

REGULAR MEETING – JANUARY 25, 2011

The regular meeting of the Common Council of the City of Marshall was held on January 25, 2011 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; Harry Weilage, Director of Community Services; Marc Klaith, Fire Chief; Sheila Dubs, Assistant to City Administrator; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

**APPROVAL OF THE AGENDA:**

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

**APPROVAL OF MINUTES:**

Ritter moved, Sanow seconded, that the minutes of the regular meeting held on January 11, 2011 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 - POLICE CIVIL SERVICE COMMISSION – PUBLIC HEARING ON ORDINANCE AMENDMENTS FOR THE POLICE CIVIL SERVICE COMMISSION – A. CONSIDER ABOLISHMENT OF THE POLICE CIVIL SERVICE COMMISSION; B. CONSIDER APPROVAL OF THE ORDINANCE DIVISION 9. POLICE ADVISORY BOARD; C. CONSIDER APPROVAL OF THE POLICE ADVISORY BOARD PEACE OFFICER SELECTION AND PROMOTION POLICIES AND PROCEDURES:**

This was the date and time set for a public hearing on an ordinance amending the Police Civil Service Commission. Ben Martig, City Administrator, indicated that the City's current ordinance for the Chapter 419. Section 419.05 of this statute provides the Police Civil Service Commission with "absolute control and supervision over the employment, promotion, discharge, and suspension of all officers and employees of the police department." Historically, police personnel were not represented Police Civil Service Commission adopts the state law provisions as outlined in Minnesota Statute by unions and this statute served, in part, to ensure fair and equitable processes were followed. The language contained in this statute is not consistent with the intent of the City's Personnel Policy Manual nor is it referenced in or adhered to by either of the LELS labor agreements with the City. Rather, the City's Police Civil Service Commission has been serving in an advisory capacity related to hiring practices and procedures only. Staff has reviewed MN Statute, Chapter 419 with the Police Civil Service Commission and identified the concerns and inconsistencies with the provision of "absolute control and supervision" as well as those powers related to "all officers and employees of the police department." It is the recommendation of the Police Civil Service Commission to abolish said Commission and establish a Policy Advisory Board. This ordinance outlines the establishment and composition, function and duties, and organization/meetings of a Police Advisory Board. To summarize, this Board would be an advisory body to the City Council, assist and advise with the selection and promotion of licensed peace officers, and may review and recommend items related to capital expense and policy issues. The Police Civil Service Commission and the Legislative and Ordinance Committee are recommending approval of this ordinance.

Prior to approving the ordinance establishing a Police Advisory Board, the Police Civil Service Commission must be abolished in accordance with MN Statute. In accordance with Chapter 419, sections 419.16 and 419.17, there are two methods of abolishing the Police Civil Service Commission. The method being recommended is by a unanimous vote of the City Council. The alternative to that would be through initiation of a petition by voters and majority approval of the voters under a municipal election.

REGULAR MEETING – JANUARY 25, 2011

The Council also needs to consider approval of the Administrative Code for the Police Advisory Board outlining Peace Officer Selection and Promotion Policies and Procedures. These policies and procedures represent and update the previous “Rules and Regulations” dated July, 1978 that governed the process of selection and hiring. The Police Civil Service Commission and the Legislative and Ordinance Committee has reviewed and are recommending approval of these policies and procedures.

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

Sanow moved, Boedigheimer seconded, to abolish the Police Civil Service Commission. All voted in favor of the motion.

DeCramer moved, Boedigheimer seconded, the adoption of ORDINANCE NUMBER 630, SECOND SERIES and that the reading of the same be waived. Ordinance Number 630, Second Series is an ordinance Amending Police Advisory Board Provisions § 2-306 to § 2-308 of the Code of Ordinances of the City of Marshall. This ordinance outlines the establishment and composition, function and duties, and organization/meetings of a Police Advisory Board. All voted in favor of the motion.

Boedigheimer moved, Doom seconded, the approval of the Police Advisory Board Peace Officer Selection and Promotion Policies and Procedures. All voted in favor of the motion.

