

REGULAR MEETING – MARCH 23, 2010

The regular meeting of the Common Council of the City of Marshall was held on March 23, 2010 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 and Ritter. Absent: Boedigheimer. 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; Kim Jergenson, Engineer Technician; Shane Waterman, Assistant City Engineer; Thomas M. Meulebroeck, Financial Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF THE AGENDA:

It was the general consensus of the council that the agenda be approved with the addition of item 16a, which is to consider approval of real estate tax payment agreement for the Jacob/Hess and City of Marshall Transfer.

APPROVAL OF THE MINUTES:

Sanow moved, Doom seconded, that the minutes of the regular meeting held on March 9, 2010 be approved and that the reading of the same be waived. All voted in favor of the motion.

PRESENTATION OF LIFE SAVING AWARD – POLICE DEPARTMENT:

Rob Yant, Director of Public Safety, indicated that on January 16, 2010 several local emergency response agencies partnered in providing care to an individual from Marshall who sustained a cardiac arrest. The immediate responses, the life-saving skills performed, and the teamwork shown by these personnel are to be commended.

Mr. Yant indicated that the first responders, Officer Kopitski and Corporal Ellis, arrived on the scene within four minutes of the call to dispatch and North Memorial Ambulance Service personnel arrived shortly thereafter. The personnel involved in this response utilized significant medical means in providing care, treatment, and transport to the individual. Communications and teamwork with each other as well as communications with supervising physician in the Twin Cities resulted in the individual being successfully transported to the hospital for further care. Staff is also pleased to inform the Council that the individual has since been released from the hospital and is recovering in Marshall.

The following individuals were presented with the “Life Saving Award”, which commends their skills:

Officer Jason Buysse – Marshall Police Department
Officer Jason Kopitski – Marshall Police Department
Officer Jared Peterson – Marshall Police Department
Corporal Todd Ellis – Marshall Police Department
Josh Hesse – North Memorial Ambulance Service of Marshall
David Engel – North Memorial Ambulance Service of Marshall
Rich Serreyn – North Memorial Ambulance Service of Marshall
Sue Jensen – Dispatcher, Lyon County Sheriff's Office

PUBLIC HEARING – LIQUOR LICENSE TRANSFER FROM BINGO LLC DBA BEST WESTERN/MARSHALL INN TO BINGO LLC DBA RAMADA:

This was the date and time set for a public hearing to consider the transfer of an On-Sale Intoxicating Liquor License for Bingo LLC dba Best Western/Marshall Inn to Bingo LLC dba Ramada. Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that this request is to transfer the license from the Best Western/Marshall Inn to Ramada. Mr. Meulebroeck indicated that there is no change in ownership. Sanow moved, DeCramer seconded, that the public hearing be

closed. All voted in favor of the motion.

Doom moved, DeCramer seconded, the approval of the transfer of an On-Sale Intoxicating Liquor License from Bingo LLC dba Best Western/Marshall Inn to Bingo LLC dba Ramada. All voted in favor of the motion.

PUBLIC HEARING ON IMPROVEMENT AND CONSIDER ORDERING IMPROVEMENT AND PREPARATION OF PLANS – A. PROJECT Y33 / 139-132-02: CLARICE AVENUE FROM SUSAN DRIVE TO T.H. 23 IMPROVEMENT PROJECT; B. PROJECT Y65: RANCH AVENUE/SOUCY DRIVE AREA RECONSTRUCTION PROJECT; C. PROJECT Y74: NORTH 5TH STREET/WEST LYON STREET/WEST REDWOOD STREET RECONSTRUCTION PROJECT; D. PROJECT Y80: WALKER LANE/PARK AVENUE RECONSTRUCTION PROJECT; E. PROJECT Y75: PELTIER STREET RECONSTRUCTION PROJECT:

This was the date and time set for a public hearing on Project Y33 / 139-132-02 Clarice Avenue from Susan to T.H. 23 Improvement Project; Project Y65 Ranch Avenue/Soucy Drive Area Reconstruction Project; Project Y74 North 5th Street/West Lyon Street/West Redwood Street Reconstruction Project; Project Y80 Walker Lane/Park Avenue Reconstruction Project and Project Y75 Peltier Street Reconstruction Project. Glenn Olson, Director of Public Works/City Engineer, reviewed the following proposed projects for 2010:

Project Y33 / 139-132-02: Clarice Avenue Improvement Project from Susan Drive to T.H. 23 – The project involves the construction of watermain, storm sewer, minor sanitary sewer and street construction. The proposed project will construct Clarice Avenue and described utilities from Susan Drive to T.H. 23.

Project Y65: Ranch Avenue/Soucy Drive Area Reconstruction Project – This project involves the replacement of watermain, sanitary sewer and storm sewer and street reconstruction. The proposed project will reconstruct Ranch Avenue, Soucy Drive, Winifred Circle, Fremont Street and Pleasant Avenue and described utilities westerly from North 6th Street.

