

REGULAR MEETING – DECEMBER 22, 2009

The regular meeting of the Common Council of the City of Marshall was held on December 22, 2009 in the Professional Room at the 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, 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; Scott Truedson, Assistant Wastewater Operator; 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:

Sanow moved, DeCramer seconded, the agenda be approved with the following changes: add item 6b – which is to consider Under 21 Exemption for Pappy's; add item 6c – which is to consider approval of transfer of liquor license for Pappy's; 7h, which is Authorization to Accept 2009 Safe & Sober Challenge Award from Gordy Pehrson with Office of Traffic Safety moved to 1st item of new business; add as second item under new business 7j – consider Non-Alcohol area for the Gambler; add 7k – consider Under 21 Exemption for Applebee's; and delete item 13, which is authorization to accept changes made to the MERIT Center Commission Bylaws. All voted in favor of the motion.

APPROVAL OF THE MINUTES:

Sanow moved, Doom seconded, that the minutes of the regular meeting held on December 8, 2009 and the minutes of the special meeting held on December 9, 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 SMALL CITIES DEVELOPMENT GRANT:

This was the date and time set for a public hearing on the Small Cities Development Grant. Ben Martig, City Administrator indicated that the Small Cities Development Grant Program (SCDP) is funded through Community Development Block Grants from the federal government. The funds are administered through the Department of Employment and Economic Development for non-entitlement areas (cities and townships with populations over 50,000 and counties over 200,000 can receive direct allocations).

The program has one funding round each year with pre-applications due in September. If your project is selected to proceed a final application must be submitted by January. Decisions are typically announced in March/April. Once all the initial federal requirements are met a project will usually start in late Summer or early Fall 2010. An application was submitted in 2008 for funding but did not get approval to submit a final application. In September 2009 a pre-application was resubmitted and did receive approval to proceed to the final application process.

The pre-application was submitted by the City of Marshall for \$577,100 to fund 18 units of owner-occupied rehabilitation and 11 units of rental rehabilitation. The program structure is that 70% of the rehabilitation costs will be provided through the Small Cities Development Program as a 0% deferred loan for ten years. These funds are forgiven 10% per year. The 30% matching funds include programs through the Southwest Minnesota Housing Partnership, Western Community Action, and property owner match. The total project budget was \$802,500. The City of Marshall committed \$10,000 to the application. These are program income funds from a past SCDP grant.

The applications are typically restructured between the pre-application and final application stage in order to fund additional projects and also to reduce areas the State feels are not as competitive. The Marshall application was restructured to completely eliminate rental rehabilitation

and only include owner rehabilitation. The final application can be submitted for 18 units of owner occupied rehabilitation which is a total budget of \$527,610, of which \$376,200 is being requested from SCDP funding.

This program has been extremely beneficial to the City of Marshall in the past. Funding from the Small Cities Development Program has accomplished the following activities in Marshall:

- Rehabilitation of 31 owner occupied units
- Rehabilitation of 98 rental units
- Rehabilitation of 58 commercial units

The public hearing is a requirement of submittal of the final application. The purpose of the hearing is to review the proposed activities, their benefiting location(s), overall cost and proposed financing, and the implementation schedule.

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

Ritter moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3330, SECOND SERIES and that the reading of the same be waived. Resolution Number 3330, Second Series is a resolution In Support of a Small Cities Development Program Project. All voted in favor of the motion.

PUBLIC HEARING AMENDMENT TO CITY CODE OF ORDINANCES -- CHAPTER 74, ARTICLE VII. RELATING TO ALL-TERRAIN VEHICLES:

This was the date and time set for a public hearing on the amendment to the City Code Chapter 74, Article VII relating to All-Terrain Vehicles. Dennis Simpson, City Attorney, indicated that the Legislative & Ordinance Committee addressed three separate issues within Chapter 74 of the Marshall City Code. The first recommendation from the Director of Public Safety and City Attorney's office regards the deletion of significant provisions under the Marshall City Code. Specifically, City Code §74-211 through 74-222 are recommended to be deleted from the Code. Those code provisions mirror the provisions of Minnesota Statutes as provided in Chapter 84 of statutes. Marshall Police Department believes it would be more efficient to cite violations of Minnesota State Chapter 84 instead of citing violation of local ordinances.

The second amendment to the ordinances occurs in the re-definition of a regulated all-terrain vehicle. The proposed amendment to local ordinance would allow for the regulation of "Class I" all-terrain vehicles. The State of Minnesota has redefined definition of an all-terrain vehicle. Class I vehicles are those ATVs with limited engine displacement less than 800 cubic cm and total dry weight of less than 900 pounds. Current Marshall Ordinance defines all-terrain vehicle as being less than 600 pounds. It is recommended that the local ordinance be amended to mirror State definition of Class I ATVs subject to regulation by local ordinance.

Finally, the third proposed amendment would indicate that a special vehicle permit would be required for the operation of a Class II ATV within the City of Marshall. Class II ATVs are the larger vehicles greater than 900 pounds which by law are regulated through the Minnesota Department of Natural Resources and are not subject to local ordinance regulation. Legislative & Ordinance Committee believes it would be appropriate to require the operation of those larger Class II ATVs to be subject to the special vehicle permit requirements as defined in local ordinance §74-261. This would allow for the operation of those vehicles to require a special permit to be issued by the City of Marshall. This ordinance amendment would now require Class II ATVs to obtain local

permit. The ATVs used by the Morningside Care Center during the summer months are Class II ATVs now subject to special vehicle permit.

