

REGULAR MEETING – MAY 24, 2011

The regular meeting of the Common Council of the City of Marshall was held on May 24, 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; Lorna Sandvik, City Assessor; Ilya Guttmann, Building Official; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF AGENDA:

It was the general consensus of the council that the agenda be approved with item 10b, which is to consider the approval of an Amended Resolution Regarding Transfer of Property from Rural District to Urban Service District be removed from the agenda; and that item 14, which is to consider approval of Payment to Property Owners Acquisition and Easements for the Industrial Park Lift Station Forcemain Project Y85 being moved to item 9c.

APPROVAL OF THE MINUTES:

Ritter moved, DeCramer seconded, that the minutes of the Joint County Commissioner/City Council meeting held on May 3, 2011 be approved as filed with each member; the minutes of the Local Board of Appeal and Equalization held on May 10, 2011 be approved as filed with each member; and the minutes of the regular meeting held on May 10, 2011 be approved as corrected and filed with each member and that the reading of the same be waived. All voted in favor of the motion.

WEST MAIN STREET SANITARY SEWER AND STORM SEWER RECONSTRUCTION PROJECT Y87 – A. PUBLIC HEARING ON IMPROVEMENT; B. CONSIDER RESOLUTION ORDERING IMPROVEMENT AND PREPARATION OF PLANS:

This was the date and time set for a public hearing on the West Main Street Sanitary Sewer and Storm Sewer Reconstruction Project Y87. Glenn Olson, Director of Public Works/City Engineer, indicated this project involves the replacement of the sanitary sewer main from T.H. 59 to South 10th Street and the replacement of the 54" CMP storm sewer main crossing T.H. 59 near South 11th Street. The project will repave the trenched areas and then overlay the entire street surface from T.H. 59 to the T.H. 68 bridge over the Diversion Channel. Mn/DOT has discussed participation in the cost of the bituminous overlay with the City as they have plans for a mill and overlay for this section of roadway in 2012. Council Member DeCramer asked if the Sanitary Sewer will be replaced on both sides. Mr. Olson indicated yes. Council Member Boedigheimer was concerned with the amount of time the local businesses will lose business. Mr. Olson indicated that there will be weekly informational meetings held for the contractors and business owners. Notes from these meetings will be on the web site. Sanow moved, Doom seconded, that the public hearing be closed. All voted in favor of the motion.

Sanow moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3584, SECOND SERIES and that the reading of the same be waived. Resolution Number 3584, Second Series is a resolution Ordering Improvement and Preparation of Plans for West Main Street Sanitary Sewer and Storm Sewer Reconstruction Project Y87. All voted in favor of the motion.

WILKE-MILLER-BUESING SEVENTH ADDITION – A. PUBLIC HEARING ON PRELIMINARY PLAT; B. CONSIDER RESOLUTION APPROVING THE FINAL PLAT; C. CONSIDER ADOPTION OF ORDINANCE TO REZONE FROM A (AGRICULTURAL DISTRICT) TO R-2 (ONE TO FOUR FAMILY RESIDENCE DISTRICT) AND R-4 (HIGHER DENSITY – MULTIPLE FAMILY RESIDENCE DISTRICT):

This was the date and time set for a public hearing on the Preliminary Plat of Wilke-Miller-Buesing Seventh Addition. Glenn Olson, Director of Public Works/City Engineer, indicated that since the majority of the property has not been platted before, the property needs to be subdivided prior to the subdivision and sale of a portion of the property. This proposed preliminary plat is located north of Windstar Street, west of T.H. 59 on the south portion of property owned by Greg Taylor. The preliminary plat includes six lots and a newly-platted street on the west side of the plat. The intent of the proposed plat is for residential development including proposed zoning of R-2 (One- to Four-Family Residence District) and R-4 (Higher Density-Multiple-Family Residence District). Sanow moved, Ritter seconded, that the public hearing be closed. All voted in favor of the motion.

Glenn Olson, Director of Public Works/City Engineer, indicated that the final plat has been changed to include an additional 7.5 ft. utility easement along the north and east sides of the westerly portion of Lot 13 of Club 59 Addition. Sanow moved, Doom seconded, the adoption of RESOLUTION NUMBER 3585, SECOND SERIES and that the reading of the same be waived. Resolution Number 3585, Second Series is a resolution Approving the Final Plat of Wilke-Miller-Buesing Seventh Addition. All voted in favor of the motion.

Glenn Olson, Director of Public Works/City Engineer, reviewed the request of Greg Taylor to rezone his property from A (Agricultural District) to R-2 (One to Four Family Residence District) and R-4 (Higher Density – Multiple Family District). This property is located in the Wilke-Miller-Buesing Seventh Addition. The surrounding areas are all zoned either R-1 (One Family Residence District) or R-2 (One to Four Family Residence District). There is no R-4 zoning district in the close proximity to this area or in the neighborhood. Mr. Olson indicated that zoning one lot within a land use district differently from the rest of the district fits the definition of “spot zoning” as defined in “The Job of the Planning Commissioner”: “The awarding of a use classification to an isolated parcel of land which is detrimental or incompatible with the surrounding area, particularly when such act favors a particular owner.” This practice is generally discouraged and was found illegal in a few instances.

