

REGULAR MEETING – DECEMBER 27, 2011

The regular meeting of the Common Council of the City of Marshall was held on December 27, 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: Doom, Sanow, Boedigheimer and Ritter. Absent: Hulsizer and DeCramer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Bob VanMoer, Wastewater Superintendent; 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 THE MINUTES:

Sanow moved, Boedigheimer seconded, that the minutes of the regular meeting held on December 13, 2011 be approved as corrected and that the reading of the same be waived. All voted in favor of the motion.

SEC. 30-46 – ILLICIT DISCHARGE TO THE STORM SEWER SYSTEM – PUBLIC HEARING AND ADOPTION OF ORDINANCE AND SUMMARY ORDINANCE:

Glenn Olson, Director of Public Works/City Engineer, indicated that the 2010 MS4 Annual Report has been submitted to the Minnesota Pollution Control Agency (MPCA). The MPCA review is complete, and said review notes MCM 3, item F of the annual report identifies Marshall Code of Ordinances, Chapter 78, Sec. 78-46 as providing the City's regulatory authority to prohibit illicit discharges and/or non-stormwater discharges from entering the City's MS4. Based on MPCA's review of the ordinance, it is their interpretation that this ordinance is intended to control stormwater and other discharges to the sanitary sewer system and does not provide the City with regulatory authorities to prohibit non-stormwater discharges to the MS4 (storm sewer).

The MS4 Permit required the City to have any effective regulatory mechanism in place by June 30, 2010. To address this situation the City must develop a schedule which includes specific tasks to develop these authorities and get the City back into compliance with the MS4 Permit requirement concerning an effective illicit discharge ordinance.

There was a brief discussion on the interest rate to be charged for any violation.

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

Doom moved, Sanow seconded, the adoption of ORDINANCE NUMBER 645, SECOND SERIES and that the reading of the same be waived. Ordinance Number 645, Second Series is an ordinance Amending Section 30-46 of Chapter 30 of the City Code Relating to the Environment. This ordinance provides for the addition of Section 30-46 Illicit Discharge. The Summary Ordinance was also approved. All voted in favor of the motion.

PET RESTRICTIONS IN MEMORIAL PARK – PUBLIC HEARING AND ADOPTION OF ORDINANCE:

Ben Martig, City Administrator, indicated that the Legislative and Ordinance Committee is recommending an Ordinance to prohibit domestic pets from the Memorial Park with the exception of certified service animals. Mr. Martig indicated that staff has reservations regarding restricting pets in Memorial Park as it is centrally located and intended to be a community gathering place. Animal

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defecation is the main concern and is prohibited under the existing ordinance. Park Supervisor Stensrud has indicated there has not been a problem. Pet urination would still be of concern to staff but they expect that generally people will be respectful when in control of their pets. Enforcement of this would be difficult as the owner would have to be caught in the act with the animal. This ordinance would be enforced on the entire park with the exception of the perimeter sidewalks that are along the street in the right-of-way, in the bathrooms and area immediately around where people would likely have pets when out for a walk.

Craig Schaefer, 505 West Marshall, indicated that Memorial Park is a special area. He thinks the main issue is that of pet owners not being courteous and responsible for cleaning up after their pets. Craig indicated that dogs are a part of the family.

Mike Speer, 1110 David Drive, did not think it was right to adopt a law based on a few people. Pet owners need to be responsible.

Tony Doom, 1620 Thunderbird Road, indicated that all parks should have the same rules regarding pets. Mr. Doom suggested putting a pet station in the park.

Council Member Boedigheimer indicated that Memorial Park was built as a memorial and that there are other parks available for pets. Council Member Doom was concerned with dogs marking their spot.

Council Member Sanow indicated that some people traveling to visit the park likely would have animals with them.

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

Boedigheimer moved, Doom seconded, to adopt an Ordinance to prohibit domestic pets from the Memorial Park. Voting in favor of the motion were Boedigheimer and Doom. Voting no were: Ritter, Byrnes and Sanow.

