the proper city personnel to execute the Grant Agreement No. 95624 for Airport Improvement Excluding Land Acquisition. This agreement provides for the replacement of a Pull-Type Mower (20 ft.) at the Southwest Minnesota Regional Airport. Three proposals were received with net prices:

D & M Implement Inc.
Marshall, Minnesota
\$18,115.31

Johansson Sales & Service
Ghent, Minnesota
\$19,582.15

D & M Implement Inc
Marshall, Minnesota
\$22,978.13

The pull-type mower will be purchased from D & M Implement, Marshall, Minnesota in the amount of \$18,115.31. All voted in favor of the motion, except Doom who abstained.

CONSENT AGENDA – A. PLUMBERS LICENSE FOR ROGER MOLDE DBA MOLDES PLUMBING, HEATING AND AIR CONDITIONING INC.; B. CONSIDERATION TO APPLY FOR THE HOMELAND SECURITY GRANT FOR THE CAT TEAM; C. CONSIDERATION TO ACCEPT THE FEDERAL FUNDING THROUGH EDWARD BYRNE MEMORIAL JUSTICE ASSISTANT GRANT; D. AUTHORIZATION TO DECLARE VEHICLES AS SURPLUS PROPERTY; E. INTRODUCTION OF ORDINANCE AMENDING VARIOUS SECTIONS OF THE CITY CODE; F. APPROVAL BILLS/PROJECT PAYMENTS.

Per the request of Council Member Ritter item F, which is approval of bills and project payments was removed from the consent agenda.

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

A Plumbers License for Roger Molde dba Molde Plumbing, Heating and Air Conditioning to expire on March 31, 2010. The fee for this license of \$80.00 has been paid.

The proper city personnel be authorized to apply on-line for the Homeland Security grant for \$70,000 for the Southwest Minnesota C.A.T. and also approve Rob Yant, Director of Public Safety, as the administrator of the grant.

The proper city personnel be authorized to accept the Federal Funding through the Edward Byrnes Memorial Justice Assistance Grant (JAG) Formula Program in the amount of \$19,145.00. This will be spent on equipment for drug enforcement within Brown, Lyon and Redwood County Drug and Gang Taskforce area.

Authorization be granted to the Department of Public Safety to dispose of surplus City property – eight (8) vehicles. These vehicles will be auctioned using the State's On-Line auction process. Those vehicles that don't receive the minimum bid will be taken to Becker Iron & Metal for disposal.

The introduction of an ordinance amending various sections of the Marshall City Code of Ordinances and to call for a public hearing to be held at 5:30 P.M. on October 27, 2009.

All voted in favor of the motion.

Council Member Ritter requested that the bill from Marshall Machine Shop in the amount of \$3,500 for entrance sign work not be paid at this time and that this be clarified at a later time. Sanow moved, Doom seconded, that the remaining bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 66792 through 67029. All voted in favor of the motion.

CONSIDERATION OF LIBRARY PROJECT FUNDING AND ARCHITECTURAL AGREEMENT:

Ben Martig, City Administrator, introduced the Interim Library Director Robert Boese.

Ben Martig, City Administrator, addressed a memo he prepared on the meetings held with the Library Board, Marshall City Council and Lyon County Board of Commissioners for a funding option as well as an architectural agreement to meet the Carr pledge conditional deadline of October 15, 2009. If the conditions cannot be met by October 15, 2009, the pledge will be withdrawn according to Mr. Carr. Therefore, the Library project funding would be substantially compromised and viability of the current project would be at a minimum substantially delayed.

Mr. Martig's memo addressed the Capital Project Budget including hard and soft costs of \$5 million for a proposed 23,225 square foot facility; the Future Phase II Building Project for an

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additional 6,635 square feet; the Project Capital Financing summarizing the “Sources & Uses” as outlined by Springsted, Inc. on July 27, 2009; the Dedicated Sale Proceeds from the Existing Library Building; the Operating Expenditure Funding of 1/3 County and 2/3 City; the Architectural Contract proposed with TSP for \$63,000 for the redesign, construction documents, bidding and construction oversight and does not include previous costs funded under the Schematic Design Phase; the Building Committee, which would include representation from the City, Library, County and School District; the future Council, School District, Library Board and School District Approvals; the General Contractor Bid Including Donations; the Preliminary Project time line of:

<i>Activity Description</i>	<i>Timeframe</i>
Redesign & Construction Document Phase	October 2009 to January 2010
Approval to Bid	February/March 2010
Bidding	April 2010
Bid & Financing Approvals	May-June 2010
Site Work	July 2010
Construction	August 2010 – July 2011

Council Member Boedigheimer indicated that he has several concerns which include: the Library only being able to raise a small amount of money for this project; the public should be able to vote on the project; the Attorney General should have been asked to give an opinion on using the donation to off-set the contractors bid; the market value of the current library; when will they ask for Phase II to begin; and the City committing to using 75% of the interest on the \$2,000,000 from the sale of the hospital for a new library.