Mr. Olson indicated that city staff’s recommendation is to approve the request to rezone a portion of this area from A (Agricultural District) to R-2 (One to Four Family Residence District) and deny the request to rezone to an R-4 (Higher Density Multiple Family Residence District). City Attorney, Simpson indicated that the council only has the option of approving or denying the request as presented by Mr. Taylor.

A letter of objection was received from Brad and Barbara Rau, 1404 Floyd Wild Drive, indicating that they did not receive a notice of the public hearing and that they were opposed to this zoning request. It was indicated that the public hearing was held at the Planning Commission meeting and that this is just a second reading of the proposed zoning ordinance.

Council Member Sanow asked how many 4 plex’s could be built in the area requested to be rezoned R-2. Mr. Olson indicated that there was room for three 4 plex’s.

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Mr. Olson indicated that having a single piece of multi-family zoned property in the middle of a single family residential area could be considered spot zoning. Sanow indicated that all R-4 (Higher Density Multiple Family Residence Districts) within the City of Marshall are spot zoned.

Boedigheimer moved, Doom seconded, to deny the request of Greg Taylor to rezone his property from A (Agricultural District) to R-2 (One to Four Family Residence District) and R-4 (Higher Density – Multiple Family District). Council Member Doom indicated that he was not in favor of this. Council Member Sanow indicated that he did not think the value of the surrounding homes would decrease in value. Council Member Boedigheimer was concerned if there would be a service road in this addition. Council Member Sanow indicated that there could be a large assessment for the property owners along Windstar. The question was called. Voting in favor of the motion were Boedigheimer, DeCramer and Doom. Voting no were Sanow, Hulsizer, Byrnes and Ritter. The motion failed.

Sanow moved, Ritter seconded, the adoption of ORDINANCE NUMBER 637, SECOND SERIES and that the reading of the same be waived. Ordinance Number 637, Second Series is an ordinance Amending Chapter 86 of the City Code Relating to Zoning. This ordinance provides for the request of Greg Taylor to rezone Wilke-Miller-Buesing Seventh Addition from A (Agricultural District) to R-2 (One to Four Family Residence District) and R-4 (Higher Density – Multiple Family District) be approved. Voting in favor of the motion were Sanow, Hulsizer, Byrnes and Ritter. Voting no were Boedigheimer, DeCramer and Doom.

AWARD OF BIDS – MERIT CENTER TOWER PROJECT – TOWER, NACELLE & ASSOCIATED ITEMS – CONSIDER RESOLUTION REJECTING ALL BIDS AND AUTHORIZE ADVERTISEMENT FOR BIDS:

Ben Martig, City Administrator, indicated that on October 26, 2010 the City Council authorized advertisement for bids for the Tower, Nacelle and Associated Items of the MERIT Center Wind Tower Project. Bids were received on April 28, 2011. Two bids were received and the apparent low bidder was SMI & Hydraulics, Inc., of Porter, Minnesota in the amount of \$205,050.00. After lengthily discussions with both bidders and misunderstandings of the requirements of the bid, it is staff's recommendation to reject all bids and readvertise for bids.

Ritter moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3586, SECOND SERIES and that the reading of the same be waived. Resolution Number 3586, Second Series is a resolution Rejecting all Bids and Authorize Advertisement for Bids for the MERIT Center Tower Project – Tower, Nacelle & Associated Items. These bids will be received at 10:00 A.M. on June 8, 2011. All voted in favor of the motion.

AWARD OF BIDS – PEARL AVENUE RECONSTRUCTION PROJECT Y73 / SARA CIRCLE RECONSTRUCTION PROJECT Y90 – A. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE PROCEEDS OF TAX EXEMPT BONDS; B. CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):

Bids were received, opened and read for Pearl Avenue Reconstruction Project Y73 / Sara Circle Reconstruction Project Y90 on May 12, 2011. The bids received, opened and read were from:

D & G Excavating Inc.
Marshall, Minnesota
\$321,453.50

Rogge Excavating Inc.
Ghent, Minnesota
\$336,819.15

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Voss Plumbing & Heating Inc.
Paynesville, Minnesota
\$352,891.00

Carstensen Contracting Inc.
Pipestone, Minnesota
\$382,651.61

Duininck Inc.
Prinsburg, Minnesota
\$399,594.15

Ritter moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3587, SECOND SERIES and that the reading of the same be waived. Resolution Number 3587, Second Series is a resolution Declaring the Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Pearl Avenue Reconstruction Project Y73 / Sara Circle Reconstruction Project Y90. All voted in favor of the motion.

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3588, SECOND SERIES and that the reading of the same be waived. Resolution Number 3588, Second Series is a resolution Accepting Bid (Award Contract) for Pearl Avenue Reconstruction Project Y73 / Sara Circle Reconstruction Project Y90. This contract was awarded to D & G Excavating, Inc., Marshall, Minnesota in the amount of \$321,453.50. All voted in favor of the motion.