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

Boedigheimer moved, Sanow seconded, the adoption of ORDINANCE NUMBER 617, SECOND SERIES and that the reading of the same be waived. Ordinance Number 617, Second Series is an Ordinance Amending Chapter 74 of the City Code Related to Traffic and Vehicles. This ordinance provides the regulation of All-Terrain Vehicles. All voted in favor of the motion.

PUBLIC HEARING WASTEWATER USER RATES FOR 2010:

This was the date and time set for a public hearing on the Wastewater User Rates for 2010. Glenn Olson, Director of Public Works/City Engineer, indicated that Bolton & Menk, Inc., has completed a review of the Wastewater Facility Utility Fund. This review is tied to the November 2007 Springsted's Incorporated Rate Analysis. A thorough review of revenues and expenditures has been completed and a recommended 4.5% annual increase over each year through 2012 will meet the targeted operational expenses and reserves for the Wastewater fund. Mr. Olson indicated that this recommendation includes the elimination of the 500 cu. ft. /month domestic wastewater use included in the minimum residential charge, a reduction in the base rate from \$21.25/month to \$15.00/month and \$2.33/100 cu. ft. starting from 0 cu. ft. Sanow moved, Ritter seconded, that the public hearing be closed. All voted in favor of the motion.

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3331, SECOND SERIES and that the reading of the same be waived. Resolution Number 3331, Second Series is a resolution Revising the User Rates for Wastewater Service effective January 1, 2010 with a 4.50% increase. All voted in favor of the motion.

PUBLIC HEARING SURFACE WATER MANAGEMENT UTILITY RATES FOR 2010:

This was the date and time set for a public hearing on the Surface Water Management Utility Rates for 2010. Glenn Olson, Director of Public Works/City Engineer, indicated that the City's financial consultant, Springsted's Incorporated conducted a financial projection analysis in 2007 and it was determined that a 14% increase in total revenue each year (2008 – 2012) would keep the fund stable. Mr. Olson indicated that there will be a minimum monthly charge of \$3.56 for 2010, an increase of \$0.42/month from 2009. This is a 14% increase to the minimum charge. All other classifications are related to this minimum monthly charge on a basis of runoff characteristics for the type of use of each parcel. This minimum monthly charge increase results in a smaller percentage increase to all other classifications other than single-family residential (generally between 8% and 9%). Mr. Olson indicated that a thorough review of the revenues and expenditures has been completed and a recommendation of this annual increase over each year through 2012 will meet the targeted operational expenses and reserves for the Surface Water Management Utility Fund. Ritter moved, DeCramer seconded, that the public hearing be closed. All voted in favor of the motion.

Sanow moved, Doom seconded, the adoption of RESOLUTION NUMBER 3332, SECOND SERIES and that the reading of the same be waived. Resolution Number 3332, Second Series is a resolution Revising the Surface Water Management Utility Rates effective January 1, 2010 with a 14% increase. All voted in favor of the motion, except Boedigheimer who voted no.

**PUBLIC HEARING LIQUOR LICENSE APPROVAL AND TRANSFER FOR PAPPY'S
A. CONSIDER APPROVAL OF LIQUOR LICENSE FOR PAPPY'S; B. CONSIDER UNDER
21 EXEMPTION FOR PAPPY'S; C. CONSIDER APPROVAL OF TRANSFER OF LIQUOR
LICENSE FOR PAPPY'S:**

This was the date and time set for a public hearing to consider the transfer of an On-Sale Intoxicating Liquor License for Pappy's. Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that Daniel Stattelmann dba Pappy's has applied for an On-Sale Intoxicating Liquor License transfer from Yukon, Inc., dba Pappy's effective January 4, 2010. Mr. Meulebroeck indicated that the Council needs to approve the renewal of the On-Sale Intoxicating Liquor License for Yukon, Inc., dba Pappy's and the Under 21 Exemption for Pappy's before they consider the transfer to Daniel Stattelmann dba Pappy's.

Council Member Sanow indicated that the Under 21 Exemption is to allow people under 21 to enter the establishment after 10:00 p.m. for food and therefore he was concerned with the availability of food when the food portion is already closed.

Council Member Ritter asked how the sales are verified. Mr. Meulebroeck indicated that the establishment provides the City copies of their sales tax report.

Council Member Doom indicated that TK's Steakhouse and Pappy's are treated as one establishment.

Tammy Stattelmann indicated that there will be a late night menu available until midnight to provide grill/fry food after TK's Steakhouse closes.

Council Member Sanow indicated that he has a problem with two places and one license. It was indicated that both TK's Steakhouse and Pappy's are located in the same building and owned by the same person.

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

Doom moved, Ritter seconded, the approval of the renewal of the On-Sale Intoxicating Liquor License for Yukon, Inc., dba Pappy's for January 1, 2010 through December 31, 2010. All voted in favor of the motion.

Doom moved, DeCramer seconded, approval of the Under 21 Exemption for Pappy's for January 1, 2010 through December 31, 2010. The percentage of liquor sales to gross sales for January, 2009 through November, 2009 was 29%. Council Member Hulsizer indicated that she was only in favor of the Under 21 Exemption being issued for TK's Steakhouse and not for Pappy's. All voted in favor of the motion, except Hulsizer and Sanow who voted no.