Council Member Doom is not in favor of spending over \$4 million for the proposed library. He felt that the plans could be condensed and the costs reduced.

Council Member Sanow indicated that he uses the library on a regular basis and at any time there are always several people in the library. Mr. Sanow indicated that there are a lot of people who cannot afford to buy their own computers so they use the computers at the library. Mr. Sanow indicated that there is a need for a bigger and better library. Council Member Sanow indicated that according to the survey that was completed the public wants a new library.

Council Member Hulsizer indicated that there has been more money raised for the library then there has been on any other project in the City of Marshall. She also indicated that a decision on the proposed library could have been made months ago and not waited until 2 days before the deadline from Mr. Carr. Ms. Hulsizer also indicated that according to the 2007 survey the residents want a new library.

Council Member Ritter is also in favor of a new library and thanked Mr. Carr for his donation.

Council Member DeCramer indicated that after 15 years of using 75% of the interest on the \$2,000,000 for the new library the city would still have the original \$2,000,000 and 25% of the interest. Mr. DeCramer is also concerned with Carr's bidding requirement and he also indicated that he is in favor of bonding.

Mayor Byrnes indicated that with private donations and public money he felt that this was a sound financing option for the library and that it was time to move on.

Sanow moved, Ritter seconded, to approve the preliminary project scope, financing and plans for the construction of a new Marshall-Lyon County Library. Voting in favor of the motion were:

Byrnes, Hulsizer, Sanow, DeCramer and Ritter. Voting no were: Boedigheimer and Doom.

Sanow moved, Ritter seconded, the proper city personnel be authorized to enter into the AIA Document B101-2007 Standard Form of Agreement with TSP, Inc., for the Architect Services for the new library. This agreement provides for a lump sum of \$363,000. All voted in favor of the motion, except Boedigheimer who voted no.

UPDATED ENFORCEMENT OF THE MARSHALL HOTEL:

Dennis Simpson, City Attorney indicated that the property located at 326 W. Main Street, Marshall, Minnesota has been the subject of several complaints filed by and with City Officials concerning the deteriorating condition of that property. Building Official, Dale Howe, has provided to City Attorney's office photographs and statements of building code violations relating to that building. Window frames and panes of glass were observed to be falling out of the building or to be broken. Consultation was made with Fire Chief, Marc Klaith, and an order was issued to building owner Joseph V. Bot that the property be secured so as to prohibit unauthorized entry and further that the exterior windows be secured. That order is dated September 3, 2009 and was personally served on the building owner and was posted on the building. The building owner did not make the repairs and as such the City hired a local contractor and the exterior of the building was secured.

Thereafter, Deputy State Fire Marshal Skip Zielin obtained an administrative search warrant from District Court of Lyon County, Minnesota to conduct a thorough and complete fire inspection of the interior of the building. Deputy Fire Marshal, local Fire Chief and several members of the Marshall Fire Department did conduct an interior inspection of the property on Tuesday, September 22, 2009. Based upon the fire inspection conducted in the Marshall Hotel building at 326 W. Main Street on Tuesday, September 22, 2009, the Fire Chief did issue to the building owner, Joseph V. Bot, a letter dated September 29, 2009. The letter was mailed to building owner and was posted on the premises. Ritter stated that the building was found to be unsafe as defined by Minnesota State Fire Code §110.1 and 110.1.1. Fire Chief Marc Klaith is recommending that the City of Marshall proceed with condemnation action for ultimate demolition of the building.

At this time Marc Klaith, Fire Chief, Ray Hendrickson, Assistant Fire Chief, and Skip Zielin, Deputy State Fire Marshal provided a power point presentation on the inspection of the Marshall Hotel located at 326 West Main Street. Mr. Zielin indicated that the building has multiple dead birds inside, falling plaster and other hazards. The building is a fire hazard and is unsafe for firefighters. The inspection shows someone "appears to be living in the building, at least part of the time". The building does not have electricity and is not connected to city water or sewer. Mr. Zielin indicated that the basement is a death trap for any firefighter that fights a fire and has ordered the Marshall Fire Department to only fight a fire in the building from the outside.

Upon the findings of the Deputy State Fire Marshal and local Fire Chief, the City Attorney hereby advises Council that there are basically three options available to the Council at this time. Those options are as follows:

Option 1: The Council could decide to do nothing with the building and leave it in its present condition. The building is secured from unauthorized entry. However, the interior of the building does pose a significant and substantial safety risk and City Attorney does not recommend this option. It is the position of City staff that Council proceed by taking action against the property.