Project Y74: North 5th Street/West Lyon Street/West Redwood Street Reconstruction Project – This project involves the replacement of watermain, sanitary sewer and storm sewer and street reconstruction. The proposed project will reconstruct North 5th Street from West Main Street to West Marshall Street, West Lyon Street from North 5th Street to North 6th Street, West Redwood Street from North 5th Street to North 7th Street and described utilities.

Project Y80: Walker Lane/Park Avenue Reconstruction Project – This project involves the replacement of watermain and sanitary sewer and street reconstruction. The proposed project will reconstruct Walker Lane and Park Avenue and described utilities from East Redwood Street to East Marshall Street.

Project Y75: Peltier Street Reconstruction Project - This project involves the mill and overlay of portions of Peltier Street, Glenn Street and Simmons Street with new construction of the westerly end of Peltier Street, including improvements to drainage along the Burlington Northern Railroad tracks.

Mr. Olson indicated that there were informational meetings held on March 16, 2010 for property owners affected by these projects to address any issues the property owners had prior to the improvement hearing. All improvements will be assessed according to the current Special Assessment Policy, including Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem Participation. Final approval of each project must include determination of funding sources.

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Kay Nauman, 608 Soucy Drive, provided a petition requesting that there not be sidewalks installed in the Ranch Avenue/Soucy Drive Reconstruction Project. Ms. Nauman indicated that most of the properties do not have a lot of frontage and that most of trees on the boulevard have been there for 25 years and the property owners do not want to have these trees removed for sidewalks.

Glenn Olson indicated there is one way in and one way out of this area and that there is not a lot of traffic.

Deb Picht, 612 Soucy Drive, indicated that she was not in favor of sidewalks.

Rena Jergenson, 602 Soucy Drive, indicated that her front yard is not very big and the sidewalk would take up about half of it. She was also concerned with where she would put the snow when she shoveled the sidewalks.

Mr. Olson agreed that this area is very tight; he indicated that the sidewalk could go right behind the curb line. As far as snow removal, the snow does have to go on the property.

Ms. Nauman indicated that she does not feel that they have a huge safety issue in this area without sidewalks.

Mayor Byrnes indicated that the council could decide to not require sidewalks in this area according to Section 5, Subdivision C of the Sidewalk Policy.

Jim Lozinski, owns property on 6th Street and Soucy Drive and is concerned with the sidewalks still being in good shape after 5 years. He indicated that the sidewalk in front of his residence is only 4 years old and there are already issues with the sidewalk.

Joe Tillemans, 102 Ranch, indicated that he is not in favor of sidewalks. He was also concerned with access to this area during construction.

Glenn Olson indicated that they would work with the contractors and residents on access in and out of this area during construction.

Curt VanMeveren, 104 Ranch Avenue, requested that the council take into account the requests of the residents in this area because they bought their homes in this area because they like the way the area is.

Peggy Hames, 103 Ranch Avenue, is opposed to sidewalks and was also concerned with access during construction.

Daniel Bowman, 619 West Redwood, was concerned with his sanitary sewer system being higher than his basement.

Pat Bauman, 106 Walker Lane, indicated that she is in favor of no sidewalks because there is no room on Walker Lane. She was also concerned with the availability of parking during the construction and wanted to know what the status of the replacement of the bridge was. She indicated that they would most likely have to park on the other side of the bridge and wanted to make sure that the bridge would be there. Mr. Olson indicated that this bridge would not be replaced this year.

David Sill, 403 "A" Street, indicated that this is a quiet area and he is not in favor of sidewalks. He indicated that currently there are no sidewalks in this area.

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Tim Devries, 604 Peltier, indicated that the current sidewalk goes to the fire hydrant and that no one uses them.

Jim Lozinski owns property at 605 Peltier Street and asked if curb and gutter would be installed. Mr. Olson indicated that this is a dead end road, therefore there would not curb and gutter installed.

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

Doom moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3373, SECOND SERIES and that the reading of the same be waived. Resolution Number 3373, Second Series is a resolution Ordering Improvement and Preparation of Plans. This resolution provides for the improvements for Project Y33 / 139-132-02 Clarice Avenue Improvement Project. All voted in favor of the motion, except Hulsizer who voted no.

Ritter moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3374, SECOND SERIES and that the reading of the same be waived. Resolution Number 3374, Second Series is a resolution Ordering Improvement and Preparation of Plans with no sidewalks due to the right of way issue and trees along the boulevard. This resolution provides for the improvements for Project Y65 Ranch Avenue/Soucy Drive Area Reconstruction Project. All voted in favor of the motion, except Hulsizer and Sanow.

Council Member Hulsizer indicated that she was not in favor of any project that was not due to an emergency situation because of financial concerns. Ms. Hulsizer indicated that the area on Peltier Street and Redwood Street were problematic and need repair, but since that is not what was proposed she was voting against reconstruction.