Doom moved, DeCramer seconded, the approval of the transfer of an On-Sale Intoxicating Liquor license from Yukon, Inc., dba Pappy's to Daniel Stattelmann dba Pappy's effective January 4, 2010 contingent upon receipt of the necessary insurance certificates. All voted in favor of the motion.

CONSENT AGENDA – A. APPROVAL OF THE LICENSE RENEWAL FOR 2010 FOR ON-SALE INTOXICATING LIQUOR LICENSE, SUNDAY LIQUOR LICENSE, 3.2 MALT BEVERAGE ON-SALE LICENSE, 3.2 MALT BEVERAGE OFF-SALE LICENSE, TOBACCO LICENSE, TOWING AND STORAGE LICENSE, TRANSIENT MERCHANT LICENSE.; B. UNDER 21 EXEMPTION FOR HITCHING POST, MARSHALL BOWL, AND MARSHALL GOLF CLUB; C. ADOPT RESOLUTION DESIGNATING 2008 BUDGETED EXPENDITURES AS FUTURE EXPENDITURES AS OF 12-31-08; D. ADOPT RESOLUTION AMENDING BUDGET AMOUNTS FOR FISCAL YEAR ENDING 12-31-09; E. CONSIDERATION ENGAGEMENT LETTER FOR AUDIT SERVICE FOR 2009 FINANCIAL STATEMENTS; F. TEMPORARY ON-SALE LIQUOR LICENSE FOR HOLY REDEEMER FOR FEBRUARY 13, 2010; G. SET PUBLIC HEARING DATE FOR AMENDMENT TO THE 2003 COMPREHENSIVE INFRASTRUCTURE PLANNING STUDY (A PART OF THE 1996 COMPREHENSIVE PLAN WITH 2004 UPDATES) VIA THE ADDITION OF “A PEDESTRIAN AND BIKEWAY PLAN: A SAFE AND HEALTHY MARSHALL.”; H. AUTHORIZATION TO ACCEPT 2009 SAFE & SOBER CHALLENGE AWARD FROM GORDY PEHRSON WITH OFFICE OF TRAFFIC SAFETY; I. APPROVAL OF THE HEALTH CARE SAVINGS PLAN MEMORANDUMS OF UNDERSTANDING; J. CONSIDER NON-ALCOHOL AREA FOR THE GAMBLER; K. CONSIDER UNDER 21 EXEMPTION FOR APPLEBEE’S; L. APPROVAL BILLS/PROJECT PAYMENTS:

Per the request of Council Member Hulsizer, item G, which is to set a public hearing date for Amendment to the 2003 Comprehensive Infrastructure Planning Study (a part of the 1996 Comprehensive Plan with 2004 Updates) via the addition of “A Pedestrian and Bikeway Plan: A Safe and Health Marshall” was removed from the consent agenda.

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

The approval of the following license renewals for 2010 contingent upon certificates of insurance being received, the appropriate fees being paid and all requirements of the City Code being complied with.

LIQUOR LICENSE APPLICATIONS (\$4,200 per year)

American Legion	Applebee’s Neighborhood Grill & Bar
Best Western/Marshall Inn	Eagles Club
Gambler	Hitching Post Eatery and Saloon
Landmark Bistro	Mariachi Fiesta
Marshall Bowl	Marshall Golf Club
Sam’s Place	Varsity Pub
Wooden Nickel	

SUNDAY LIQUOR LICENSE APPLICATIONS (\$200 per year)

American Legion	Applebee’s Neighborhood Grill & Bar
Best Western/Marshall Inn	Eagles Club
Hitching Post Eatery and Saloon	Landmark Bistro
Mariachi Fiesta	Marshall Bowl
Marshall Golf Club	Sam’s Place
Varsity Pub	
Wooden Nickel	

ON-SALE NON-INTOXICATING BEER LICENSE APPLICATIONS (\$250.00 per year)

Godfathers Pizza
Prairie Event Center

Pizza Hut

OFF-SALE NON-INTOXICATING BEER LICENSE APPLICATIONS (\$90.00 per year)

Ampride West
Cattoor Oil/Phillipps 66
Express Way of Marshall
Hy-Vee Food Store
La Mexicana

Casey's General Store
County Fair
Freedom Valu Center/Erickson Oil
Hy-Vee Gas Station
Wal-Mart

TOBACCO LICENSE APPLICATIONS (\$75.00 per year)

American Legion
Ampride West
Cattoor Oil/Phillipps 66
Express Way of Marshall
Hy-Vee Food Store
Marshall Golf Club
Marshall Tobacco Inc
Super America

Ampride Main
Casey's General Store
County Fair
Freedom Value Center
Hy-Vee Gas Station
Marshall Liquor Store
Sam's Place
Wal Mart

TRANSIENT MERCHANT LICENSE (\$315 per year)

Hometown Supersaver

TOWING AND STORAGE LICENSE APPLICATION (\$190.00 per year)

Southwest Towing and Recovery

Per Section 6-215 (c), or Ordinance Number 603, Second Series those establishments that hold a Liquor License from the City may request an exemption under this ordinance if there Liquor Sales are less than 30% of their gross sales. The Hitching Post, Marshall Golf Club and Marshall Bowl have provided information on the recent 12 month period of time. The percentage of liquor sales to gross sales were the Hitching Post (17% for October, 2008 through September, 2009; Marshall Golf Club (15% for November, 2008 through October, 2009); and Marshall Bowl (18% for December, 2008 through November, 2009); therefore these establishments were granted the Under 21 Exemption for 2010.