INTOXICATING LIQUOR LICENSES – PUBLIC HEARING AND ADOPTION OF ORDINANCE AND SUMMARY ORDINANCE:

Ben Martig, City Administrator, indicated that the recommendations from the Legislative and Ordinance Committee are to continue the existing exemption if the establishment receives less than 30% of gross annual revenue from the sale of alcohol. The exemption would allow 18, 19, and 20 year old individuals to remain on premises after 10:00 pm. Ordinance amendments would clarify situations wherein underage individuals could remain in non-exempt premises after 10:00 pm if accompanied by parent, legal guardian or spouse of legal age. Clarifications also require prior notice to Marshall Police department and City Clerk's office for private parties where alcohol may be served and at which underage individuals may be attending. Amendments also include a two-step process for enforcement of these provisions. Second step of the enforcement could involve revocation or suspension of alcoholic beverage license.

Mr. Martig indicated that he has met with Chamber Director, Cal Brink, since the last L & O meeting. Mr. Brink indicated that he has heard some concerns from downtown bar owners that explained to him they would like to see the prohibition of minors to be later than the 10:00 p.m. time period. Mr. Martig's understanding is they would prefer this to be 11:00 p.m. but would also appreciate consideration of a 10:30 p.m. time period.

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Council Member Doom indicated that he was agreeable to the 11:00 P.M. and Council Member Sanow indicated that he was agreeable to the 10:30 P.M.

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

Sanow moved, Ritter seconded, the adoption of ORDINANCE NUMBER 646, SECOND SERIES and that the reading of the same be waived. Ordinance Number 646, Second Series is an Ordinance Amending Chapter 6 relating to Alcoholic Beverages. Section (b) and Section (d) were changed from 10:00 P.M. to 10:30 P.M. The Summary Ordinance was also approved. All voted in favor of the motion, except Boedigheimer who voted no.

POLICE TOWING AND STORAGE – PUBLIC HEARING AND ADOPTION OF ORDINANCE AND SUMMARY ORDINANCE:

Ben Martig, City Administrator, indicated that City staff is recommending that the police requested towing and storage services for the City of Marshall move from a licensing operation to an exclusive bid contract service. Therefore, bids have been solicited for towing and storage services for the two year period of time 2012-2013. The bidding of those services has necessitated a review and amendment to the towing and storage ordinance Sec. 74-63. Several revisions have been done to that ordinance. The proposed ordinance does incorporate the bidding process into the ordinance and does make significant changes. Increased insurance coverage is required, the impounding and release of vehicle ordinance provisions have been changed to comply with the actual practice as exists between the police department and the towers. The City is also requiring that background checks be completed as the City does with all employees and volunteers.

Bids for the towing and storage service have been received by City Clerk's office. Upon approval of the ordinance, bidding process and the potential awarding of a bid for police requested towing and storage services was discussed. Mr. Martig indicated that the addition insurance requirements will go into effect after the 2012-2013 Towing and Storage Contract.

Council Member Sanow asked about requiring a chain link fence. City Attorney Simpson indicated that the required storage area of the two bidders has been met. Council Member Ritter suggested eliminating the works chain link. Council Member Boedigheimer was also concerned with the new insurance requirements not taking effect until after the 2012 and 2013 Towing and Storage Contract. City Attorney Simpson indicated that the new ordinance would not be effective until it has been published on December 30, 2011.

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

Sanow moved, Ritter seconded, the adoption of ORDINANCE NUMBER 647, SECOND SERIES and that the reading of the same be waived. Ordinance Number 647, Second Series is an ordinance amending Chapter 74 Relating to Traffic and Vehicles. This ordinance was adopted with the words chain link being removed and the insurance coverage being effective January 1, 2014. The Summary Ordinance was also approved. All voted in favor of the motion.

AWARD OF BIDS – CONSIDER AWARD OF BIDS FOR THE CITY OF MARSHALL TOWING CONTRACT:

Bids were received, opened and read on December 12, 2011 for Towing and Storage. The bids received, opened and read were from:

Anytime Towing	Southwest Towing and Recovery
Marshall, Minnesota	Marshall, Minnesota
\$40.00 per tow	\$65.00 per tow
\$15.00 per day for inside storage	\$20.00 per day for inside storage
\$10.00 per day for outside storage	\$20.00 per day for outside storage

Mr. Martig indicated that the most essential items to the creation of a contract require that the parties have mutually understood terms pursuant to an offer and acceptance of the terms of the contract. The City of Marshall has solicited bids requesting that the bidder set forth the specific terms under which that particular bidder would provide service to the City. Therefore, each bidder's bid is deemed to be an offer to provide services to the City.