Option 2: The City could declare the building to be a hazardous building as defined by Minnesota Statutes Chapter 563. The declaration of hazardous building would require that the Council issue

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to the building owner a Council order ordering that the repairs be made to the building or that the building be demolished by building owner. If building is neither repaired nor razed, then City Council would then proceed to District Court in an eminent domain/condemnation action to compel either the repair or razing of the building. In a hazardous building declaration, City Council must give the building owner "reasonable" time to effectuate the repairs or razing of the property. City staff does not recommend this option. City staff believes that this option would further delay necessary action that is required to implement health and safety requirements for either preservation or demolition of the building.

Option 3: City Council could authorize City staff to immediately proceed with condemnation action against the property as authorized by Minnesota Statutes Chapter 117. The condemnation law in Minnesota was recently changed in 2007 and the statute requires strict compliance with Chapter 117. Condemnation action would require that the building be appraised and that a public hearing be held prior to filing of any action with Lyon County District Court. Public hearing would require at least 30 days but not more than 60 days notice prior to filing with the court. Condemnation action does require appraisal to determine current fair market value of the property and does require that the City pay fair and just compensation for acquisition for private property.

City staff is recommending that City Council authorize City staff to proceed through condemnation action as authorized by Minnesota Statutes Chapter 117. City staff believes that the present condition of the building does pose a serious and immediate fire threat to the property at 326 W. Main Street, and to the adjacent buildings in downtown Marshall. Minnesota Statutes authorizes condemnation action for the removal of blighted property and to remove a public nuisance. City staff recommends proceeding with option 3 as addressed by the City Attorney.

City staff has considered the potential concern over the historic, cultural and architectural significance of the building in considering the option of demolition. However, the Building Official had estimated that a renovation would be cost-prohibitive when considering the numerous basic structural and code systems that would be required to make the building usable. If the City proceeds with plans to condemn and demolish the property there would need to be further evaluation of the impacts of the demolition on neighboring structures. Additionally, there are no reuse plans at this time for this property but rather the focus has been on the hazardous condition.

Dennis Simpson, City Attorney, indicated that if this building were to be condemned the City would need to pay fair market value. Mr. Simpson also indicated that TIF Funds can be used for this. Mr. Simpson indicated that the council has three options to consider.

Council Member Boedigheimer indicated that he was in favor of option 2 and that Mr. Bot should be given two weeks to respond. Mr. Boedigheimer indicated that the condemnation process will take a long time and they could still move forward with an appraisal. This would allow the owner time to demolish the building.

Council Member DeCramer asked if option 2 was approved and Mr. Bot made no attempt to comply would this shorten the condemnation process.

Dennis Simpson, City Attorney, indicated that if Mr. Bot did not follow this order then by law the condemnation process would begin. Mr. Simpson indicated that by this option would delay the condemnation process.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3306, SECOND SERIES and that the reading of the same be waived. Resolution Number 3306, Second Series is a resolution Authorizing the City Attorney and City Staff to Proceed with Condemnation Action. This resolution pertains to the property located at 326 West Main Street, Marshall, Minnesota. All voted in favor of the motion.

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

CONSIDER RESOLUTION AUTHORIZING APPLICATION FOR CONVEYANCE OF TAX FORFEITED LAND (PARCEL NO. 27-518001-0):

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall has been notified by the Lyon County Auditor/Treasurer that two parcels of property within the City have been forfeited to the State of Minnesota for nonpayment of taxes. The City is able to make application to the Lyon County Board and the State Tax Commission for the conveyance of these tax forfeited parcels to the City for street, utility and drainage purposes. Outlot A has a private water and sewer service that provides service to the larger parcel to the east/southeast of Outlot A. Outlot B is a landlocked outlot between the Market Street Mall and the Kmart parcel with no connection to a public right-of-way. Without additional property, this outlot is not able to provide public access to either the large, undeveloped parcel or itself. The total assessed estimated market value for Outlot A is \$7,200 and the estimated market value for Outlot B is \$17,200.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3307, SECOND SERIES and that the reading of the same be waived. Resolution Number 3307, Second Series is a resolution Authorizing Application for Conveyance of Tax Forfeited Land. This resolution provides for the proper city personnel to make an application to the County board of Lyon County and the State Tax Commission for the conveyance of Outlot A, Mall Street Addition, Parcel No. 27-518001-0. The city will be required to pay the costs associated with the transfer (\$25 for each State Deed, \$46 per deed recording fee, and \$1.65 per deed for Deed Tax). The City is not required to pay the delinquent taxes, penalties, or interest. It was also the consensus of the City council per Glen's recommendation to take no action on Outlot B. All voted in favor of the motion.