**CONSENT AGENDA – A. TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE TO BE USED AT THE PURPLE IRIS, 349 WEST MAIN ON FEBRUARY 9, 2011; B. TEMPORARY ON-SALE LIQUOR LICENSE FOR HOLY REDEEMER CHURCH TO BE USED AT HOLY REDEEMER SCHOOL CAFETERIA, 501 SOUTH WHITNEY STREET ON FEBRUARY 12, 2011; C. TEMPORARY ON-SALE LIQUOR LICENSE FOR SOUTHWEST MINNESOTA STATE UNIVERSITY TO BE USED AT SOUTHWEST MINNESOTA STATE UNIVERSITY CONFERENCE CENTER, 1501 STATE STREET ON FEBRUARY 17, 2011; D. CONSIDER RESOLUTION ORDERING PREPARATION OF REPORT ON IMPROVEMENT FOR PROJECT Y73 - PEARL AVENUE RECONSTRUCTION PROJECT AND PROJECT Y80 - WALKER LANE/PARK AVENUE RECONSTRUCTION PROJECT; E. APPROVAL OF CITY-AVERA MEMORANDUM OF UNDERSTANDING FOR HOSPITAL PHARMACY DISCOUNT PROGRAM; F. DECLARE VEHICLES AS SURPLUS PROPERTY FOR THE POLICE DEPARTMENT G. APPROVAL OF MERIT BY-LAWS; H. APPROVAL BILLS/PROJECT PAYMENTS:**

Council Member Boedigheimer requested that item E, which is consideration of approval of the City-Avera Memorandum of Understanding for Hospital Pharmacy Discount Program be removed from the consent agenda.

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

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on February 9, 2011 at the Purple Iris, 349 West Main Street. The fee for this license is \$30.00.

The approval of a Temporary On-Sale Liquor License for Holy Redeemer Church to use on February 12, 2011 at Holy Redeemer School Cafeteria, 501 South Whitney Street. The fee for this license is \$30.00.

The approval of a Temporary On-Sale Liquor License for Southwest Minnesota State

REGULAR MEETING – JANUARY 25, 2011

University to use on February 17, 2011 at SMSU Conference Center, 1501 State Street. The fee for this license is \$30.00.

The adoption of RESOLUTION NUMBER 3542, SECOND SERIES and that the reading of the same be waived. Resolution Number 3542, Second Series is a resolution Ordering Preparation of Reports on Improvements for Pearl Avenue Reconstruction Project Y73 and Walker Lane/Park Avenue Reconstruction Project Y80. This project consists of watermain, sanitary sewer and street construction.

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 of changes to the MERIT Commission By-Laws. These changes allow the flexibility in filling the Fire/EMS/Safety Representative and the Local National Guard Unit / Military Representative. This is important due to reduction in staff by Minnesota State College and Universities and the leave of absence for the local military caused by the need to defend the United States. The second change adds a secretary which conforms to standard practice for commissions with the City of Marshall.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 72992 through 73187.

All voted in favor of the motion.

Council Member Boedigheimer indicated that Memorandum of Understanding references Acceptance and Acknowledgements of Marshall and requested that this compliance be part of the annual report that is provided to the City of Marshall by Avera Marshall Regional Medical Center. Boedigheimer moved, Ritter seconded, that the proper city personnel be authorized to enter into a Memorandum of Understanding between the City of Marshall and Avera Marshall for hospital Pharmacy Discount Program and that the compliance of this program be included in the annual report that is provided to the City of Marshall by Avera Marshall Regional Medical Center. All voted in favor of the motion.

**CONSIDER APPROVAL OF THE NORTH MEMORIAL AMBULANCE CONTRACT:**

Dan DeSmet, Manager of the North Memorial Ambulance System and Pat Coyne, General Manager, and Gary Pearson were in attendance at the meeting to review the proposed contract for services with North Memorial Health Care. NMHC is proposing a very similar agreement through 2016 with the ability of annual automatic extensions thereafter. The City has a right to terminate with 360-days notice under this agreement. City staff is suggesting an amendment to #8 from the existing agreement to create stronger language for the contract to be terminated and reviewed should NMHC have a change of control as outlined. The purpose of this provision is for the city to have more due diligence should another organization take control of NMHC.