DeCramer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3375, SECOND SERIES and that the reading of the same be waived. Resolution Number 3375, Second Series is a resolution Ordering Improvement and Preparation of Plans. This resolution provides for the improvements for Project Y74 North 5th Street/West Lyon Street/West Redwood Street. All voted in favor of the motion, except Hulsizer and Sanow.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3376, SECOND SERIES and that the reading of the same be waived. Resolution Number 3376, Second Series is a resolution Ordering Improvement and Preparation of Plans with no sidewalks per Section 5 of the Sidewalk Policy. This resolution provides for the improvements for Project Y80 Walker Lane/Park Avenue Reconstruction Project. All voted in favor of the motion, except Hulsizer and Sanow who voted no.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3377, SECOND SERIES and that the reading of the same be waived. Resolution Number 3377, Second Series is a resolution Ordering Improvement and Preparation of Plans. This resolution provides for the improvements for Project Y75 Peltier Street Improvement Project with no sidewalk installation. All voted in favor of the motion, except Hulsizer who voted no.

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AWARD OF BIDS - CONSIDER AWARD OF BIDS FOR A ONE-TON, FOUR-WHEEL DRIVE TRUCK CHASSIS, DUMP BOX, PLOW AND SANDER FOR THE AIRPORT:

Bids were received, opened and read on March 16, 2010 for a one-ton four-wheel drive truck chassis, dump box and sander for the Airport. Bids received, opened and read were from:

Bidder	Truck Unit	Box/Plow Unit	Sander Unit	Total with Tax
Aspen Equipment Bloomington, MN		\$19,641.00 <u>1,350.32*</u> \$20,991.32	\$3,626.00 <u>722.00</u> 4,348.00 <u>298.93*</u> \$4,646.93	
Badger Truck Center Milwaukee, WI Ford F350	\$32,598.36 <u>2,118.89**</u> \$34,717.25	\$17,031.00 <u>(650.00)</u> 16,381.00 <u>1,064.77**</u> \$17,445.77	\$4,200.00 <u>273.00**</u> \$4,473.00	\$56,636.02
Crysteel Truck Equipment Lake Crystal, MN		\$17,246.65 <u>1,185.71</u> \$18,432.36	\$4,276.47 <u>294.01</u> \$4,570.48	
Crysteel Truck Equipment		\$18,432.36	\$4,276.47	
Nelson Auto Center Fergus Falls, MN Ford F350	\$32,297.84 <u>2,099.36**</u> \$34,297.20	\$17,250.00 <u>1,121.25**</u> \$18,371.25	\$2,825.00 <u>183.63**</u> \$3,008.63	\$55,777.07
Nelson Auto Center Fergus Falls, MN Ford F450	\$37,496.38 <u>2,437.26**</u> \$39,933.64			
Northern Truck Equipment Sioux Falls, SD		\$17,348.00 <u>1,192.68*</u> \$18,540.68	\$4,052.00 <u>278.58*</u> \$4,330.58	

* Bid at 6.5% sales tax – adjusted to 6.785% sales tax (as shown)

**Items taxed at 6.5% motor Vehicle Excise Tax

Sanow moved, Ritter seconded, that the bid for a one-ton, four-wheel drive truck chassis, dump box, plow and sander for the Airport be awarded to Nelson Auto Care Center, Inc., of Fergus Falls, Minnesota, in a amount not to exceed \$55,777.07 subject to the approval and participation by Mn/DOT Aeronautics. All voted in favor of the motion.

AWARD OF BIDS - PROJECT Y78: 2010 BITUMINOUS OVERLAY PROJECT AND PROJECT Y79: 2010 CHIP SEAL PROJECT -- CONSIDER AWARD OF BIDS:

Bids were received, opened and read on March 16, 2010 for 2010 Bituminous Overlay Project Y78. The bids received, opened and read were from:

Central Specialties, Inc
Alexandria, Minnesota
\$202,941.15

McLaughlin & Schulz, Inc.
Marshall, Minnesota
\$179,747.83

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Sanow moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3378, SECOND SERIES and that the reading of the same be waived. Resolution Number 3378, Second Series is a resolution Accepting Bid (Award Contract) for the 2010 Bituminous Resurfacing on Various City Streets Project Y78. This bid was awarded to McLaughlin & Schulz, Inc., Marshall, Minnesota in the amount of \$179,747.83. All voted in favor of the motion.

Bids were received, opened and read on March 16, 2010 for 2010 Bituminous Chip Sealing Project Y79. The bids received, opened and read were from:

ASTECH Corp. St. Cloud, Minnesota \$78,651.80	Caldwell Asphalt Hawick, Minnesota \$66,886.56	McLaughlin & Schulz, Inc. Marshall, Minnesota \$56,780.20
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Sanow moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3379, SECOND SERIES and that the reading of the same be waived. Resolution Number 3379, Second Series is a resolution Accepting Bid (Award Contract) for 2010 Bituminous Chip Sealing on Various City Streets Project Y79. This bid was awarded to McLaughlin & Schulz, Inc., Marshall, Minnesota in the amount of \$56,780.20. All voted in favor of the motion.