The adoption of RESOLUTION NUMBER 3333, SECOND SERIES and that the reading of the same be waived. Resolution Number 3333 Second Series is a resolution Designating 2008 Budget Expenditures as Future Expenditures as of 12-31-08.

The adoption of RESOLUTION NUMBER 3334, SECOND SERIES and that the reading of the same be waived. Resolution Number 3334, Second Series is a resolution Amending Budget Amounts for Fiscal Year Ending December 31, 2009.

REGULAR MEETING – DECEMBER 22, 2009

The proper city personnel be authorized to enter into an engagement letter with Abdo, Eick & Meyers, LLP to perform the audit services for the City of Marshall's 2009 Financial statements, They are estimating the gross fee, including expenses will be approximately \$35,785.

The approval of a Temporary On-Sale Liquor License for Holy Redeemer Church to us on February 13, 2010 at 503 West Lyon Street. The fee for this license is \$30.00

Item 7h, which is authorization to accept 2009 Safe & Sober Challenge Award from Gordy Pehrson with Office of Traffic Safety, was moved to the first item of new business.

The approval of the 2010-2011 Health Care Savings Plan Memorandums of Understanding between the City of Marshall and AFSCME, LELS Local 190, LELS Local 245, and the non-union employee groups.

The approval of the Under 21 Exemption for Applebee's for January 1, 2010 through December 31, 2010. The percentage of liquor sales to gross sales for November, 2008 through October, 2009 was 15%.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 67693 through 67854.

All voted in favor of the motion.

Council Member Hulsizer was concerned that sidewalks are not always separate from streets with trees and/or other vegetation. Glenn Olson, Director of Public Works/City Engineer, indicated that this is preferred, but this is not always feasible. Hulsizer moved, Sanow seconded, that a public hearing to be held on January 12, 2010 regarding an amendment to the 2003 Comprehensive Infrastructure Planning Study (a part of the 1996 Comprehensive Plan with 2004 Updates) via the addition of "A Pedestrian and Bikeway Plan: A Safe and Healthy Marshall". All voted in favor of the motion.

AUTHORIZATION TO ACCEPT 2009 SAFE & SOBER CHALLENGE AWARD:

Brad Kollmann, a Law Enforcement Liaison for the Minnesota Department of Public Safety, Office of Traffic Safety, was in attendance at the meeting to present the 2009 1st Place Safe and Sober Award to Rob Yant, Director of Public Safety and Eric Klenken, Police Officer, in the amount of \$3,000. This award was for the work done by the Department of Public Safety during 2009 with traffic safety education, outreach and enforcement efforts. All voted in favor of the motion.

CONSIDER NON-ALCOHOL AREA FOR THE GAMBLER:

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the request from the Gambler to allow for a non-alcohol area on a non-temporary basis as provided in Section 6-215(b) of the City Code with the same conditions as in 2008. Mayor Byrnes asked if this was effective. Rob Yant, Director of Public Safety indicated that this was not used very often and he was not aware of any problems. Council Member Hulsizer asked how this is enforced and was informed that the Police Department would do a walk through. DeCramer moved, Doom seconded, the approval of the request for the Gambler to allow for a non-alcohol area as provided in Section 6-215 (b) of the City Code be approved with the following conditions:

- a) The area located in the front of the building shall be allowed as a temporary non-alcohol area on Thursday's from 10:00 p.m. to 1:00 a.m. for the remainder of the current City license

period for the sale of intoxicating liquor license.

b) The Licensee may cancel any designated Thursday's from 10:00 p.m. to 1:00 a.m. as a non-alcohol area with advance notice. Notice shall be received by Noon on the previous business day (Monday through Friday) to the following fax numbers "507-537-6830" and "507-537-6034" with attention to "Marshall Police and Marshall City Clerk – Urgent."

c) The Licensee may add additional evenings from 10:00 p.m. to 1:00 a.m. for the designated area to be a temporary non-alcohol area with advance notice following all other conditions as required herein. Notice shall be received by Noon on the previous business day (Monday through Friday) to the following fax numbers "507-537-6830" and "507-537-6034" with attention to "Marshall Police and Marshall City Clerk – Urgent."

d) A sign reading "No Alcohol Beyond This Point" shall be conspicuously posted in an easy to read font size and color on the alcohol side of the doors that separate the non-alcohol area from the bar area during the non-alcohol designated times of operation.

e) A sign reading "No Admittance Under Age 21 Beyond This Point" shall be conspicuously posted in an easy to read font size and color on the non-alcohol side of the doors that separate the non-alcohol area from the bar area during the non-alcohol designated times of operation.

f) There shall be an employee enforcing alcohol restrictions and under 21 admittance into the bar area at the location of the doors separating the non-alcohol area from the bar area at all times approved as a non-alcohol area.

g) The Licensee shall provide for control of restrictions of under 21 patrons from entering the rear entrance of the facility as it would require passing through the bar area.

h) It shall be unlawful to allow anyone under the age of 18 to be in the temporary non-alcohol area at approved times.

i) There shall be an employee at the front entrance at all times to enforce provision "h" above that requires a minimum age of 18.