Ritter moved, DeCramer seconded, that the proper city personnel be authorized to enter into a contract for services with North Memorial Health Care Center for Ambulance Service. This contract was approved with an amendment to #8 from the existing agreement to create stronger language for the contract to be terminated and reviewed should NMHC have a change of control as outlined. The purpose of this provision is for the city to have more due diligence should another organization take control of NMHC. This contract is for the period February 1, 2011 through January 31, 2016. All

REGULAR MEETING – JANUARY 25, 2011

voted in favor of the motion.

**911 MEMORIAL PARK PHASE II – APPROVAL OF VARIOUS PROPOSALS:**

Harry Weilage, Director of Community Services, indicated that staff has been working with Gene Ernst of Ernst and Associates, consultant firm for the 911 Memorial project. Mr. Ernst has provided various proposals from suppliers for specific items related to the 911 Memorial. It is important that these items be authorized for purchase as there is significant lead time necessary to supply these materials to the City in a timely manner. The completion date for this project is August 15, 2011. All of these items are for supply only and will be City supplied items for a general contractor to be bid at a future date. The City will be proceeding with other items associated with the project in a similar fashion in accordance with the most recent City of Marshall Purchasing Policy. Some of the items are for professional services and some of the items are for sole source or limited source availability. The total current budget for the 911 Memorial project is approximately \$305,000. Other portions yet to be included for proposals are general contracting, fog system, lighting, water system and landscaping. These items will be coming forward to the Council at a later date for review and approval.

Glenn Olson, Director of Public Works/City Engineer, reviewed the proposals that Ernst Associated received for the 911 Memorial Park project. The proposals received were from:

Limestone Day Stepping Units and Seating Walls	Stepping Units (10 pieces)	Seating Walls (96 Pieces)	Total
Mankato/Kasota Stone, Inc	\$9,038.24	\$49,774.31	\$58,812.55
Cold Spring Granite Company	\$15,718.00	\$77,960.00	\$93,678.00
Vetterstone	\$17,308.41	\$99,781.71	\$117,090.12
Precast Seating Blocks at North Entry Plaza			
Peterson Manufacturing Co. Inc.	\$21,015.93		
Toneworks Architectural Precast, Inc.	\$23,507.16	does not include unloading of product	
American Artstone	\$28,321.88		
Precast Concrete Planters at Bridge & North Entry Plaza			
Wasau Tile	\$4,757.00		
Peterson Manufacturing Co. Inc.	\$9,355.33		
Toneworks Architectural Precast, Inc.	\$17,046.56		
911 Memorial Plaza Concrete Pavers with Engraved Stars			
Engravestone	\$24,000.00		
Bkengraving	\$39,000.00		

Marc Klaith, Fire Chief, and Harry Weilage, Director of Community Services, provided an

update on the fundraising process for the park. Mr. Klaith indicated that he has been continuing to raise funds in the community and to give presentations on the memorial project. He estimated that private contributions to the memorial are about 75% of the way to the goal. The goal is to have the fundraising completed by the end of March. Mr. Weilage indicated that the memorial project will be funded 60% through private donations and 40% through the City.

Thomas M. Meulebroeck, Finance Director/City Clerk, briefly reviewed the financing for this project, but did not identify the amount of funding from each fund.

Ritter moved, Doom seconded, the proposals be awarded as follows for the materials for the 911 Memorial Park, Phase II Project:

1. Limestone Day stepping units and seating walls be awarded to Mankato/Kasota Stone, Inc. for \$52,488 + \$3,608.55 tax + \$2716 shipping = \$58,812.55.
2. Precast Seating Blocks at North Entry Plaza (8 units specified) be awarded to Petersen Manufacturing Co. Inc. for \$18,751.75 + \$1,289.18 tax + \$975 shipping = \$21,015.93.
3. Precast Concrete Planters at Bridge and North Entry Plaza (6 specified) be awarded to Wasau Tile for \$4,757.00 (includes tax & shipping.)
4. 911 Memorial Plaza Concrete pavers with Engraved Stars (3000 specified) be awarded to Engravestone for \$24,000 (includes tax and shipping.)

All voted in favor of the motion.