Southwest Towing and Recovery included in their bid the provision to pay back to the City some of the costs incurred by the City. Specifically, if a towed vehicle is held in storage for 21 days and the owner does not retrieve the vehicle, the City of Marshall has to pay for towing and storage. Total cost to the City: \$489.47. In the past, the City would pay the bill and then dispose of the vehicle in an attempt to recover some of those fees. In this case, the City would still pay Southwest Towing and Recovery but they will donate the \$489.47 back to the City within seven working days, less the sales tax cost of approximately \$4.47. If the vehicle is inoperable there would be a \$65.00 fee to tow to either the scrap yard or other location if determined saleable.

Mr. Martig indicated that acceptance of the terms of an offer by the City are governed by Minn. Stat. §471.345. The Uniform Municipal Contracting Law sets forth processes and procedures by which municipal contracts must be followed. In this case it appears that the contract to be entered into between the City and towing/storage service amounts to an expenditure by the City of less than \$25,000 per year. Such a contract may be made either upon quotation or in the open market, all in the discretion of the governing body. Minn. Stat. §412.311 indicates that the contract can be awarded to the lowest responsible bidder or contract can be awarded based upon the best value alternative. Best value is defined by Minn. Stat. §16C.02 subd. 4 and provides as follows: "Best value" describes a result intended in the acquisition of all goods and services. Price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to, environmental considerations, quality, and vendor performance. In achieving "best value" strategic sourcing tools, including but not limited to best and final offers, negotiations, contract consolidation, product standardization, and mandatory-use enterprise contracts shall be used at the commissioner's discretion."

The City has two separate and distinct offers for service on the table. One offer is the traditional bid submitted at a per cost basis for towing and storage. The second offer includes a basic price for towing and storage service but also factors a third component into the equation by offering a donation to the City for certain services provided. It would appear that the offer pursuant to solicitation of bid received from Southwest Towing and Recovery would result in a significant cost savings to the City. According to the City Attorney review, while both bids are separate and unique, each bid does address the towing and storage fees to be charged. The solicitation for bids basically amounts to asking each company to make an offer for services. The bidder can submit any criteria that it desires to be considered in its offer for services. The offers are now back to the City and the City can accept one or the other of

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those offers. The acceptance would create the contract to then be finalized in written form as outlined in the proposal. The Council action to award would also authorize the final agreement with those terms consistent with the request and bid as finalized by the City Attorney. The police department has reviewed both locations for conformance with the bids and has confirmed they both meet the intent of the storage requirements.

Sanow moved, to extend the current contract with Southwest Towing and Recovery to January 31, 2012 and ask for request for new proposals for towing and storage which would include the changes made to the ordinance. This motion died due to the lack of a second.

Ritter moved, Doom seconded, that the bid for Towing and Storage be awarded to Southwest Towing and Recovery and that an agreement be entered into for January 1, 2012 through December 31, 2013 at a rate of \$65.00 per tow; \$20.00 per day for inside or outside storage; and that Southwest Towing and Recovery will donate back to the City within seven working days of the payment from the City of Marshall the cost relating to the tow and storage of a vehicle not claimed by the owner. All voted in favor of the motion, except Sanow who voted no.

AWARD OF BIDS – CONSIDER AUTHORIZATION TO PURCHASE A COPIER FOR SECOND FLOOR AT CITY HALL:

Ben Martig, City Administrator, indicated that the printer currently located on the second floor of City Hall was purchased by the City in May 2000 and has deficiencies in terms of speed and capability. The maintenance agreement expired last year and the cost to repair the copier could be very costly. The printer was serviced in October and a rebuild fuser was installed at a cost of \$157.50. They are no longer making parts for this machine so it is possible that we would not be able to fix the machine. Also, the cost of toner for this machine is \$240.00 each; the City uses approximately three toners a year for a total cost of \$720.00. The quotes on the new copiers include supplies (toner and staples).