All voted in favor of the motion.

APPROVAL OF THE 2010 CONTRACT WITH COMMUNITY TRANSIT OF WESTERN COMMUNITY ACTION:

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the Transportation Agreement for 2010 with Western Community Action for Transit Operations. The change in this contract from the year 2009 is in Section II B.2, which reflects the City's projected share of cost in a new vehicle to be \$14,800. Sanow moved, Boedigheimer seconded, the proper city personnel be authorized to enter into the Transportation Agreement for 2010 with Western Community Action for the Transit Operations. All voted in favor of the motion.

CONSIDER RESOLUTION APPROVING THE FINAL PLAT OF WESTERN MENTAL HEALTH CENTER ADDITION:

Glenn Olson, Director of Public Works/City Engineer, reviewed the Final Plat of Western Mental Health Center Addition. Mr. Olson indicated that this property has not been platted before;

therefore the property needs to be subdivided prior to the subdivision and sale of a portion of the property. Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3335, SECOND SERIES and that the reading of the same be waived. Resolution Number 3335, Second Series is a resolution Approving the Final Plat of Western Mental Health Center Addition. All voted in favor of the motion.

CONSIDER THE REQUEST OF REV. CAROL JENKINS FOR A CONDITIONAL USE PERMIT FOR A DAYCARE FACILITY AT 305 CAMDEN DRIVE:

Glenn Olson, Director of Public Safety, City Engineer, reviewed the request of Rev. Carol Jenkins for a Conditional Use Permit to operate a daycare facility serving 40 individuals at 305 Camden Drive. This is the location of the Christian Center for Praise and Restoration (Centro Cristiano De Alabanza Y Restrauracion). The church is a permitted use in an R-1 One Family Residence District. A daycare facility serving more than 14 individuals is a Conditional Use. This request is to modify the condition of limiting fences to 36" in height in a Conditional Use Permit issued April, 2009. Fences six feet in height or less are permitted. Rev. Jenkins has not been able to meet MN State Daycare Licensing requirements as fences for a daycare are required by licensing regulations to be a minimum of 48" in height.

Doom moved, Ritter seconded, to approve the request of Rev. Carol Jenkins for a Conditional Use Permit for a daycare facility serving individuals at 305 Camden Drive with the following conditions:

1. The use is limited to serving no more than 40 individuals
2. The use must be licensed by the State of Minnesota
3. The permit is not transferrable to any other person.
4. The existing parking lot be maintained with 30 spaces minimum.
5. All fences on the property are limited to 48" in height.
6. This permit expires within two years of the approval date if the business is not in operation or the business is suspended for two years.

All voted in favor of the motion.

PRESENTATION OF THE CONVENTION VISITORS BUREAU 2010 BUDGET:

Linda Erb, Executive Director of the Convention Visitors Bureau was in attendance at the meeting to present and discuss the 2010 budget. Ms. Erb also reviewed the 2010 Strategic Plan for the Convention and Visitor's Bureau.

Mayor Byrnes called for a 5-minute recess at 7:02 P.M.

CONSIDER RESOLUTION AUTHORIZING THE APPROVAL OF CONTRACT BETWEEN POLICE ACCREDITED TRAINING ONLINE (PATROL) AND THE CITY OF MARSHALL:

Rob Yant, Director of Public Safety, reviewed the contract between PATROL and the City of Marshall. Mr. Yant indicated that PATROL is high quality training which fills in gaps that the Police Department often has in terms of officer's training. Topics include areas such as Deadly Force and Use of Force Reporting, Issues in Police Pursuits and Emergency Driving, Juvenile Arrests, and Search and Seizure. Training is a key part of police liability and continuing to use PATROL for training will be useful in improving key officer knowledge and also helps to minimize liability exposure. This training is offered on-line so the officers can complete the courses when they are less busy and they do not have to leave town. Each officer may earn up to 16 hours per year.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3336, SECOND SERIES and that the reading of the same be waived. Resolution Number 3336, Second Series is a resolution Authorizing Approval of the Contract between PATROL and the City of Marshall. This contract is for January 1, 2010 through December 31, 2010 at a fee of \$85.00 per officer. All voted in favor of the motion.

AUTHORIZATION TO ACCEPT CHANGES MADE TO MERIT CENTER COMMISSION BYLAWS:

This item was removed from the agenda.

AUTHORIZATION TO ACCEPT MEMORANDUM OF UNDERSTANDING BETWEEN MARSHALL PUBLIC SCHOOL AND CITY OF MARSHALL IN REGARDS TO SCHOOL RESOURCE OFFICER:

DeCramer moved, Boedigheimer seconded, that the proper city personnel be authorized to enter into a Memorandum of Understanding with the Marshall Public School for a School Resource Officer. This Memorandum of Understanding provides the Marshall Public School to provide the officer an assigned office and basic office furnishings; provide support and communication between the School District and the officer; pay 50% of the wages and benefits of the officer; and pay for half of the training costs for training mutually agreed to as necessary for the assigned officer to work in the school effectively. All voted in favor of the motion.