AWARD BIDS DONITA AVENUE RECONSTRUCTION PROJECT Y88 – A. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE PROCEEDS OF TAX EXEMPT BONDS; B. CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):

Bids were received, opened and read on May 19, 2011 for Donita Avenue Reconstruction Project Y88. The bids received, opened and read were from:

Winter Brothers Underground, Inc.
Sioux Falls, South Dakota
\$687,097.30

Kuechle Underground Inc.
Kimball, Minnesota
\$707,800.45

Chad Monson Excavating LLC
Willmar, Minnesota
\$734,863.05

Duininck, Inc.
Prinsburg, Minnesota
\$767,904.65

Quam Construction Co., Inc.
Willmar, Minnesota
\$788,873.80

GM Contracting, Inc.
Lake Crystal, Minnesota
\$812,064.95

H & W Contracting, LLC
Sioux Falls, South Dakota
\$824,615.73

Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3589, SECOND SERIES and that the reading of the same be waived. Resolution Number 3589, Second Series is a resolution Declaring the Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Donita Avenue Reconstruction Project Y88. All voted in favor of the motion, except Sanow who voted no.

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Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3590, SECOND SERIES and that the reading of the same be waived. Resolution Number 3590, Second Series is a resolution Accepting Bid (Award Contract) for Donita Avenue Reconstruction Project Y88. The contract was awarded to Winter Brothers Underground, Inc., Sioux Falls, South Dakota in the amount of \$687,097.30. All voted in favor of the motion, except Sanow who voted no.

AWARD OF BIDS – TRAVIS ROAD EXTENSION PROJECT Y76 (WATER PLANT ENTRANCE ROAD) / KLEIN ADDITION (PRAIRIEVIEW COURT) TEXAS CROSSING IMPROVEMENT PROJECT Y77 – A. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE PROCEEDS OF TAX EXEMPT BONDS; B. CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):

Bids were received, opened and read on May 19, 2011 for Travis Road Extension Project Y76 (Water Plant Entrance Road) / Klein Addition (Prairieview Court) Texas Crossing Improvement Project Y77. The bids received, opened and read were from:

D & G Excavating, Inc.
Marshall, Minnesota
\$271,728

R & G Construction, Co.
Marshall, Minnesota
\$275,042

Chad Monson Excavating, LLC
Willmar, Minnesota
\$286,411

Duininck, Inc.
Prinsburg, Minnesota
\$321,568

Midwest Contracting, LLC
Marshall, Minnesota
\$327,600

DeCramer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3591, SECOND SERIES and that the reading of the same be waived. Resolution Number 3591, Second Series is a resolution Declaring the Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Travis Road Extension Project Y76 (Water Plant Entrance Road) / Klein Addition (Prairieview Court) Texas Crossing Improvement Project Y77.

Council Member Sanow indicated that he is not in favor of the city spending money that they don't have on projects and bonding for them. All voted in favor of the motion, except Sanow who voted no.

DeCramer moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3592, SECOND SERIES and that the reading of the same be waived. Resolution Number 3592, Second Series is a resolution Accepting Bid (Award Contract) for Travis Road Extension Project Y76 (Water Plant Entrance Road) / Klein Addition (Prairieview Court) Texas Crossing Improvement Project Y77. This contract was awarded to D & G Excavating, Inc., Marshall, Minnesota in the amount of \$271,728. Voting in favor of the motion were Byrnes, DeCramer, Ritter and Boedigheimer. Voting no were Sanow, Hulsizer and Doom.

2011 ON-STREET BIKE TRAIL PROJECT – CONSIDER AWARD OF PROPOSAL:

Glenn Olson, Director of Public Works/City Engineer indicated that City Staff developed a painted On-Street Bike Trail project which conforms to the Pedestrian and Bikeway Plan which was recently added to the City's Comprehensive Plan. The scope of the project is to utilize certain streets by

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painting designated bike lanes to provide connectivity to points of interest and institutions within the existing bike trail system. The project was developed with input from the Pioneering a Healthy Marshall Group. The City of Marshall with the support of this group applied for two Vision – Statewide Health Improvement Program (SHIP) Grant Funds to help fund the proposed project. The SHIP grant funds may cover the costs for materials on eligible projects. The City of Marshall received a total of \$22,700 in grant funds. City Staff has proposed these funds to develop bike trail related improvements to promote healthy life-style opportunities. To date the funds are being used to purchase additional bike racks for the City Parks, Signage for the On-Street Trail System and the materials needed to stripe the On-Street Trail. Labor for the proposed improvements is not eligible for the grant funds and will need to be covered by other City Funds.

Proposals were received, opened and read on May 19, 2011 for the 2011 Bike Trail Striping Project. The proposals received, opened and read were from:

AAA Striping Service Co.
St. Michael, Minnesota
\$7,262.00

Swanson's Striping & Signs Inc.
Marshall, Minnesota
\$17,724.00

Doom moved, Sanow seconded, the proposal for the 2011 On-Street Bike Trail Striping Project be awarded to AAA Striping Service Co., St. Michael, Minnesota in the amount of \$7,262.00. All voted in favor of the motion.