In October the City went out for bids on a copier. Three quoted were received as follows:

1. Bennett - \$13,838.00
 - a. Color copies \$0.043
 - b. Black and White copies \$0.008
 - c. Total Cost of over three years \$27,400.64
2. A&B - \$11,228.00
 - a. Color copies \$.05
 - b. Black & White copies \$.009
 - c. Total cost over three years \$26,839.37
3. Marco - \$9,624.00
 - a. Color copies \$0.0654
 - b. Black & white \$0.01
 - c. Total cost over three years \$29,110.98

These rates are guaranteed for three years.

Mr. Martig indicated that staff is recommending a color copier and suggesting eliminating the color printer in Engineering. The cost of repairs on that printer, as of November 2011, has been over \$4,500.00. The difference between a black and white copier and a color copier varies anywhere from \$1,000.00 to \$2,000.00.

A Ricoh Affico MP C5501A from A&B is being recommended to replace the copier that is utilized by the Engineering, Community Services and Assessing departments. The Council approved a black and white copier in the 2011 budget at \$8,165.00. The cost of the color copier is \$11,228.00 a difference of \$3,063.00 but with the elimination of the color printer in engineering, which is costing the City approximately \$5,000 a year to maintain; this would be a cost savings of \$1,937.00.

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Council Member Boedigheimer was concerned with the cost of employee time by not having printers in their respective departments. Mr. Martig indicated that the Technology Committee has reviewed these proposals.

Sanow moved, Doom seconded, the bid for a new copier be awarded to A & B Business, Inc., Solutions for a Ricoh Afico MP C5501A copier at a cost of \$11,228.00 and that the color printer in the Engineering Department be eliminated. All voted in favor of the motion.

APPROVAL OF CONSENT AGENDA – A. UNDER 21 EXEMPTION; B. ON-SALE LIQUOR LICENSE AND ON-SALE SUNDAY LIQUOR LICENSE FOR WOODEN NICKEL; C. WORKERS COMPENSATION INSURANCE RENEWAL; D. CONSIDER ENGAGEMENT LETTER FOR AUDIT SERVICES FOR 2011 FINANCIAL STATEMENTS; E. APPROVAL BILLS/PROJECT PAYMENTS:

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

Per Section 6-215 (c), of Ordinance Number 603, Second Series, those establishments that hold a Liquor License from the City may request an exemption under this ordinance if there Liquor Sales are less than 30% of their gross sales. Applebee's, Hitching Post, Landmark Bistro, Marshall Bowl, Marshall Golf Club, and TK's Steakhouse & Pappy's have provided information on the recent 12 month period of time. The percentage of liquor sales to gross sales were:

Applebee's - 17% for October, 2010 through September, 2011
Hitching Post – 17% for October, 2010 through September, 2011
Landmark Bistro – 27% for December, 2010 through November, 2011
Marshall Bowl – 17% for October, 2010 through September, 2011
Marshall Golf Club - 14% for October 2010 through September, 2011
TK's Steakhouse & Pappy's – 23% for October, 2010 through September, 2011

The approval of an On-Sale Intoxicating Liquor License and Sunday Liquor License for the Wooden Nickel contingent upon the appropriate fees being paid and all requirements of the City Code being complied with.

The Workers Compensation Insurance be renewed with the League of Minnesota City Insurance Trust effective January 1, 2012 at an estimated premium of \$163,704 which includes a medical deductible of \$5,000.

The proper city personnel be authorized to enter into an engagement letter with Abdo, Eick & Meyers, LLP to perform the audit services for the City of Marshall's 2011 Financial Statements.

The following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 77477 through 77678.

All voted in favor of the motion.

2012 WASTEWATER USER RATES – CONSIDER RESOLUTION REVISING WASTEWATER USER RATES:

Glenn Olson, Director of Public Works/City Engineer, indicated that Springsted Incorporated had previously completed a revision to the financial projections of the Wastewater Treatment Facilities fund. This review was an update to Springsted's November 2007 Rate Analysis. A review of revenues and expenditures has been completed, and a recommended 8.5% annual increase each year through 2015 will meet the targeted operational expenses and reserves for this fund. The fund will be reviewed annually to

ensure that the City is within the targeted range, and adjustments will be recommended accordingly.