CONSIDER RESOLUTION PROVIDING FOR CONTROL SIGNAGE ON A PORTION OF NORTH HILL STREET ("NO PARKING"):

Glenn Olson, Director of Public Works/City Engineer, indicated that at the Public Improvement/Transportation Committee meeting on October 6, 2009, a discussion was held concerning the property at 801 East College Drive. Specifically discussed were roadway development issues and the limited width of North Hill Street along the west side of this property.

Following considerable discussion on this request, Doom moved, Hulsizer seconded, to table this request to the next regular meeting and call for a public hearing on this request.

Council Member Sanow indicated that Mr. Tholen is requesting this area be a one-way street. The original motion was withdrawn.

Doom moved, Sanow seconded, to deny the request for no parking on a portion of North Hill Street from East College Drive north approximately 360 feet, that the current no parking signs be removed and that City staff discuss and work with the property owner on parking along North Hill Street adjacent to the property at 801 East College Drive. All voted in favor of the motion.

PROJECT Y41: TIGER LAKE EXPANSION PROJECT – CONSIDER AUTHORIZATION FOR PROPOSALS FOR DEMOLITION AND REMOVAL OF STRUCTURES:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City has acquired property from Mr. John Middleton for the expansion of the Tiger Lake storm sewer treatment/detention facility. This project involves the construction of additional storm water ponding to accommodate development throughout the drainage basin. A report issued by the City's consultant, Bolton & Menk, Inc., has indicated a significant need for additional ponding and detention requirements. After the acquisition of the property, the City needs to clear the property for construction of the facility in 2010. The demolition and removals will include the house, various outbuildings, and leveling of the site.

Ritter moved, Sanow seconded, that the proper city personnel be authorized to request proposals for demolition and removal of structures on the Middleton Property that was purchased by the City of Marshall for the Tiger Lake Expansion Project. All voted in favor of the motion.

CONSIDER AUTHORIZATION FOR PROPOSALS FOR DEMOLITION AND REMOVAL OF STRUCTURES AT 304 SOUTH 1ST STREET:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City has acquired 304 South 1st Street through a legal process. The property is now owned by the City of Marshall, and because of its condition and history, it is recommended that the structures be demolished and the site leveled. Two methods may be used for this demolition. The first would be a proposal for the separation and disposal of hazardous materials with a follow-up demolition and leveling of the property. The second option would be the demolition of the structures with all of the material considered hazardous and hauled to a hazardous waste facility. The plan is to request proposals for each of the two methods and report back to the Council with a recommendation of the most cost-effective method.

Ritter moved, Doom seconded, that the proper city personnel be authorized to request proposals for the demolition and removal of structures at 304 South 1st Street. All voted in favor of the motion.

PROJECT Y52: T.H. 59/ONTARIO ROAD IMPROVEMENT PROJECT – CONSIDER CHANGE ORDER NO. 1:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 for T.H. 59/Ontario Road Improvement Project Y52. Mr. Olson indicated that the change order is a result of an increase due to a request by MMU to have the 6-inch watermain extension on the east end of Ontario Road installed by boring methods instead of open cut excavation. MMU chose this installation method due to the close proximity between the existing 10-inch watermain and the new 6-inch watermain. The Minnesota Department of Health Permit required a manhole with a valve and corporations to check for leaks across the Diversion Channel. Midwest Ag requested the installation of a new 6-inch sanitary sewer service along Ontario Road as an additional contract item.

Doom moved, DeCramer seconded, the approval of Change Order No. 1 with GM Contracting, Inc., for a contract increase in the amount of \$14,437.77. This change order provides the 6-inch watermain extension on the east end of Ontario Road to be installed by boring methods instead of open cut excavation. The cost for an additional service will be added to individual assessments at the request of the property owners and the remainder of the cost will be paid by MMU. All voted in favor of the motion.

PROJECT Y44: LEGION FIELD ROAD IMPROVEMENT PROJECT – CONSIDER CHANGE ORDER NO. 2:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 2 for Legion Field Road Improvement Project Y44. Mr. Olson indicated that the change order is a result of an increase due to multiple changes made in the field during construction. Two additional water and sanitary sewer services were installed to lots not previously served with utilities. Some additional curb and gutter was removed and replaced due to poor drainage or physical condition, some sidewalk was added at the north end of the project (10th Street). The remainder of the quantity changes reflect estimated as-built quantities for the project.

Doom moved, Boedigheimer seconded, the approval of Change Order No. 2 with Voss Plumbing & Heating for a contract increase in the amount of \$55,568.30. This change order is a result of multiple changes made in the field during construction. The cost for additional water and sewer services will be added to individual assessments at the request of the individual property owners. All voted in favor of the motion.