**AWARD OF BIDS - SONSTEGARD INDUSTRIAL PARK IMPROVEMENT PROJECT Y81
PHASE I – A. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING
THE PROCEEDS OF TAX EXEMPT BONDS; B. CONSIDER RESOLUTION ACCEPTING BID
(AWARD CONTRACT):**

Bids were received, opened and read on May 19, 2011 for the Sonstegard Industrial Park Improvement Project Y81 Phase I. The bids received, opened and read were from:

Kuechle Underground, Inc.
Kimball, Minnesota
\$1,107,115

Quam Construction Co., Inc.
Willmar, Minnesota
\$1,182,078

Duininck, Inc.
Prinsburg, Minnesota
\$1,288,203

Contractors Edge Inc.
Mankato, Minnesota
\$1,275,960

H & W Contracting LLC
Sioux Falls, South Dakota
\$1,529,969

Carstensen Contracting Inc.
Pipestone, Minnesota
\$1,981,188

Doom moved, DeCramer seconded, the adoption of RESOLUTION 3593, SECOND SERIES and that the reading of the same be waived. Resolution Number 3593, Second Series is a resolution Declaring the Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Sonstegard Industrial Park Improvement Project Y81 Phase I. All voted in favor of the motion.

Doom moved, Hulsizer seconded, the adoption of RESOLUTION NUMBER 3594, SECOND SERIES and that the reading of the same be waived. Resolution Number 3594, Second Series is a

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resolution Accepting Bid (Award Contract) for Sonstegard Park Improvement Project Y81 Phase I. This contract was awarded to Kuechle Underground, Inc., \$1,031,467.60, which includes alternate II for asphalt surfacing. All voted in favor of the motion.

INDUSTRIAL PARK LIFT STATION FORCEMAIN PROJECT Y85 – APPROVAL OF PAYMENT TO PROPERTY OWNERS ACQUISITION AND EASEMENTS:

Dennis Simpson, City Attorney, indicated that the City has retained the services of Brovold & Company to provide appraisal services to determine value of property interests to be acquired. The City needs to acquire fee interest of certain property, and then obtain permanent easement and temporary construction easements for additional property as well. The appraiser has completed the appraisal process for all properties and appraisal reports have been provided to all property owners. Appraisal reports are available for your review at the City Attorney's office regarding the property interests to be acquired from each property owner. Property interests to be acquired and payments to be made for acquisition of those interests are as follows:

1. D & M Implement property parcels 1 and 2 (see description below). Property acquisition includes fee interest, permanent easement and temporary construction easements. Appraisal has valued the taking of all interests in the amount of \$114,125.00. Negotiated settlement with property owner has resulted in an agreement to acquire all property interests for payment of \$150,000.00. Formal easement and settlement documents are being drafted. Staff recommends payment to property owners in the amount of \$150,000.00.

Parcels 1 & 2: DeRuyck (D & M Implement Property):

A permanent utility easement in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

All that part of the Southwest Quarter (SW¼) of Section 33, Township 112, Range 41, in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at a point on the West line of said Section 33, which is 1415.30 feet north of the Southwest corner of said Section 33; thence East 75.00 feet to easterly right of way line of Trunk Highway 59, said point being on the south line of said property and; thence North along said right of way line 185.00 feet; thence East 50.00 feet; thence South 110.00 feet; thence East 330.00 feet; thence North 30.00 feet; thence East 330.00 feet; thence South 75.00 feet, being the point of beginning; thence East 566.00 feet more or less to a point 16.00 feet West of the westerly right of way line of the Burlington Northern Railroad as measured at right angles to said right of way line; thence northeasterly parallel with said right of way line and 16.00 feet westerly, a distance of 308.29 feet more or less; thence East 22.05 feet more or less to the westerly right of way line of said Burlington Northern Railroad; thence Southwesterly along said right of way line 340.15 feet more or less, said point being on south line of said property; thence West 575.52 feet; thence north 24.92 feet more or less to the point of beginning.

Said tract containing 0.42 acres more or less.

AND

A 16.00 foot permanent utility easement located on the easterly side of the following described parcel adjacent and parallel to the westerly right of way line of the Burlington Northern Railroad

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in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at a point on the West line of said Section 33, which is 1735.30 feet North of the Southwest corner of said Section 33; thence East 75.00 feet to the easterly right of way line of Trunk Highway 59 to the point of beginning; thence North along said right of way line 300.00 feet; thence East 1581.94 feet to the northwesterly right of way line of the Willmar and Sioux Falls Railroad (Burlington Northern); thence southwesterly along said Railroad right of way line 318.92 feet; thence West 1472.69 feet to the point of beginning.

AND

A temporary construction easement in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

All that part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 33, Township 112, Range 41, in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at a point on the West line of said Section 33, which is 1,415.30 feet north of the Southwest corner of said Section 33; thence East 75.00 feet to easterly right of way line of Trunk Highway 59 ; thence North along said right-of-way line 185.00 feet to the point of beginning thence continuing North along said right of way line 40.00 feet; thence East 100.00 feet; thence South 60.00 feet; thence East 675.00 feet; thence South 90.00 feet; thence East 481.00 feet more or less to a point 50.00 feet West of the westerly right of way line of the Burlington Northern Railroad as measured at right angles to said right of way line; thence northeasterly parallel with said right of way line and 50.00 feet westerly of said right of way line a distance of 260.45 feet more or less; thence East 36.14 feet more or less to a point 16.00 feet west of the westerly right of way line of said Railroad as measured at right angles; thence Southwesterly and parallel with said right of way line 308.29 feet more or less; thence West 566.00 feet; thence North 75.00 feet; thence West 330.00 feet; thence South 30.00 feet; thence West 330.00 feet; thence North 110.00 feet; thence West 50 feet to the point of beginning.