**PROJECT Y32: (139-131-03) WINDSTAR STREET FROM T.H. 59 TO CLARICE AVENUE / (139-132-01) CLARICE AVENUE FROM WINDSTAR STREET TO SUSAN DRIVE
CONSIDER CHANGE ORDER NO. 2 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the final change order with R & R Excavating, Inc., for Windstar Street from T.H. 59 to Clarice Avenue Project Y32 (139-131-03) and Clarice Avenue from Windstar Street to Susan Drive Project Y32 (139-132-01). Ritter moved, Sanow seconded, the approval of Change Order No. 2 (Final) with R & R Excavating for an increase in the amount of \$26,237.13 and the acknowledgement for the final payment in the amount of \$162,187.37 for Windstar Street from T.H. 59 to Clarice Avenue Project Y32 (139-131-03) and Clarice Avenue from Windstar Street to Susan Drive Project Y32 (139-132-01). The change order is a result of the final measurements and changes in item quantities during construction. All voted in favor of the motion.

PROJECT Y42: CLUB 59 IMPROVEMENT PROJECT -- CONSIDER CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:

Glenn Olson, Director of Public Works/City Engineer, reviewed the final change order with GM Contracting, Inc., for Club 59 Addition Improvement Project Y42. Doom moved, DeCramer seconded, the approval of Change Order No. 1 (Final) with GM Contracting, Inc., for a decrease of \$15,527.79 and the acknowledgement for the final payment in the amount of \$24,555.34 for Club 59 Addition Improvement Project Y42. The change order is a result of the final measurements and changes in item quantities during construction. All voted in favor of the motion.

CONSIDER RESOLUTION DEDICATING CITY-OWNED PROPERTY FOR PUBLIC USE FOR PUBLIC UTILITY PURPOSES ON INDEPENDENCE PARK PROPERTY:

Glenn Olson, Director of Public Works/City Engineer, indicated that Marshall Municipal Utilities (MMU) has requested an easement for public utility purposes at Independence Park. This easement is necessary for MMU to locate and construct facilities adjacent to and outside of current city rights-of-way. This easement will be utilized not only by MMU but other public utilities as well.

Sanow moved, Doom seconded, the adoption of RESOLUTION NUMBER 3337, SECOND SERIES is a resolution Dedicating City-Owned Property for Public Use for Public Utility Purposes. This resolution provides for an easement for public utility purposes at Independent Park. All voted in favor of the motion.

CONSIDER APPROVAL TO ADD THE ANIMAL IMPOUND CENTER TO THE GARBAGE/REFUSE HAULING CONTRACT WITH SOUTHWEST SANITATION SERVICE:

Sanow moved, Doom seconded, that the addition of the Animal Impound Center to the Garbage/Refuse Hauling Contract with Southwest Sanitation Service be approved. Southwest Sanitation will put a 1 ½ yard container at the Animal Impound Center and this will be billed as an on-call service of \$13.05 per time. All voted in favor of the motion, except Ritter who abstained.

CONSIDERATION OF RENEWAL OF WORKER'S COMPENSATION INSURANCE:

Thomas M. Meulebroeck, Finance Director/City Clerk, provided a recap of the Workers Compensation Insurance rates and premium for 2010 in comparison to 2009. The experience modification has increased to .91 in comparison to .90 for 2009. The experience modified is based on the claims for the previous three years (2006 – 2008). There are some changes in the rates either up or down for the different code which does impact the estimated premium. The codes (7520, 7539 and 8160) related to MMU have significantly changed due to the estimate of remuneration being revised for the amount to reflect more closely as to how the audited remuneration is allocated. The renewal effective January 1, 2010 with the League of Minnesota Cities reflects the deductible remaining at \$5,000 and there no longer being a credit for managed care. Sanow moved, Ritter seconded, to renew the City's Workers Comp Insurance with the League of Minnesota City Insurance Trust effective January 1, 2010 at an estimated premium of \$173,237. All voted in favor of the motion.

RESOLUTION AUTHORIZING CLOSURE OF DEBT SERVICE FUNDS 312 AND 314:

DeCramer moved, Doom seconded, the adoption of RESOLUTION NUMBER 3338, SECOND SERIES and that the reading of the same be waived. Resolution Number 3338, Second Series is a resolution Authorizing the Transfer of Surplus Funds and the Closure of Debt Service Funds 312 and 314 to Debt Service Fund 363. Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that these Debt Service Funds have paid all obligations and interest due thereon and that there is a surplus. The Municipality is authorized to transfer that surplus and to use that surplus for any other general purpose of the municipality. All voted in favor of the motion.

APPROVAL OF THE JOINT POWERS AGREEMENT FOR BROWN, LYON AND REDWOOD DRUG TASK FORCE:

Dennis Simpson, City Attorney, indicated that the City of Marshall has been a participant with other area governmental entities in the Brown-Lyon-Redwood Drug Task Force for several years. The City of Marshall had previously served as the financial host for that entity. The City of New Ulm is presently serving as the financial host for that entity. Activities of all parties are governed by a Joint Powers Agreement executed by the various participating agencies. Ritter moved, DeCramer seconded, that the proper city personnel be authorized to enter into the Joint Powers Agreement for Brown, Lyon and Redwood Drug Task Force effective January 1, 2010. All voted in favor of the motion.