PROJECT Y59: T.H. 23 PEDESTRIAN UNDERPASS PROJECT / S.P. 139-010-014 / FED. PROJ. TEAX 4210 (085) – A. CONSIDER RESOLUTION AUTHORIZING EXECUTION OF MN/DOT COOPERATIVE CONSTRUCTION AGREEMENT NO. 95351-R AND LIMITED USE PERMIT #4203-003 BETWEEN MN/DOT AND THE CITY OF MARSHALL; B. MEMORANDUM OF UNDERSTANDING BETWEEN THE MN/DOT AND THE CITY OF MARSHALL; C. CONSIDER RESOLUTION AUTHORIZING EXECUTION OF MN/DOT DETOUR AGREEMENT NO. 95280 BETWEEN MN/DOT, LYON COUNTY AND THE CITY OF MARSHALL:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City has been working for the last several years on a safety project involving pedestrian traffic between the new Marshall High School and Southwest Minnesota State University. Mn/DOT initiated a major reconstruction project including the installation of concrete paving on T.H. 23 from Amiret Street on the north side of the Marshall High School to Russell. After consideration of the existing at-grade pedestrian crossing at T.H. 19, overhead pedestrian crossings and underpass crossings and acknowledging the opportunity for construction of a new crossing during Mn/DOT's reconstruction/resurfacing of T.H. 23, it was decided to proceed with a significant safety project including the pedestrian underpass. This underpass will serve not only the Marshall High School and SMSU, but also the future development of the Amateur Sports Complex and commercial development east of T.H. 23.

Mr. Olson indicated that the Mn/DOT Cooperative Construction Agreement No. 95351-R provides for payment by the City to the State of the City's share of the cost of the pedestrian underpass construction and other associated construction to be performed upon, along and adjacent to T.H. 23 in connection with the T.H. 23 Pedestrian Underpass Project.

DeCramer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3308, SECOND SERIES and that the reading of the same be waived. Resolution Number 3308, Second Series is a resolution Authorizing Execution of Mn/DOT Cooperative contraction Agreement No. 95351-R and Limited Use Permit No. 4203-003. This resolution provides for the proper city personnel to execute Agreement No. 95351 and Limited Use Permit No. 4203-003. All voted in favor of the motion, except Sanow who voted no.

Mr. Olson indicated that the Memorandum of Understanding between the City of Marshall and Mn/DOT states Mn/DOT's commitment to working with the City to allow the T.H. 23 Pedestrian Underpass Project to proceed in tandem with Mn/DOT Pavement Project (S.P. 4203-46).

DeCramer moved, Doom seconded, the proper city personnel be authorized to execute the

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Memorandum of Understanding between the City of Marshall and Mn/DOT. The Memorandum of Understanding states Mn/DOT's commitment to working with the City to allow the T.H. 23 Pedestrian Underpass Project to proceed in tandem with Mn/DOT Pavement Project (S.P. 4203-46). All voted in favor of the motion, except Sanow who voted no.

Mr. Olson indicated that Mn/DOT Detour Agreement No. 95280 provides for the use and maintenance of C.S.A.H. 33 as a detour route during the roadway construction and other associated construction to be performed upon, along and adjacent to T.H. 23 in connection with the T.H. 23 Pedestrian Underpass Project.

DeCramer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3309, SECOND SERIES and that the reading of the same be waived. Resolution Number 3309, Second Series is a resolution Authorizing Execution of Mn/DOT Detour Agreement no. 95280. This resolution provides for the proper city personnel to execute Agreement No. 95280. All voted in favor of the motion, except Sanow who voted no.

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 discussed a Public Safety User Group Agreement on technology.

Hulsizer Library Board met on Monday and met Robert Boese the Interim Director. The search committee will be meeting; the budget was discussed and the teen librarian has resigned.

Doom Marshall Community Services Advisory Board met but Doom was unable to attend; Public Improvement Transportation items were acted on earlier in the meeting.

Sano No report.

DeCramer EDA discussed the possibility of the Marshall Area Chamber of Commerce, the Convention and Visitors Bureau and EDA working together.

Boedigheimer No report.

Ritter Housing Commission met but Ritter was unable to attend.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that there will be a presentation in Granite Falls on the funding for the MERIT Center and the Amateur Sports Facility.

Mr. Martig indicated that there will be discussion on the location and schedule for the 2010 Council Meetings during the November meetings. Mr. Martig is also looking for feedback on the Volunteer Breakfast. Council Member Ritter indicated that this should include employees. There was a League of Minnesota Cities Regional meeting in Marshall last week.

Glenn Olson, Director of Public Works/City Engineer, indicated that the 2009 North Bike Trail and Pedestrian Trail Improvement Project Y51 has started; the T.H. 59/Ontario Road

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Improvement Project Y52 is proceeding and the T.H. 19 Storm Water and Sidewalk Replacement Project Y60 will start on Monday.