Said tract containing 2.181 acres more or less.

AND

A temporary construction easement located on the westerly 34.00 feet of the easterly 50.00 feet of the following described parcel immediately West of the westerly right of way line of the Burlington Northern Railroad in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

All that part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 33, Township 112, Range 41, in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at a point on the West line of said Section 33, which is 1735.30 feet North of the Southwest corner of said Section 33; thence East 75.00 feet to the easterly right of way line of Trunk Highway 59 to the point of beginning; thence North along said right of way line 300.00 feet; thence East 1581.94 feet to the northwesterly right of way line of the Willmar and Sioux Falls Railroad (Burlington Northern); thence southwesterly along said Railroad right of way line

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318.92 feet; thence West 1472.69 feet to the point of beginning.

2. Ziegler parcel 3 (see description below). Property acquisition includes permanent easement. Appraised value of permanent easement is \$1,692.00.

Parcel 3: Ziegler CAT Property (Washington Realty, Inc.):

A 16.00 foot permanent utility easement located on the easterly side of the following described parcel adjacent to and parallel with the westerly right of way line of the Burlington Northern Railroad in the City of Marshall, County of Lyon, State of Minnesota.

AND

A temporary construction easement located on the westerly 34.00 feet of the easterly 50.00 feet of the following described parcel immediately West of the westerly right of way line of the Burlington Northern Railroad and in the City of Marshall, County of Lyon, State of Minnesota.

All that part of the Southwest Quarter (SW ¼) of Section 33, Township 112, Range 41, in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at the southwest corner of said Section 33; thence on an assumed bearing of North along the West line of said Southwest Quarter (SW¼), a distance of 2,035.30 feet to the actual point of beginning of the tract to be described; thence continuing North along said west line of the Southwest Quarter (SW¼), a distance of 354.30 feet to a point 259.5 feet South of the northwest corner of said Southwest Quarter (SW¼); thence East along the South line of the property described in Book 138 of Deeds, page 5, files of the Registrar of Deeds, Lyon County, Minnesota, a distance of 1,710.30 feet to the Northwestern right of way line of the Burlington Northern Railroad; thence South 19 degrees 50 minutes 00 seconds West along said Northwestern right of way line of the Burlington Northern Railroad 376.84 feet to the Northeast corner of the property described in Book 135 of Deeds, page 129, recorded in said files; thence West along the North line of said property described in Book 135 of Deeds, page 129, a distance of 1,581.94 feet to the actual point of beginning; EXCEPT the Westerly 75.00 feet thereof designated as the Easterly 75.00 feet of Trunk Highway 59 right of way.

3. Schwan's parcels 4 and 5 (see description below). Property acquisition includes permanent easement. Appraised value of permanent easement is \$6,045.00.

Parcels 4: Schwan's Global Supply Chain, Inc.:

A 16.00 feet permanent utility easement located on the easterly side of the following described parcel adjacent to and parallel with the with the westerly right of way line of the Burlington Northern Railroad.

All that part of the Southwest Quarter (SW¼) of Section 33, Township 112 North, Range 41 West, in the City of Marshall, County of Lyon, State of Minnesota, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence North 89 degrees 59 minutes 42 seconds East, assumed bearing along the north line of said Southwest Quarter (SW¼) 515.00 feet to the point of beginning; thence South 00 degrees 05 minutes 57 seconds West, parallel with the west line of said Southwest Quarter (SW¼) 259.50 feet; thence North 89 degrees

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59 minutes 42 seconds East, parallel with said north line 1194.90 feet to a point on the westerly right of way of the Burlington Northern Railroad; thence North 19 degrees 55 minutes 12 seconds East, along said right of way 276.02 feet to a point on said north line of the Southwest Quarter (SW¼); thence South 89 degrees 59 minutes 42 seconds West along said north line 1288.50 feet to point of beginning.

Parcel 5: Schwan's Global Supply Chain, Inc.:

A permanent utility easement, being more particularly described as follows:

All that part of Lots 4 and 5, Block 7, of the Marshall Industrial Park as being further described as follows:

Commencing at the Northeast corner of Lot 4 being the point of beginning; thence South 19 degrees 43.00 minutes West along the east line of Lot 4 and the westerly right of way line of the Burlington Northern Railroad, a distance of 83.85 feet; thence North 70 degrees 17.00 minutes West, a distance of 50.00 feet; thence North a distance of 137.88 feet more or less to an existing permanent utility easement; thence East along south line of said existing utility easement to the east line of Lot 5 which is also the westerly line of the Burlington Northern Railroad; thence South 19 degrees 43.00 minutes West along the said east line of Lot 5 to the point of beginning.

4. Midwest Ag Supplements, LLC, parcel 6 (see description below), temporary construction easement only. Appraised value is \$104.00.