**CONSIDER THE REQUEST OF TITAN MACHINERY, 1201 NORTH HIGHWAY 59 FOR A VARIANCE ADJUSTMENT PERMIT FOR FEWER PARKING SPACES THAN REQUIRED BY ORDINANCE:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Titan Machinery, 1201 North Highway 59, for a Variance Adjustment Permit to construct 60 parking spaces at a new building in lieu of 109 parking spaces as required by the City Code, Section 86-230. The building is a farm sale and implements facility combining a showroom, offices, and a maintenance garage. Based on the Table 86-230, 109 parking spaces are required. This seems excessive considering that there will be 38 employees in the building. The owner stated that similar facilities in other towns, some a little bit larger and some a little bit smaller, which have very similar customer traffic and volume of sales and service have significantly fewer parking spaces and provided parking appears to be adequate. In fact, the largest facility that Titan operates has just 55 parking spaces. Based on these facts, the Owner requests reduction in parking spaces to 60.

Doom moved, Sanow seconded, to approve the request of Titan Machinery, 1201 North Highway 59, for a Variance Adjustment Permit to construct 60 parking spaces in lieu of 109 parking spaces as required by City Code Section 86-230. All voted in favor of the motion.

**CONSIDER THE REQUEST OF BUSINESS PROPERTIES OF MARSHALL, LLC FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A FOUR-UNIT APARTMENT IN A B-2 CENTRAL BUSINESS DISTRICT AT 238-240 WEST MAIN STREET:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Norm Gregerson and Al Greig of Business Properties of Marshall, LLC, for a Conditional Use Permit to construct a four unit apartment in B-2 Central Business District and within the limits of the Downtown District at 238-240 West Main Street. Apartment buildings are a Conditional Use for a Central Business District. The building is currently vacant. The apartments are proposed on the second floor and the first floor will be used for office and retail space. The building utilizes the entire parcel of property. There is no space on the property for off-street parking. The apartments require

two off-street spaces per unit. Business uses within the Limits of the Downtown District are exempt from off-street parking requirements but apartments are not. The downtown business area is lacking in the number of available public parking spaces for business use as indicated by the downtown business owners. Lately the City is also promoting the development of apartments within and in close proximity to the downtown business area. This increased demand should be addressed by the owners of the proposed apartments. The development of additional off-street parking spaces in the area is limited and expensive to provide. It should be the responsibility of the downtown business owners to develop, maintain and operate off-street parking for their tenants and customers in reasonable proximity. The owners stated that they will provide required parking spaces at 410 West Saratoga Street on the lot they already own. This parking lot will have to be developed prior to apartment occupancy.

Council Member Sanow indicated that he is in favor of the city developing a downtown parking lot that would be available for renters in the downtown area.

Doom moved, Boedigheimer seconded, to approve the request of Business Properties of Marshall, LLC for a Conditional Use Permit to construct a four unit apartment in the B-2 Central Business District and within the limits of the Downtown District at 238-240 West Main Street with the conditions to complete construction within a year and to provide eight (8) off-street parking spaces for tenants within four blocks of the building. All voted in favor of the motion.

**APPROVAL OF RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY:**

Marc Klaith, Fire Chief, indicated that Dale R. and Deborah L. Bisbee have donated \$1,000 for the Marshall Volunteer Fire Department to purchase Rescue Air Bags. Ritter moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3543 SECOND SERIES and that the reading of the same be waived. Resolution Number 3543, Second Series is a resolution Accepting the Donation of Personal Property from Dale R. and Deborah L. Bisbee by the City of Marshall, Minnesota. This resolution accepts a cash donation in the amount of \$1,000 by Dale R. and Deborah L. Bisbee to be used for the Marshall Volunteer Fire Department's Rescue Air Bags. All voted in favor of the motion.

**APPROVAL OF 805 WEST MAIN STREET PURCHASE AGREEMENT:**

Ben Martig, City Administrator, indicated that the City of Marshall has been working with Jay Cattoor about the possibility of purchasing property located at 805 West Main Street. The purchase of this property would allow for additional access to Parkway III Subdivision. The Purchase Agreement anticipates acquisition of property for a total purchase price of \$65,500 and is subject to and contingent upon the City of Marshall obtaining a statement of approval from MN/DOT regarding the ability to intersect a new street at the location of 805 West Main Street.

Ritter moved, Doom seconded, that the proper city personnel be authorized to enter into a Purchase Agreement with Jay Cattoor to purchase the property located at 805 West Main Street in the amount of \$65,500 and is subject to and contingent upon the City of Marshall obtaining a statement of approval from MN/DOT regarding the ability to intersect a new street at the location of 805 West Main Street. All voted in favor of the motion.