CONSENT AGENDA – A. SUNDAY LIQUOR LICENSE FOR BINGO LLC DBA RAMADA; B. TEMPORARY ON-SALE LIQUOR LICENSE FOR APRIL 15, 2010 FOR THE MARSHALL AREA CHAMBER OF COMMERCE FOR AVERA MARSHALL REGIONAL MEDICAL CENTER, 300 SOUTH BRUCE STREET; C. LG220 APPLICATION FOR EXEMPT PERMIT FOR MARSHALL AREA CHAMBER OF COMMERCE FOR A RAFFLE ON JUNE 3, 2010 AT MARSHALL GOLF CLUB; D. LG220 APPLICATION FOR EXEMPT PERMIT FOR BUFFALO RIDGE GOBBLERS FOR A RAFFLE ON APRIL 30, 2010 AT PRAIRIE EVENT CENTER; E. ANNUAL RENEWAL FOR PLUMBERS LICENSES FOR APRIL 1, 2010 THROUGH MARCH 31, 2011; F. CONSIDER REQUEST FOR STREET CLOSURE FOR CRAZY DAYS ON THURSDAY, JULY 15, 2010; G. CONSIDERATION OF AUTHORIZATION TO DECLARE VEHICLES AS SURPLUS PROPERTY; H. CONSIDER APPROVAL AMENDMENT OF BY-LAWS FOR THE M.E.R.I.T. COMMISSION; I. CONSIDER APPROVAL GRANT FROM THE OFFICE OF TRAFFIC SAFETY; J. CONSIDER AMENDMENT TO CONDITIONAL USE PERMIT, CAROL JENKINS DAYCARE FACILITY; K. APPROVAL BILLS/PROJECT PAYMENTS:

Council Member DeCramer requested that item h, which is to consider approval of amendment of by-laws for the M.E.R.I.T. Commission be removed from the consent agenda.

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

A Sunday Liquor License for Bingo LLC dba Ramada contingent upon receipt of the necessary insurance certificates. The fee for this license is \$200 and the license will expire on December 31, 2010.

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to be used on April 15, 2010 at Avera Marshall Regional Medical Center, 300 South Bruce Street. The fee for this license is \$30.00.

BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Application for Exempt Permit – LG220 for the Marshall Area Chamber of Commerce for a raffle to be held at the Marshall Golf Club, 800 Country Club Drive, Marshall, Minnesota on June 3, 2010 and that the 30 day waiting period be waived.

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BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Application for Exempt Permit – LG220 for the Buffalo Ridge Gobblers for a raffle to be held at the Prairie Event Center, 1507 East College Drive, Marshall, Minnesota on April 30, 2010 and that the 30 day waiting period be waived.

The annual renewal of Plumbers Licenses for the period April 1, 2010 through March 31, 2011 at a fee of \$80.00 for the following applicants:

Scott Williams dba **Bisbee Plumbing & Heating**
Robney Bruflat dba **Bruflat Plumbing & Heating**
Joseph Brust dba **Brust Mechanical Contracting Co., LLC**
Neil Kroger – **Cottonwood Co-op Oil Company**
Glenn Larson dba **Enviro Pump Plus Inc.**
Edward Thooft dba **E. T. Heating and Cooling**
Ronald Sussner dba **Frank's Electric, Plumbing & Heating Inc.**
Gary L. Hansen dba **G H Plumbing & Heating**
Gary Smidt dba **Gary's Plumbing & Heating**
Ken Holm dba **Heartland Mechanical Inc.**
Jefferey Roguske dba **Lake Country Mechanical Inc.**
John Jenniges Jr. dba **M J Mechanical, LLC**
Mike Paulson dba **Mike's Plumbing & Heating**
Ricky Myhre dba **Minnwest Plumbing & Heating Inc**
Samuel Sahlstrom dba **Sahlstrom's Heating, Cooling & Refrigeration Inc.**
Dallas Sanderson dba **Sanderson Mechanical Inc.**
Dick Winter - **Schwan's Food Company**
Mike Orthaus dba **Tri-State Mechanical Inc.**
Vernon Goslar dba **Trio Plumbing & Heating**
David Wilking dba **Wilk's Plumbing, LLC**

The approval of the request of the Marshall Downtown Business Association to close Main Street from College Drive (intersection of T.H. 19 & T.H. 59) north to North 6th Street; North 3rd Street from Main Street to Lyon Street; and South 4th Street from Main Street to the alley behind Bot Appliance on Thursday July 15, 2010 from 6:00 A.M. to 6:00 P.M. for the Annual Crazy Days activities contingent upon the approval of MN/DOT.

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 Alter Metal Recycling for disposal.

The approval for the Marshall Police Department to receive a grant up to \$2,500 for overtime for officers to do education and enforcement from May 24, 2010 through June 6, 2010 on seatbelt and child safety seats.