Parcel 6: Midwest Ag Supplements, LLC:

A 40.00 foot temporary construction easement parallel beginning 10.00 feet westerly of the westerly right of way line of the Burlington Northern Rail Road and on the Easterly 50.00 feet of Lot 1 of Block 1 Midwest Ag Enterprises Addition as recorded in the City of Marshall, County of Lyon, Minnesota.

5. Thomas and Amy Salfer, parcel 7 (see description below), temporary construction easement only. Appraised value is \$104.00.

Parcel 7: Thomas and Amy Salfer:

A 40.00 foot temporary construction easement parallel beginning 10.00 feet westerly of the westerly right of way line of the Burlington Northern Rail Road and on the Easterly 50.00 feet of Lot 2 of Block 1 Midwest Ag Enterprises Addition as recorded in the City of Marshall, County of Lyon, Minnesota.

Easements for the properties have been obtained and have been sent to the recorder's office for recording. Construction of this project is underway.

Sanow moved, DeCramer seconded, the approval of the payments to the above mentioned property owners for the acquisition of property rights necessary for the completion of the Industrial Park Lift Station Forcemain Project Y85. All voted in favor of the project, except Doom who abstained.

APPROVAL OF CONSENT AGENDA – A. TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE FOR BLUE GREEN ON JUNE 23, 2011; B. APPROVAL OF AMENDED RESOLUTION REGARDING TRANSFER OF PROPERTY FROM RURAL SERVICE DISTRICT TO URBAN SERVICE DISTRICT (REMOVED FROM THE AGENDA); C. APPROVAL OF AMENDMENT TO RESOLUTION TO CORRECT LEGAL DESCRIPTION – ADM INDUSTRIAL PARK PLAT; D. REQUEST OF SOUTHWEST MINNESOTA STATE UNIVERSITY FOR HOMECOMING DAY PARADE – SEPTEMBER 24, 2011; E. APPROVAL BILLS/PROJECT PAYMENTS:

Ritter moved, Doom seconded, 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 June 23, 2011 at Blue Green Flower Shop, 256 West Main Street. The fee for this license is \$30.00.

Item 10b, which is to consider the approval of an Amended Resolution Regarding Transfer of Property from Rural District to Urban Service District was removed from the agenda.

The adoption of RESOLUTION NUMBER 3595, SECOND SERIES and that the reading of the same be waived. Resolution Number 3595, Second Series is a resolution Amending Resolution Number 3183, Second Series, Amending the Legal Description of Platted Property of ADM Industrial Park. This resolution corrects the legal description error that was discovered in Resolution Number 3183, Second Series.

Authorization be granted for street closure from 10:00 A.M. to 12:30 P.M. for Southwest Minnesota State University Homecoming Day Parade on Saturday, September 24, 2011. Line-up would begin at Jewett Street and East Lyon Street to Bruce Street, proceeding to East Main Street (T.H. 59) northwest to downtown Marshall and ending at 5th and 6th Streets contingent upon the approval of MN/DOT.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 74594 through 74786.

All voted in favor of the motion.

SOUNDS OF SUMMER FESTIVAL – A. ADOPT A RESOLUTION DECLARING THE SOUNDS OF SUMMER AS A COMMUNITY FESTIVAL – AUGUST 18, 2011 THROUGH AUGUST 21, 2011; B. REQUEST FOR STREET CLOSURE OF A PORTION OF WEST COLLEGE DRIVE, A PORTION OF MARVIN SCHWAN MEMORIAL DRIVE, USE OF CITY PARKING LOT LOCATED ON WEST COLLEGE DRIVE ON AUGUST 18 – 21, 2011 AND APPROVAL OF SOUNDS OF SUMMER PARADE ON AUGUST 20, 2011:

Ritter moved, Doom seconded, the adoption of RESOLUTION NUMBER 3596, SECOND SERIES and that the reading of the same be waived. Resolution Number 3596, Second Series is a resolution Declaring the Sounds of Summer as a Community Festival. The Sounds of Summer is scheduled for Thursday, August 18, 2011 through Sunday, August 21, 2011. This provides an option for a holder of a retail intoxicating liquor license to apply for a Special Event Permit which would allow them to serve intoxicating liquor off their premises. All voted in favor of the motion.

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from the Sounds of Summer Committee requesting permission to close West College Drive from the corner of Main and College to Saratoga Street, and also Marvin Schwan Drive from College Drive to South A Street on

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Thursday, August 18, 2011 from 3:00 p.m. to approximately 9:00 p.m., and again on Saturday, August 20, 2011 from 3:00 p.m. to Sunday, August 21, 2011 to approximately 3:00 a.m. This would allow them adequate time for clean up after the Saturday evening activities.

Mr. Olson indicated that their second request is to hold the Sounds of Summer Parade on Saturday, August 20, 2011, along the same route as prior years. Line-up would begin at 2:00 p.m. on Jewett Street and East Lyon Street to Bruce Street, the start of the parade. It would proceed to East Main Street (TH 59) northwesterly to downtown Marshall and ending at 5th and 6th Streets at approximately 5:30 p.m., or if exceptionally large parade, could be 6:00 p.m. If approved by the City Council, the request will be coordinated with MN/DOT for their approval.