Dennis Simpson, City Attorney, indicated that all of the easements for the Maple Street Alley have been recorded; the purchase of the Middleton property has been finalized and they are continuing to work on purchasing the Peterson property.

COUNCILMEMBER INDIVIDUAL ITEMS:

There were no Council Member Individual items.

REVIEW OF PENDING AGENDA ITEMS:

There were no questions on 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	Larry Lamote	902	Cheryl	Avenue	Reroof & Reside Dwelling & Replace Windows	\$15,000
2	Kesteloot Construction, Inc.	702	Nuese	Lane	Reroof	\$5,800
3	LC Exteriors LLC	805	Westmar	Circle	Reroof	\$9,700
4	Troy M. Schmitt	205	Stephen	Avenue	Reroof	\$5,700
5	Rick Slagel Construction Inc	510	West Thomas	Avenue	Reroof	\$5,000
6	Rick Slagel Construction Inc	105	E	Street	Reroof	\$4,000
7	CAB Quality Construction LLC	905	Silvervine	Drive	Reroof	\$5,500
8	CAB Quality Construction LLC	905	Woodfern	Drive	Reroof	\$5,500
9	Scott Hicks	1500	East College	Drive	Remodel Pool	\$400
10	Ryan J. Michelson	407	Elaine	Avenue	Reroof	\$10,600
11	James L. Vandenbroeke	1408	Westwood	Drive	Reroof	\$9,000
12	Aspen Exteriors Inc.	1410	Westwood	Drive	Reroof	\$5,500
13	Aspen Exteriors, Inc.	602	Dogwood	Avenue	Reroof	\$8,400
14	Edwin Yerka	120	North 3rd	Street	Sign	\$250
15	Michael Andries	1004	Paris	Road	Deck and Finish Basement	\$6,500
16	Kenneth J. & Nancy J. Ortmann	1003	Woodfern	Drive	Replace Windows, Install Windows, Garage Remodel	\$24,000
17	A Men Roofing LLC	407	Kathryn	Avenue	Reroof	\$9,100
18	A Men Roofing LLC	1244	Patricia	Court	Reroof	\$15,800
19	Joy M. Joens	1004	Colombine	Drive	Reroof, Replace Windows	\$11,000
20	Earl B. Henspeter	702	South Bend	Avenue	Reroof	\$5,900
21	Jerry Gregg	619	Donita	Avenue	Reroof	\$4,500
22	Swanson Home Specialists	813	Nuese	Lane	Reroof	\$8,000
23	Richard Binnebose Carpentry	1406	Carlson	Street	Reroof	\$1,700
24	George J. Jacob Construction	300	East Main	Street	Garage	\$6,000

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25	James Lozinski Construction Inc.	901	Colombine Drive	Reroof	\$7,000
26	Dennis Lozinski Construction	607 West	Thomas Avenue	Reroof	\$5,500
27	Geihl Construction, Inc.	1303	Westwood Drive	Reroof	\$8,000
28	Geihl Construction, Inc.	606	Deschepper Street	Reroof	\$10,000
29	Kevin Lanoue Construction	801 South	2nd Street	Reroof	\$8,900
30	Kevin Lanoue Construction	105	Elaine Avenue	Reroof	\$7,600
31	Scott VanOverbeke Construction	402	Dogwood Avenue	Reroof	\$4,400
32	Justin Dibble	129	E Street	Install Window	\$600
33	Kevin Lanoue Construction	900	Silvervine Drive	Reroof	\$7,700
34	Jeremy J. Loch	105 East	Redwood Street	Install Window	\$500
35	Kim E. Wegner	903	Elaine Avenue	Reroof	\$4,500
36	Jeff Gladis Construction	612	Viking Drive	Reroof	\$10,600
37	Gary A. & Helen R. Quist	108 West	James Avenue	Reroof	\$10,000
38	Babcock Construction	700 South	4th Street	Replace Doors & Replace Step	\$1,800
39	Babcock Construction	900	Colombine Drive	Reroof	\$6,800
40	Babcock Construction	905	Hackberry Drive	Reroof	\$6,000
41	Babcock Construction	109	"G" Street	Reroof	\$4,600
42	Babcock Construction	601	Kennedy Street	Replace Window	\$1,600
43	Babcock Construction	107	"E" Street	Reroof	\$7,000
44	Thomas W. Sawchak	619	Camden Drive	Reroof	\$6,200
45	CAB Quality Construction LLC	403	Elaine Avenue	Reroof	\$5,500
46	CAB Quality Construction LLC	402	Kathryn Avenue	Reroof	\$7,000
47	CAB Quality Construction LLC	620	Elaine Avenue	Reroof	\$5,500
48	CAB Quality Construction LLC	105 West	Southview Drive	Reroof	\$4,000
49	Mike Buysse Construction Inc.	1103	Indiana Jones Avenue	Reroof	\$5,000
50	Moss Roofing & Insulation, Inc.	1001 North	Highway 23	Reroof	\$229,000
51	Coudron Construction, Inc.	607	Kathryn Avenue	Reroof, Garage Addition	\$18,400
52	William D. Wood	400 South	1St Street	Reroof, Replace Windows	\$3,400
53	Ecko Building Services Inc	307 South	Bruce Street	Reroof	\$6,000
54	Greg Baartman Construction, Inc.	807	Westmar Circle	Reroof	\$7,000
55	Franklin Builders II Inc.	1305	Westwood Drive	Reroof	\$5,500
56	A Men Roofing LLC	1236	Patricia Court	Reroof	\$11,100
57	A Men Roofing LLC	1004	Cheryl Avenue	Reroof	\$6,700
58	Richard J. Werner	704 East	Main Street	Reroof	\$7,000
59	True Value Home Center	1000 South	1st Street	Reroof	\$6,000
60	A Men Roofing LLC	202	Gray Place	Reroof	\$9,600
61	A Men Roofing LLC	513	Kendall Street	Reroof	\$12,500
62	James Lozinski Construction Inc.	405	Viking Drive	Reroof	\$8,700
63	Denise D. Brewers	1105	Jefferson Avenue	Reroof	\$7,000
64	Geraldine Carrow	809	Nuese Lane	Reroof	\$9,000
65	Barbara J. Berkenpas	617	Elaine Avenue	Reroof	\$6,500
66	Andrew DeSaer	915	Pine Avenue	Install Windows	\$1,000