The adoption of RESOLUTION NUMBER 3380, SECOND SERIES and that the reading of the same be waived. Resolution Number 3380, Second Series is a resolution amending the Conditional Use Permit authorizing Carol Jenkins to operate a daycare facility in an R-1 One-Family Residential District at Grace Life Church.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 68862 through 69033.

All voted in favor of the motion.

Council Member DeCramer asked to have the proposed amendments to the By-Laws of the MERIT Center clarified. City Attorney Dennis Simpson reviewed the proposed changes that are being recommended. DeCramer moved, Ritter seconded, that the proposed amendments to the By-Laws of the MERIT Center be approved. All voted in favor of the motion.

PRESENTATION ON CRIME FREE MULTI HOUSING AND THE DRUG ABUSE RESISTANCE EDUCATION (D.A.R.E.):

Matthew Loeslie, Officer for the Marshall Police Department, attended two schools late last year; one on the Crime-Free Multi Family Housing Program and the other to become a certified Drug Awareness and Resistance Education (D.A.R.E.) Officer. At this time Matt provided the City Council with an update on his training.

Matt indicated that the Crime-Free Multi-Family Housing was started in Marshall in 1998 after hearing about the effectiveness of the program in Sioux Falls, SD. This program promotes information sharing and coordination between multi-family operations and the Police Department. Marshall presently has one complex certified as a Crime-Free facility but many others participate in the program. Matt indicated that he is taking over leadership of this program from Detective Jody Gladis.

Matt indicated that D.A.R.E. was started many years ago in the City Marshall and is one of the key programs discouraging substance abuse among area students and promoting good relations between those students and Police Officers. With limited funding they have not been able to teach the Middle School program recently, but Officer Sara VanLeeuwe continues the basic program in the 5th grade as a part of her School Resource Officer (S.R.O.) duties. There has not been anyone trained to take over when Officer VanLeeuwe is not able to teach. Matt indicated that he will now be able to provide that coverage for Officer VanLeeuwe and has gained the skills from D.A.R.E. in doing other activities such as public speaking for the Department.

Mayor Byrnes called for a 5-minute recess at 7:00 P.M.

CONSIDERATION OF REPURCHASE OF AVERA MARSHALL REGIONAL MEDICAL CENTER HOME HEALTH CARE BUSINESS PURSUANT TO SECTION 7.1(A)(II) OF THE MEMBERSHIP TRANSFER AGREEMENT:

Dennis Simpson, City Attorney, indicated that pursuant to the terms and conditions of the negotiated sale of hospital, Avera Health, as purchaser, agreed to continue hospital service in Marshall for a period of at least 10 years and has agreed to continue nursing home service for a period of at least 5 years. All of those were terms as negotiated in the Membership Transfer Agreement between the City, Weiner Memorial Medical Center and Avera Health dated February 12, 2009. Additionally, the City of Marshall was essentially granted a right of first refusal to repurchase any medical services which the purchaser (Avera Health) ultimately decided to discontinue. Avera Marshall Regional Medical Center notified the City of Marshall that Avera Marshall Home Care service will be discontinued and the City of Marshall is hereby put on notice of their right to repurchase that home care service business.

Mr. Simpson indicated that a decision needs to be made by the City of Marshall as to whether or not the City should reenter the health care business and repurchase Avera Marshall Home Care. Pursuant to Section 7.1(a)(ii) the City of Marshall has ninety (90) days to determine if it is interested in assuming the home care business line. If so, the agreement further sets forth a process by which that business line can be valued. Therefore, a process needs to be developed so that a meaningful

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decision can be made by the City regarding this business line.

Mr. Simpson indicated that city staff is seeking direction from the City Council as to future action to be taken on this matter. If the Council has decided that the City will not repurchase the business line as discontinued, then that decision should be made and forwarded to Avera Health. Alternatively, if the City wants to take further time to seek public input prior to reaching a decision, then staff will entertain discussion to facilitate a timeframe within which to conduct public discussion regarding this matter. Finally, the third alternative would be to direct staff to proceed immediately to initiate discussions to repurchase the home care line of business.

Ben Martig, City Administrator, indicated that staff does not believe it is in the City's current expertise to manage and operate such a facility. Therefore, Mr. Martig is presuming there is no interest by the City Council to pursue the acquisition to repurchase this business line from the hospital. As stated in the letter by Ms. Maertens, there are other private home health services in the area that may be interested in expanding their services to meet the needs left by the closure of Avera's home health service. Mr. Martig indicated that he is aware of at least one private entity that has a local office that provides a similar home care service including full home nursing and related care services. This may be an opportunity for expansion of other private entities to meet the demand left by the closure of Avera's home health service line.

Council Member Sanow indicated that during all of the discussions he was told that the hospital was being sold for less than he thought it was worth, but that there would be continuous care and now they are closing Home Health Care because it does not make any money.

Dennis Simpson, City Attorney, indicated that his understanding was that there would be continuous care at the hospital and the nursing home.

Council Member Sanow thought that Home Health Care was part of the hospital.