Doom moved, Sanow seconded, that a public hearing be held at 5:30 P.M. on June 14, 2011 for the private use of public streets and parking lots for the Sounds of Summer Event. All voted in favor of the motion.

CONSIDER ADOPTION OF ORDINANCE TO REZONE 220, 302 AND 304 SOUTH 6TH STREET (TURKEY VALLEY FARMS, LLC) TO I-1 (GENERAL INDUSTRIAL DISTRICT), B-1 (LIMITED BUSINESS DISTRICT), AND R-1 (ONE FAMILY RESIDENCE DISTRICT) TO AN I-2 (GENERAL INDUSTRIAL DISTRICT):

Glenn Olson, Director of Public Works/City Engineer, indicated that this is a request by David Hoefer, of Turkey Valley Farm, LLC, to rezone 220, 302 and 304 South 6th Street from I-2 General Industrial, B-1 Limited Business, and R-1 One Family Residence Districts to an I-2 General Industrial District. The Turkey Valley Farms has recently acquired two adjoining properties (302 and 304 S. 6th Street) and plans to demolish houses located there and use those lots in conjunction with their operations. The lot located at 220 S. 6th Street has belonged to the Turkey Valley Farm and was used accordingly for quite some time; however, part of it is still zoned B-1 Limited Business.

Doom moved, Ritter seconded, the adoption of ORDINANCE NUMBER 638, SECOND SERIES and that the reading of the same be waived. Ordinance Number 638, Second Series is an Ordinance Amending Chapter 86 of the City Code Relating to Zoning. This ordinance rezones 220, 302 and 304 South 6th Street from I-2 General Industrial, B-1 Limited Business, and R-1 One Family Residence Districts to an I-2 General Industrial District. All voted in favor of the motion.

ELM STREET RECONSTRUCTION PROJECT Y89 – CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS:

Glenn Olson, Director of Public Works/City Engineer, indicated that this project involves the proposed Elm Street reconstruction which shall consist of the installation of curb and gutter, sidewalk, aggregate base, pavement removal and construction, replacement of storm sewer and water mains and miscellaneous work. The project also proposes to replace the watermain in the alleys along both sides of N. 6th Street from Elm Street to Kossuth Avenue.

DeCramer moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3597, SECOND SERIES and that the reading of the same be waived. Resolution Number 3597, Second Series is a resolution Approving Plans and Specifications and Ordering Advertisement for Bids. The bids for Project Y89 Elm Street Reconstruction will be received at 10:00 A.M. on June 21, 2011. All voted in favor of the motion, except Sanow who voted no.

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

CONSIDER RESOLUTION FOR PROVIDING FOR SIGNAGE IN THE CITY OF MARSHALL (NO PARKING ZONES 6TH STREET AND TH 59 VICINITY):

Glenn Olson, Director of Public Works/City Engineer, indicated that Lyon County Safety Committee requested “No Parking” zones in the vicinity of the intersection of 6th Street and TH 59. Doom moved, Sanow seconded, the adoption of RESOLUTION NUMBER 3598, SECOND SERIES and that the reading of the same be waived. Resolution Number 3598, Second Series is a resolution for Control Signage in the City of Marshall. This resolution provides for the installation of “No Parking” signs (2 stalls) on West Main Street and “No Parking” Sign (1 stall) on South 6th Street. All voted in favor of the motion.

CONSIDER APPOINTMENTS TO VARIOUS BOARDS/COMMISSIONS:

Per the recommendation of Mayor Byrnes, DeCramer moved, Boedigheimer seconded, and it was unanimously approved that the following appointments be made:

Airport Commission – Rene Diebold be reappointed for a 3-year term to expire on May 31, 2014

Utilities Commission – Jacob Fahl be appointed for a 6-year term to expire on May 31, 2016

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 a week ago; Regional Radio Board discussed the work being done on the conversion project.

Hulsizer No report.

Doom Planning Commission items were acted on earlier in the meeting.

Sanow Cable Commission meeting was cancelled and there will be no meetings held in June or July.

DeCramer EDA reviewed the agreement with the Chamber of Commerce; Utilities Commission discussed the issues they are having on three wells.

Boedigheimer No Report.

Ritter No Report.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that the Library will be receiving bids for furniture and fixtures; the lighting project for the city is underway, but the project did not include the public restrooms at the parks. The EDA agreement with the Chamber of Commerce will start on June 1st. The Lyon County Business Summit will be held on Wednesday, May 25, 2011 at Schwan’s Performing Arts Center. With the potential of a State shutdown at the end of June, the LGA payment could be delayed. The tax bill which included the sales tax bill for the City of Marshall was vetoed. The City of Marshall Annual Audit presentation will be held on June 21, 2011. The employee classification study is underway. There are major pot holes on the corner of Main Street and College Drive.

Glenn Olson, Director of Public Works/City Engineer, indicated that there has been discussion with MN/DOT in regard to pot holes at the intersection of Main Street and College Drive. The sanitary sewer system is still operating above normal limits. The Airport Commission has received a commendation award from MN/DOT Aeronautics Division.