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67	Westurn Roofing and Siding	625	West	Southview	Drive	Reroof	\$8,500
68	Westurn Roofing and Siding	209	South	4th	Street	Reroof	\$10,900
69	James Lozinski Construction Inc.	1402		Ridgeway	Road	Reroof	\$14,000
70	James Lozinski Construction Inc.	901	South	2nd	Street	Reroof	\$6,400
71	Westurn Roofing and Siding	102	West	Southview	Drive	Reroof & Siding	\$10,800
72	Daris L. & Mary T. Nelson	513		Lawerence	Street	Reroof	\$4,900
73	Mike Buysse Construction Inc.	622		Donita	Avenue	Reroof	\$5,000
74	A Men Roofing LLC	704		Lawerence	Street	Reroof	\$14,800
75	A Men Roofing LLC	607	South	1st	Street	Reroof	\$10,500
76	Vernon H. Goslar	1007		Woodfern	Drive	Reroof	\$10,000
77	Leland Bush	307		Athens	Avenue	Finish Garage	\$3,000
78	Ryan Wendland	100	West	Lyon	Street	Reroof garage	\$500
79	Einstein Builders LLC	507	West	Thomas	Avenue	Reroof	\$9,900
80	Einstein Builders LLC	1402		Cumberland	Road	Reroof	\$12,400
81	Western Community Action	1400	South	Saratoga	Street	Office Framing	\$3,000
82	Michael Pauling & Shelly Pauling	909		Woodfern	Drive	Reroof	\$7,000
83	Matt Evans	1402	East	Lyon	Street	Walls	\$1,000
84	Shawn P. & Danielle M. Semler	611		Elaine	Avenue	Reroof	\$8,800
85	Charles H. Lindemann	104		Donita	Avenue	Reroof	\$4,000
86	Andrew & Renee Suby	604		VanBuren	Street	Reroof	\$4,000
87	Bernadette Vanhee	1201		Country Club	Drive	Replace Window	\$3,000
88	A Men Roofing LLC	611		Camden	Drive	Reroof	\$6,300
89	A Men Roofing LLC	1405		Cumberland	Road	Reroof & Residing	\$15,000
90	Swanson Home Specialists	508		Lawerence	Street	Reroof	\$8,000
91	Michael J. & Juliet K. Leese	1233		Patricia	Court	Reroof	\$11,500
92	Mamer Construction LLC	504		Viking	Drive	Reroof	\$5,000
93	Mamer Construction LLC	506		Lawerence	Street	Reroof	\$5,000
94	Richard Louwagie Construction	613	South	4th	Street	Install Window	\$1,200
95	Craig D. and Debra K. Schafer	505	West	Marshall	Street	Deck, Garage Remodel	\$2,100
96	Layle French Construction Inc.	602	North	5th	Street	Replace Windows	\$2,100
97	True Value Home Center	1216		Parkside	Drive	Reroof	\$11,000
98	Glacier Companies LLC	818B	West	Southview	Court	Reroof	\$7,800
99	Glacier Companies LLC	818A	West	Southview	Court	Reroof	\$7,800
100	Glacier Companies LLC	814B	West	Southview	Court	Reroof	\$7,800
101	Glacier Companies LLC	814A	West	Southview	Court	Reroof	\$7,800
102	Carl A. Rohlik (Hammer's Away, Inc.)	501		Hawthorn	Drive	Reroof	\$5,000
103	Kesteloot Construction, Inc.	222	North	High	Street	Reroof	\$13,000
104	A Men Roofing LLC	110		"F"	Street	Reroof	\$25,300
105	A Men Roofing LLC	621		Kathryn	Avenue	Reroof	\$9,800
106	A Men Roofing LLC	203	West	James	Avenue	Reroof	\$10,000
107	A Men Roofing LLC	302	West	James	Avenue	Reroof	\$6,800
108	A Men Roofing LLC	501		Donita	Avenue	Reroof	\$7,100
109	Peters Construction	1220		Birch	Street	Additions	\$541,000
110	Iona A. Steen	402		Lawerence	Street	Reroof	\$5,500