Mayor Byrnes indicated that the membership transfer agreement is defined as the hospital and the long term care facility and that it is not defined as service lines. Byrnes also indicated that this service line is losing money.

Council Member DeCramer asked what is closing. Dodie Derynck indicated that Home Health Care Services is closing which is the service line that provides health care visits in the patient's home. Dodie indicated that there are two other Home Health Care Agencies in Marshall and 11 within a 60 mile radius of Marshall that their current clients could utilize.

Council Member Sanow indicated that he has been contacted by employees who indicated that they were told that not everything would be listed separately in the Transfer Agreement, but that Home Health Care Services was included. Amber Crowley, Vice President of Human Resources, indicated that the Transfer Agreement only guarantees the Marshall hospital and nursing home would stay open, not any individual services. Ms. Crowley indicated that questions were asked about home Health Care and other service lines during employee forums in the sale process, but they were not guaranteed to stay open.

Council Member Ritter indicated that he had been reviewing some of the recordings of meetings during the sale process, and remembered Avera president and C.E.O. John Porter saying Avera wouldn't close any services after the sale.

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Doom moved, Sanow seconded, that the City of Marshall not repurchase the Avera Marshall Regional Medical Center Home Health Care Business.

Angela Chesley, Vice President of patient care services at Avera Marshall, indicated that Mr. Porter made those statements in context of Avera not telling the Marshall location what to do. The closing decision was local, not corporate.

Art Olson indicated that the hospital has struggled with the Home Health Care for several years and that they have been losing money. He indicated that the hospital needs to concentrate on services that make money.

All voted in favor of the motion.

ANNUAL RENEWAL OF REFUSE HAULERS LICENSES FOR APRIL 1, 2010 THROUGH MARCH 31, 2011:

Sanow moved, Doom seconded, the annual renewal of Refuse Haulers Licenses for the period April 1, 2010 through March 31, 2011 at a fee of \$160.00 for Southwest Sanitation Inc. and Waste Management. All voted in favor of the motion, except Ritter who abstained.

CONSIDER AWARD OF BIDS FOR A SQUAD CAR FOR THE POLICE DEPARTMENT:

Bids were received, opened and read on March 22, 2010 for the purchase of one (1) Police type squad car and selling of one (1) Police type vehicle. The bids received, opened and read were from:

Bidder		Base Proposal A	Base Proposal B	Base Proposal C
Lockwood Motors Marshall, Minnesota	Dodge Charger	\$22,800	\$22,800 + TTL	No bid
	Trade-In	<u>3,800</u>		
	Total	\$19,000 + TTL		
Lockwood Motors Marshall, Minnesota	Chevy Impala	\$21,560	\$21,560 + TTL	No bid
	Trade-In	<u>3,800</u>		
	Total	\$17,760 + TTL		
Marshall Ford Kruse Ford Lincoln Mercury, Inc Marshall, Minnesota	Ford Interceptor	\$24,266.13	No bid	No bid
	Trade-In	<u>2,500</u>		
	Total	\$21,766.13		
Base Proposal A	Furnish one (1) Police type squad car vehicle and trade-in of one existing vehicle			
Base Proposal B	Furnish one (1) Police type squad car vehicle with no trade-in.			
Base Proposal C	Purchase one (1) trade-in existing vehicle only.			

Rob Yant, Director of Public Safety, indicated that a bid was received on March 23, 2010 at 9:41 A.M. from Nelson Auto Center, Fergus Falls, Minnesota. Mr. Yant indicated that although this bid was received after the bid opening, the bidder had made a good faith effort to send the bid and required bid security to the City in time to be included in the bid opening.

Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that he consulted with City Attorney Dennis Simpson who advised that the bid should be considered a proper bid because of the documentation provided by the bidder proving that he made every reasonable effort to have the bid delivered before the bid opening but that UPS did not make a timely delivery. It was the general consensus of the Council that the bid was not received on time and that this is an issue between the vendor and UPS.

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Doom moved, Ritter seconded, that the bid for the Police type squad vehicle for the Marshall Police Department be awarded to Lockwood Motors, Marshall, Minnesota for a 2010 Chevy Impala in the amount of \$17,760 plus title and license fees. All voted in favor of the motion.

PROJECT Y45: SOUTHVIEW DRIVE IMPROVEMENT PROJECT -- CONSIDER CHANGE ORDER NO. 2 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:

Glenn Olson, Director of Public Works/City Engineer, indicated that the changes to the proposed Change Order No. 2 (Final) resulted from an inquiry of the asphalt subcontractor regarding final payment quantities. Upon review, it was agreed that additional asphalt quantities were supplied to the project, and the proposed final change order was revised accordingly. Mr. Olson indicated that the changes are a result of unforeseen issues in the project. Doom moved, DeCramer seconded, the approval of Change Order No. 2 (Final) with GM Contracting, Inc., for an increase in the amount of \$28,170.95 and the acknowledgement of the final payment in the amount of \$109,110.43 for Southview Drive Improvement Project Y45. The change order is a result of the final measurements and changes of item quantities during construction. All voted in favor of the motion.