RESOLUTION FOR DECERTIFICATION OF TAX INCREMENT FINANCING (TIF) DISTRICT 1-1:

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3339, SECOND SERIES and that the reading of the same be waived. Resolution Number 3339, Second Series is a Resolution Requesting that the County of Lyon Auditor/Treasurer Decertify Tax Increment Financing District No. 1-1 in Redevelopment Project No. 1. All voted in favor of the motion.

CONSIDERATION OF RESOLUTION ADOPTING THE 2010 BUDGET:

Ben Martig, City Administrator, briefly reviewed the 2010 Budget. He indicated that the final budget has been established based on implementation of measures as recommended at the final budget work session of Wednesday, December 9, 2009. Council Member DeCramer indicated that he was not in favor of the EDA budget cuts.

Boedigheimer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3340, SECOND SERIES and that the reading of the same be waived. Resolution Number 3340, Second Series is a resolution Adopting a Budget for 2010. This resolution provides for General Fund revenues of \$10,052,849 and expenditures of \$10,177,467, of which the revenues will be supported with a tax levy of \$3,398,775. All voted in favor of the motion, except DeCramer who voted no.

CONSIDERATION OF RESOLUTION APPROVING 2009 TAX LEVY COLLECTIBLE IN 2010:

Doom moved, Hulsizer seconded, the adoption of RESOLUTION NUMBER 3341 SECOND SERIES and that the reading of the same be waived. Resolution Number 3341, Second Series is a resolution Approving 2009 Tax Levy, Collectible in 2010. This resolution provides for a tax levy as follows:

General Fund	\$ 2,778,103
Library	469,614
Special Levy 2008-2009 State Aid Unallotment	151,058
PERA Employer Contribution Special Levy	41,913
Debt Service 1996 Storm Sewer Improvement District Bonds	52,537
Debt Service 2006 Storm Sewer Improvement District Bonds	148,470
Debt Service 2002 "A" Airport Improvement Bonds	205,859
Debt Service 2002 "B" Parkway Improvement Bonds	27,947
Debt Service 2005 "A" G. O. Public Improvement Bonds	75,411
Debt Service 2006 "B" G. O. Public Improvement Bonds	34,851
Debt Service 2007 "C" G. O. Public Improvement Bonds	132,821
Debt Service 2007 "D" G. O. Equipment Certificates	113,558
Debt Service 2008 "B" G. O. Public Improvement Bonds	74,299
Debt Service 2008 G. O. Equipment Certificates	90,549
Debt Service 2009 G. O. Public Improvement Bonds	40,528
Debt Service 2010 G. O. Public Improvement Bonds	109,472
Economic Development Authority	119,677
TOTAL LEVY	<u>\$4,666,667</u>

All voted in favor of the motion.

PARTNERSHIP AGREEMENT BETWEEN CITY OF MARSHALL AND MARSHALL MUNICIPAL UTILITIES FOR THE YEAR 2010:

Ben Martig, City Administrator, briefly reviewed the proposed 2010 Marshall Municipal Utilities (MMU) Partnership Agreement. All of the items are the same that the Council has seen prior with the exception of the "Joint Industrial Land Development." The proposed revision to the current agreement is titled "alternate idea". You will recall that the City was proposing to include MMU participating in the expenses related to storm water management. They have added this language in but also provided a provision for some land to be dedicated exclusively for MMU for consideration of their storm water participation. The land includes property that would provide for expansion to the adjacent MMU property as well as the Minnesota Municipal Utility Association (MMUA) training area. Staff feels the city will benefit through shared cost in the storm water

development in excess of the land value being dedicated. In addition, the opportunity for MMU expansion as well as the MMUA training facility would be of value to the community. Lastly, the MMU parcel does include a substantial gas line that would hinder its value for private development. Staff feels this amended agreement is in the City and MMU's best interest to approve in consideration of all of these issues.

DeCramer moved, Ritter seconded, that the 2010 Marshall Municipal Utilities Partnership Agreement be approved. All voted in favor of the motion.

APPROVAL OF HOLIDAY SCHEDULE AMENDMENT TO PERSONNEL POLICY.

Ben Martig, City Administrator indicated that currently, the City of Marshall is open the day after Thanksgiving with very limited staff. In 2008, the city tracked the number of calls and the number of people that came into City Hall for services. Mr. Martig indicated that there is a very limited activity level on that day and the majority of the employees prefer not to work (i.e., prefer to spend the day with family). The City of Marshall's current holiday schedule includes two (2) floating holidays. Staff has met with the Personnel Committee and the non-union members of the Employee Advisory Committee and both groups support a recommendation to replace one (1) of the floating holidays and designate the day after Thanksgiving as a holiday.

Mr. Martig also indicated that the afternoon of December 24th (Christmas Eve) is another date that is difficult to staff. In 2008, the city tracked activity level and found that after 12:00 PM (noon) there was little to no activity from citizens looking for services. Staff is recommending that non-essential City functions (i.e., City Hall, Adult Community Center, etc.) close at 12:00 PM (noon) on December 24th, Christmas Eve day. The employees would have the option of either taking paid accruals for time off or may report to work, but the building would be closed to the public.

The Council Personnel Committee met on November 9, 2009 to review the proposed changes and recommends approval. These proposed changes were also brought to the Employee Advisory Committee and there are also in favor of the changes. Changes to the holiday schedule for the union groups will need to be negotiated within the respective bargaining units.