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111	Jeff Gladis Construction	1106		Horizon	Drive	Reroof	\$6,800
112	Jeff Gladis Construction	809	North	6th	Street	Reroof	\$5,000
113	Jimie W. and Carol A. Lorenz	703		Sara	Circle	Reroof	\$7,000
114	True Value Home Center	405		Kossuth	Avenue	Reroof	\$7,500
115	Glacier Companies LLC	816B	West	Southview	Court	Reroof	\$7,800
116	Glacier Companies LLC	816A	West	Southview	Court	Reroof	\$7,800
117	Dru Larson Construction	306	East	Lyon	Street	Reroof	\$5,000
118	Doom & Cuypers, Inc.	1501		State	Street	Replace Greenhouse	\$398,000
119	James L. Skewes	1300		Susan	Drive	Sign	\$20,000
120	Rick Slagel Construction Inc	1112		Washington	Avenue	Reroof	\$6,000
121	Gary Vlaminc Construction	604	South	1st	Street	Reroof	\$4,200
122	Gary Vlaminc Construction	133		"E"	Street	Reroof	\$1,800
123	Rick Slagel Construction Inc	213		Robert	Street	Reroof	\$6,000
124	Rick Slagel Construction Inc	804		Westmar	Circle	Reroof	\$6,000
125	Daniel H. Schubert	612		Elaine	Avenue	Steps	\$1,400
126	CAB Quality Construction LLC	701		Kennedy	Street	Reroof	\$8,500
127	CAB Quality Construction LLC	609		Camden	Drive	Reroof	\$8,800
128	CAB Quality Construction LLC	1118		Clifton	Circle	Reroof	\$7,300
129	David Stenstrom	511		Lawerence	Street	Reroof	\$5,000
130	Dave Ehrike, The Boson Company, Inc.	1401	East	Lyon	Street	Church Addition & Remodeling Phase I Footings to grade only	\$106,000
131	Thooft Built Construction LLC	403		Donita	Avenue	Reroof	\$8,500
132	Layle French Construction Inc.	708		Brian	Street	Install Windows	\$2,500
133	Mike Buysse Construction Inc.	1116		Travis	Road	Reroof	\$10,000
134	True Value Home Center	104		Kathryn	Avenue	Reroof	\$8,000
135	Richard J. Jueneman	111	West	James	Avenue	Reroof	\$4,500
136	Samuel & Karla Drown	224		Athens	Avenue	Finish Garage	\$1,000
137	Mark & Emma Volz	108		Parkview	Drive	Replace Doors and Install Fire Wall	\$1,400
138	Scott Benne	409		Elaine	Avenue	Reroof	\$5,300
139	Kathleen M. Deutz	700		Viking	Drive	Door	\$500
140	Carl A. Rohlik (Hammer's Away, Inc.)	1210		Westwood	Drive	Reroof	\$6,500
141	Aspen Exteriors, Inc	716	South	4th	Street	Reroof	\$6,800
142	Aspen Exteriors, Inc	800	South	4th	Street	Reroof	\$5,300
143	Jody Gladis	302		George	Street	Reroof	\$9,900

DETERMINATION TO GO INTO CLOSED SESSION PURSUANT TO 13D.05 SUBD. 3(C)(2) AND PURSUANT TO 13.44 SUBD. 3 TO REVIEW APPRAISALS FOR BLOCK 19 (FORMER JR. HIGH SITE):

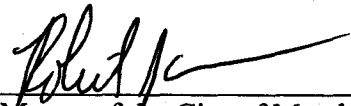
Ritter moved, Sanow seconded, that the Council go into closed session at 7:55 P.M. to review appraisals for Block 19 (Former Jr. high Site) as allowed in Minnesota Statute 13D.05, subd. 3(c)(2). All voted in favor of the motion.

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

The Council came out of closed session at 8:05 P.M.

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



Mayor of the City of Marshall

ATTEST:



Financial Director/City Clerk