MN/DOT PROFESSIONAL AND TECHNICAL SERVICES MASTER CONTRACT NO. 92214 AMENDMENT NO. 1:

Glenn Olson, Director of Public Works/City Engineer, indicated that per Mn/DOT, local Government Units are being asked to approve and execute Amendment No. 1 to their Master Partnership Agreement. The City of Marshall's agreement No. is 92214. This agreement allows Mn/DOT to take advantage of a state law that will enable the funds received for the services provided to a local government to go back to the Mn/DOT office actually providing the service. Unfortunately, the agreement did not contain any language for Emergency Services such as were rendered to the City of Moorhead during the spring flood of 2009. The COE advised the City of Marshall to upgrade their contracts or the City would not be eligible to be reimbursed through FEMA in the future.

Doom moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3381, SECOND SERIES and that the reading of the same be waived. Resolution Number 3381, Second Series is a Resolution Authorizing Execution of MN/DOT Master Partnership Agreement No. 92214 – Amendment Number 1 subject to the City Attorney review and approval. Amendment Number 1 provides language for Emergency Services, which was not contained in the original agreement. All voted in favor of the motion.

PETITION FOR VACATION OF A PORTION OF DONALD STREET IN CARR SUBDIVISION I – CALL FOR PUBLIC HEARING:

Glenn Olson, Director of Public Works/City Engineer, indicated that a petition for vacation of Donald Street was submitted from the sole owner(s) of all of the abutting properties of the section of street proposed to be vacated. The purpose of the vacation is for revising the plat to reflect the existing street construction. Donald Street and Travis Road were developed in conjunction with Carr Subdivision I, which included property transferred from MN/DOT excess right-of-way to the City in exchange for elimination of Travis Road access to T.H. 23.

DeCramer moved, Doom seconded, the receipt of a petition to vacate a portion of Donald Street and call for a public hearing to be held at 5:30 P.M. on April 13, 2010. All voted in favor of the motion.

**PROJECT Y28: BASELINE ROAD/SUSAN DRIVE IMPROVEMENT PROJECT –
A. CONSIDER RESOLUTION ORDERING PREPARATION OF REPORT ON
IMPROVEMENT; B. CONSIDER RESOLUTION RECEIVING REPORT AND CALLING
FOR HEARING ON IMPROVEMENT:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the Baseline Road & Susan Drive Improvement Project is being coordinated with the development and construction of Clarice Avenue north of Susan Drive. Due to the necessity of coordinating the two projects the assessment procedure timeline for awarding bids for the Baseline Road & Susan Drive Improvements Project was exceeded. Therefore, city staff is starting over with the assessment procedure for the project. An updated feasibility report has been prepared for the project including a new cost estimate and project timeline.

Mr. Olson, indicated that the project involves the construction/reconstruction of Baseline Road from Susan Drive to Nwakama Street and Susan Drive from Clarice Avenue west 1,350 feet. Baseline Road construction / reconstruction shall consist of curb and gutter, sidewalk, aggregate base, pavement construction and miscellaneous work. Susan Drive improvements shall consist of sanitary sewer main and services, watermain services for Outlot B of J-C Boyer Addition, curb and gutter, sidewalk, aggregate base, pavement construction and miscellaneous work.

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3382, SECOND SERIES and that the reading of the same be waived. Resolution Number 3382, Second Series is a Resolution Ordering Preparation of Report on Improvement. This resolution provides for the improvements for Project Y28 Baseline Road and Susan Drive Improvement Project. All voted in favor of the motion.

Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3383 SECOND SERIES and that the reading of the same be waived. Resolution Number 3383, Second Series is a Resolution Receiving the Feasibility Report and Calling for a Hearing on Improvement for Project Y28 Baseline Road and Susan Drive Improvement. All voted in favor of the motion.

CONSIDER APPOINTMENT TO BOARDS AND COMMISSIONS:

Per the recommendation of Mayor Byrnes, Doom moved, Ritter seconded, and was unanimously approved that the following appointments be made to the Community Services Board:

- Jeff Kruse be reappointed for a term to expire on February 28, 2013
- Valentina (Tina) R. Quinones be reappointed for a term to expire on February 28, 2013
- Stacie Mulso be appointed for a term to expire on February 28, 2013
- Ruth Larson be appointed for a term to expire on February 28, 2013

**CONSIDER APPROVAL OF REAL ESTATE TAX PAYMENT AGREEMENT FOR THE
JACOB/HESS AND CITY OF MARSHALL TRANSFER:**

Dennis Simpson, City Attorney, indicated that the City of Marshall has been in extended negotiations with property owners Charles Hess and George Jacob for the swap of land between the parties. Various title problems have been encountered and the City and property owners have worked their way through those problems. The land is presently unplatted and as such property must be platted prior to the transfer of land. The plat has been prepared and revised on several occasions. So as to allow for a complete platting of property, a small sliver of land was acquired by Chuck Hess and George Jacob from neighboring land owner Lawrence Moorse. The deed transferring the property from Moorse to Jacob/Hess was dated January 19, 2010. The deed was submitted to the Lyon County Recorder's office for recording.