Dennis Simpson, City Attorney, did not have a report at this time.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Doom suggested that part of the bike trail be dedicated to Molly Lindstrom. Council Member DeCramer was concerned with weeds. The condemnation of the Marshall Hotel is still pending.

REVIEW OF PENDING AGENDA ITEMS:

There were no questions on pending agenda items.

INFORMATION ONLY:

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

Applicant		Location Address				Description of Work	Valuation
1.	Dennis Lozinski Construction	510	East	Main	Street	Reroof (asphalt) 6-12	\$5,200
2.	Dennis Lozinski Construction	508	East	Main	Street	Reroof (asphalt) 10-12	\$1,400
3.	Richard Maurer	1105	East	Fairview	Street	Add step to porch	\$100
4.	Dustin Lundberg	603	West	Southview	Drive	Front Steps	\$400
5.	Amber Salic & Curtis Vogt	808	North	4th	Street	Reroof Garage (asphalt) 6:12	\$2,100
6.	Robert J. Byrnes	502		Dogwood	Avenue	Replace Porch	\$5,000
7.	Dulas Construction, Inc.	701	North	7th	Street	Shop	\$50,000
8.	DJR & Associates, LLC	309	East	College	Drive	Install Sign	\$300
9.	M and M Builders LLC	609	South	1st	Street	Deck	\$5,000
10.	Alan Johnson	610		Elaine	Avenue	Reroof (asphalt) 4:12	\$7,000
11.	Kevin Lanoue Construction LLC	504		Washington	Avenue	Reroof (asphalt) 4:12	\$10,000
12.	Mike Buysse Construction Inc.	906		Birch	Street	Reroof asphalt 4:12	\$6,000
13.	Werner Brothers	504		Viking	Drive	HVAC Fireplace	\$900
14.	CDI of Marshall, LLP	1213	West	Main	Street	Demolish Commercial Building	\$5,000
15.	Dru Kesteloot	802		Colombine	Drive	Shed 10X16	\$2,500
16.	Ethan Sletten	230	West	Lyon	Street	Install Sign	\$300
17.	Eric Miller	1130		David	Drive	Garage Addition	\$14,800
18.	Ronald Grengs	710		Oak	Street	Garage	\$6,500
19.	Gregory S. Taylor	1203		Canoga Park	Drive	Duplex	\$135,000
20.	LaDonna Kamies	412	South	4th	Street	Reroof Steel 6-12, 7-12, 2-12	\$9,200
21.	Bradley Botsford	408		Elaine	Avenue	Finish Basement Bedroom	\$1,400


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22.	Allan Anothy	503		Washington	Avenue	Deck	\$1,500
23.	Cecilia Sanow	311		Lawerence	Street	Patio Door, Deck extension	\$800
24.	J R & R II, LLC	1101	East	Main	Street	Signs	\$400
25.	Timothy DeSaer	608		DeSchepper	Street	Reroof (asphalt) 5:12	\$6,000
26.	CAB Quality Construction LLC	206		DeSchepper	Street	Reroof (asphalt) 4:12	\$5,900
27.	CAB Quality Construction LLC	700	West	Marshall	Street	Reroof Porch (asphalt) 4:12	\$800
28.	Belgium Builders LLC	1100	East	Main	Street	Loading Dock	\$7,300
29.	Western Community Action	1400	South	Saratoga	Street	Storage Shed	\$2,000
30.	Michael Slagel Construction	1310		Parkside	Drive	Replace Window	\$1,700
31.	Tutt Construction, Inc.	1119		Sunset	Circle	Reroof (asphalt) 4:12	\$12,000
32.	Tutt Construction, Inc.	1121		Sunset	Circle	Reroof (asphalt) 6:12	\$10,500
33.	Jeana M. Watts	604	West	Southview	Drive	Reroof (asphalt) and Extend Overhang	\$3,000
34.	Alan J. Zant	923	West	Main	Street	Reroof (asphalt) 4:12	\$6,500
35.	Turkey Valley Farms, LLC	220	South	6th	Street	Cooling Shed Addition	\$24,500
36.	Robert H. Sinave	618	West	Redwood	Street	Partial Wall Replace	\$1,600

	Applicant	Location Address				Description of Work	Valuation
1.	Minnwest Plumbing & Heating, Inc.	609		Mercedes	Drive	Finish Bathroom	\$500.00
2.	Heartland Mechanical, Inc.	503	West	Lyon	Street	Plumbing in addition	\$0.00
3.	Trio Plumbing & Heating	613	West	Redwood	Street	Replace Water & Sewer	\$0.00
4.	Trio Plumbing & Heating	611	West	Redwood	Street	Replace Water & Sewer	\$0.00
5.	Trio Plumbing & Heating	1142		David	Drive	Sump pump plumbing	\$300.00
6.	Trio Plumbing & Heating	305	North	5th	Street	Replace Water Line	\$0

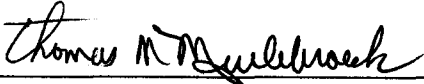
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Doom moved, Sanow seconded, that the meeting be adjourned at 7:30 P.M. All voted in favor of the motion.



Mayor of the City of Marshall

ATTEST:



Financial Director/City Clerk