Ritter moved, DeCramer seconded, approval of the Holiday Schedule Amendment to the Personnel Policy. This amendment provides for non-union members to replace one (1) of the floating holidays and designate the day after Thanksgiving as a holiday and that non-essential City functions (i.e., City Hall, Adult Community Center, etc.) close at 12:00 PM (noon) on December 24th, Christmas Eve day and the employees would have the option of either taking paid accruals for time off or may report to work, but the building will be closed to the public. All voted in favor of the motion.

CONSIDERATION OF ADOPTION OF 2010 WAGE SCHEDULE:

Ben Martig, City Administrator briefly reviewed the 2010 Wage Schedule. The proposed 2010 Wage Schedule is applicable to the City's non-union full-time and part-time employees reflecting a 1.00% general wage increase. The proposed schedule also reflects a deletion of the position titled *Director of General Services*. Mr. Martig indicated that the proposed changes are not applicable to library personnel as the Library Board retains exclusive authority in establishing and amending wages for all library positions. Likewise, the schedule does not reflect wage adjustments for employees covered by the AFSCME union or the LELS unions. Labor negotiations with the bargaining units are in process at this time.

REGULAR MEETING – DECEMBER 22, 2009

Ritter moved, DeCramer seconded, the approval of the 2010 Wage Schedule for full-time and part-time non-union City employees. All voted in favor of the motion, except Boedigheimer 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 Development Commission discussed their year-end activity; Regional Radio Board meets on Wednesday.
- Hulsizer Convention and Visitors Bureau met last Wednesday.
- Doom Planning Commission items were acted on earlier in the meeting and the commission members were informed that Dale Howe's last day will be January 5, 2010 with a retirement party that evening from 5 P.M. to 7 P.M. at the Adult Community Center.
- Sanow Cable Commission met but Sanow was unable to attend; Marshall Area Transit met last week.
- DeCramer Utilities Commission met on December 21, 2009 and approved their 2010 budget.
- Boedigheimer M.E.R.I.T. Center Board held their last meeting at Porter.
- Ritter No report.

STAFF REPORTS:

Ben Martig, City Administrator indicated that the City will be taking over the accounts payable and payroll for the Marshall Lyon County Library effective January 1, 2010. They will be meeting to finalize the details. The Library Building project plans need to be reviewed. The City needs to work with Lyon County on an EDA director. There was an insurance information meeting held with the city employees to inform them of the changes that will be effective January 1, 2010. Mr. Martig indicated that Tom Behm from MN/DOT will be retiring in February and suggested that the the city meet with MN/DOT to discuss any items being worked on.

Glenn Olson, Director of Public Works/City Engineer; indicated that the meeting date for the Airport Commission has been changed to the first Tuesday of each month. Mr. Olson also indicated that with the upcoming winter storm city staff will be working minimum on Christmas Eve and Christmas Day.

Dennis Simpson, City Attorney, indicated that all of the property acquisitions have been finalized for the Tiger Lake Project.

COUNCILMEMBER INDIVIDUAL ITEMS:

Other items brought forth by the Mayor and Council Members included: the snow not being cleared off of the sidewalks. Mr. Olson indicated that this is handled on a complaint basis. It was indicated that funeral for Paul Larson, Mayor of Minneota, will be held on Sunday, December 27, 2009.

REVIEW OF PENDING AGENDA ITEMS:

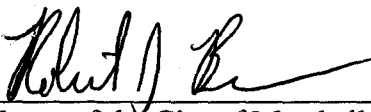
There were no questions or concerns about the pending agenda items.

INFORMATION ONLY:

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

	Applicant	Location Address				Description of Work	Valuation
1.	Hasslen Construction	1420	East	College	Drive	Interior Remodel Space 605	\$55,500
2.	MC&R Pools Inc	1500	East	College	Drive	Pool & Spa Renovation	\$25,000
3.	Tutt Construction, Inc.	1404		Westwood	Drive	Reroof	\$8,500
4.	Richard Louwagie Construction	410	South	Hill	Street	Replace Overhang	\$4,500
5.	Richard Louwagie Construction	207		Carrow	Street	Reroof	\$6,700
6.	Joseph & Jaci Garvey	511		Carlson	Street	Replace Window	\$500
7.	Antonio Duenas-Pena	410	North	3rd	Street	Replace Windows, Interior Remodel	\$3,000
8.	Bakke's Home Repair & Construction	706	South	2nd	Street	Replace Door	\$1,500
9.	Les Kvam	1001		Erie	Road	Interior Remodel	\$1,200
10.	Layle French Construction Inc.	506	East	Lyon	Street	Garage Door & Windows	\$1,500
11.	James Lozinski Construction Inc.	111	East	Redwood	Street	Reroof	\$4,000
12.	Michael Slagel Construction	304	East	Redwood	Street	Interior Remodel	\$600
13.	Thooft Construction	403		Lawerence	Street	Garage Addition	\$7,300
14.	True Value Home Center	800	East	Main	Street	Interior Remodel	\$15,000
15.	Jackson Acquisition Corp.	604		Michigan	Road	Shed	\$3,000

Upon motion by Sanow, seconded by Ritter, the meeting was adjourned at 8:10 P.M. All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:



Financial Director/City Clerk