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Minnesota statutes, however, require that if a small piece of property is transferred off of a larger tax parcel, the entire year's worth of taxes for the entire large parcel are due and payable at the time of transfer. Lawrence Moore transferred the small piece of property as an accommodation to property owners Chuck Hess and George Jacob. That transfer, however, has triggered the immediate need of \$1,308 worth of real estate taxes by Lawrence Moore.

The City of Marshall is attempting to close the transaction regarding transfer of property. City Attorney, Dennis Simpson, has entered into an agreement wherein the City would advance payments in the amount of \$1,308 on behalf of Lawrence Moore. Lawrence Moore would then reimburse the City and would make the tax payments to the City at the normal time (May 15 and October 15). Sanow moved, Ritter seconded, to approve and authorize the advance payment of real estate taxes due by Lawrence Moore as an accommodation party so as to allow for the platting of Legion Field Road Second Addition. 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 Development Commission met last week and is working on funding for infrastructure for the Industrial Park; Regional Radio Board met earlier today; Complete Count Committee met last week – there is a Question Assistance Center located in City Hall.
- Hulsizer Human Rights Commission met on March 22nd to discuss the Martin Luther King Essay Contest.
- Doom No report.
- Sanow Cable Commission met and is requesting that the money budgeted for the tri-caster be reconsidered at the next City Council meeting; Marshall Area Transit met last week.
- DeCramer EDA and Utilities Commission met earlier this month.
- Ritter EDA met earlier this month.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that the City of Marshall received a favorable review on the sales tax hearing; the Charter Commission appointments have been approved and there will be a meeting set up soon; due to the change in the date for the Primary the City Council meeting will be changed from Tuesday, August 10, 2010 to Monday, August 9, 2010; the library project is progressing with behind the scene items being worked on; the City property map is complete; RFP's for a consultant for land development have been received and will be reviewed; TSP has prepared a concept plan for the Industrial Park; there is a Legislative Conference sponsored by the League of Minnesota Cities later this week; and the proposed LGA cuts for 2010 is \$250,972.

Glenn Olson, Director of Public Works/City Engineer, indicated that there was a pre-construction meeting at MN/DOT to discuss the Trunk Highway 23 project; discussions are continuing on the gauge station that is used for flooding, Wastewater Treatment Facility Discharge permit and ADM Permit. He indicated possible US Geological funding of 50%.

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Dennis Simpson, City Attorney, briefly addressed the dangerous dog ordinance.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Sanow indicated that several employees are displeased with the mileage allowance and requested that this be reconsidered by the council. Council Member Ritter agreed with Sanow.

REVIEW OF PENDING AGENDA ITEMS:

There were no questions or concerns 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.	James & Emily Lozinski	406	Lynd	Street	Reroof	\$5,000	
2.	Lozinski Rentals	605	Peltier	Street	Reroof	\$5,000	
3.	John R. & Susan A. Alcorn	1205	Horizon	Drive	Kitchen Remodel	\$1,000	
4.	Patrick H. Coequyt	502	South	1st Street	Reside Dwelling	\$5,000	
5.	Michael Slagel Construction	307	North	Hill Street	Replace Doors	\$900	
6.	Carr Properties	210	Hamden	Street	Reroof	\$7,000	
7.	Carr Properties	216	Hamden	Street	Reroof	\$5,000	
8.	Carr Family Limited Partn	212	West	College Drive	Replace doors & windows	\$25,000	

DETERMINATION TO GO INTO CLOSED SESSION PURSUANT TO MINNESOTA STATUTE 13D.05 SUBD. 3(C)(3) TO CONSIDER OFFERS FOR BLOCKS 16 & 19:

Sanow moved, Doom seconded, that the Council go into closed session at 8:14 P.M. pursuant to Minnesota Statute 13D.05 Subd. 3(c)(3) to consider offers for Block 19. Per Ben Martig, City Administrator, the closed session does not include Block 16. All voted in favor of the motion.

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

The council came out of closed session at 8:30 P.M.

DETERMINATION TO GO INTO CLOSED SESSION PURSUANT TO MINNESOTA STATUTE 13D.05 SUBD. 3(C)(3) TO ESTABLISH PRICING RELATED TO REAL PROPERTY ACQUISITION:

Sanow moved, Doom seconded, that the Council go into closed session at 8:31 P.M. pursuant to Minnesota Statute 13D.05 Subd. 3(c)(3) to establish pricing related to real property acquisition. All voted in favor of the motion.

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

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The council came out of closed session at 9:46 P.M.

Upon motion by Sanow, seconded by Doom, the meeting was adjourned at 9:47 P.M. All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:


Financial Director/City Clerk