**APPROVAL OF RESOLUTION AMENDING ASSESSMENTS FOR OUTLOT E J.C. BOYER ADDITION:**

Ben Martig, City Administrator, indicated that in June 2010 and August 2010 City Council did approve special assessments for Project Y32 Clarice Avenue Project. A portion of those special

REGULAR MEETING – JANUARY 25, 2011

assessments were deferred for payment at a later time. The deferred amount is \$20,361.94. The City has now been advised that the portion of Outlot E will possibly be sold in the near future for development of restaurant. The development of that property will access water and sanitary sewer off of Boyer Drive and as such the deferred assessments do not apply to the property to be sold. (The deferred assessments would relate to accessing water and sewer off of Susan Drive to the east, and not off of Boyer Drive to the north). Therefore the prospective purchaser has asked that the property in Outlot E to be sold be released from and exempted from the deferred special assessment. It is anticipated that the sale of property would result in a new tax parcel ID or identification number being assigned to the property to be sold. That property would be known in the future as parcel 27-420008-2, which would be exempted from the deferred special assessment.

Council Member Boedigheimer requested that the resolution not be recorded until such time that the sale of the property becomes final. Boedigheimer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3544, SECOND SERIES and that the reading of the same be waived. Resolution Number 3544, Second Series is a Resolution Amending Adopted Assessments. This resolution provides for the property in Outlot E that is to be sold be released from and exempted from the deferred special assessment and that this resolution be recorded after the sale of this property is final. 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            Fire Relief Association held their annual meeting in January; Regional Development Commission met last week and appointed a new Chair Person.
  
- Hulsizer        Human Rights Commission met on Monday but did not have a quorum; Convention and Visitors Bureau will be meeting on Thursday.
  
- Doom            Planning Commission items were acted on earlier in the meeting.
  
- Sanow          Marshall Area Transit minutes are included in the agenda packet.
  
- DeCramer      EDA held a work session; Utilities Commission minutes are included in the agenda packet.
  
- Boedigheimer M.E.R.I.T. Center Commission met on Friday and discussed the wind tower project.
  
- Ritter          Housing Commission met last week.

**STAFF REPORTS:**

Ben Martig, City Administrator, provided a summary of insurance claims for 2010 and YTD 2011; the employee recognition banquet went well; the Legislative and Ordinance Committee has city parking lot rental on their list to be discussed.

Glenn Olson, Director of Public Works/City Engineer, indicated that MPCA will be moving to the second floor of the Lyon County Public Works building; the construction of the Library is progressing – steel is going up; the building permit for the Pizza Ranch is being discussed by city staff.

**COUNCIL MEMBER INDIVIDUAL ITEMS:**

Council Member Hulsizer indicated that she would have liked to see specific information on the public/private cost breakdown and which city funds would be used for the Memorial Park Project. Council Member Boedigheimer indicated that several streets have pot holes. Council Member DeCramer commented on three employees attending Auto Cad training and suggested that there be joint training with the City and private business. Mr. Olson indicated that there was not enough interested this year.

**REVIEW OF PENDING AGENDA ITEMS:**

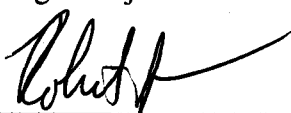
There were no questions or concerns on the pending agenda items.

**INFORMATION ONLY:**

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

	Applicant	Location Address				Description of Work	Valuation
1.	Geihl Construction, Inc.	108	South	High	Street	Basement Remodel	\$12,300
2.	Matthew Pedersen	609		Mercedes	Drive	Finish Basement	\$10,700
3.	Geihl Construction, Inc.	300		Hudson	Avenue	Interior Remodel	\$23,400
4.	Murray Peterson	205	West	Southview	Drive	Bathroom Remodel	\$5,000
5.	Tutt Construction, Inc.	1404		Westwood	Drive	Finish Basement	\$5,700
6.	Tutt Construction, Inc.	302	South	Whitney	Street	Basement Remodel	\$10,000

Sanow moved, Doom seconded, that the meeting be adjourned at 6:50 P.M. All voted in favor of the motion.

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

ATTEST:

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