In previous years, a public hearing was conducted regarding revision of the user rates for wastewater service. Sec. 78-2 addresses how the City Council must set rates and charges for the stormwater and wastewater fund. According to the ordinance, it requires adoption of a resolution, but does not require a public hearing. The rate increase is also a part of the budget process with the hearings involved there as well.

Letters have been sent notifying significant industrial users (Schwan's, SunVi, ADM, Viessman's, and Turkey Valley Farms) of the 2012 proposed rate increases, including the 8.5% flow charge increase and changes to the surcharges for wastewater strength. Wastewater Superintendent Bob VanMoer contacted all the recipients of the letter to inform them of the change being recommended to the Council to adopt said resolution revising the user rates at the December 27, 2011 City Council meeting.

Doom moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3681, SECOND SERIES and that the reading of the same be waived. Resolution Number 3681, Second Series is a resolution Revising the User Rates for wastewater Service effective January 1, 2012 with an 8.5% increase. All voted in favor of the motion.

2012 SURFACE WATER MANAGEMENT UTILITY RATES – CONSIDER RESOLUTION REVISING RATES:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City's financial consultant, Springsted's, conducted a financial projection analysis in 2007. At that time, Springsted's review determined that a 14% increase in total revenue each year (2008-2012) would keep the fund stable. A review of the financial projections indicated a reduction in rate increase. The review recommends a rate increase of 9.25% of total revenue to generate approximately \$926,818 to cover operating, capital, and reserve goals during the period 2011-2015.

The recommendation includes a minimum monthly charge of \$4.25 for 2012, an increase of \$0.36/month from 2011. This is a 9.25% increase to the minimum charge. All other classifications are related to this minimum monthly charge on a basis of runoff characteristics for the type of use of each parcel as shown in the attached resolution. This minimum monthly charge increase results in a smaller percentage increase to all other classifications other than single-family residential (generally between 7.5% and 8.0%).

A thorough review of revenues and expenditures has been completed and a recommendation of this annual increase over each year through 2015 will meet our targeted operational expenses and reserves for this fund. The fund will be reviewed annually to ensure that the City is within that targeted range, and adjustments will be recommended accordingly.

Doom moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3682, SECOND SERIES and that the reading of the same be waived. Resolution Number 3682, Second Series is a resolution Revising the Surface Water Management Utility Rates effective January 1, 2012 with a 9.25% increase. All voted in favor of the motion.

CONSIDER THE REQUEST OF AVERA MARSHALL FOR A VARIANCE ADJUSTMENT PERMIT RELATING TO FRONT YARD TO ALLOW CONSTRUCTION OF PARKING:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Avera Marshall for a Variance Adjustment Permit to allow construction of parking with 15 foot front yard along Charles Street in lieu of required 25 foot front yard as required by the City Code. The existing parking on Bruce Street already has reduced the front yard. In all business and industrial districts yard requirements do not pertain to parking lots. However, this is a Residential district even though the facility is clearly of

commercial type. The City is considering relaxing parking yard requirements for some cases of commercial buildings located in residential districts. The owner is trying to utilize the property to the maximum extent possible because of parking shortage. Reduced front yard will help create additional parking spaces and make parking more user friendly with wider access ways. Parking will be separated from the street with the buffer planting screens.

Sanow moved, Doom seconded, to approve the request of Avera Marshall for a Variance Adjustment Permit to allow construction of parking with a 15 foot front yard along Charles Street in lieu of 25 foot front yard as required by City Code. All voted in favor of the motion.

CONSIDER REQUEST OF AVERA MARSHALL FOR A VARIANCE ADJUSTMENT PERMIT RELATING TO PARKING SPACES:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Avera Marshall for a Variance Adjustment Permit to provide 106 new parking spaces for the clinic addition in lieu of 120 parking spaces as required by the City Code. The new medical clinic area is about 24,000 Sq. Ft. which requires 120 additional parking spaces. However, even utilizing all available open space on site, the owner can find place for 106 new parking spaces. This takes into account all spaces created and all spaces removed as a result of this project.

Doom moved, Sanow seconded, to approve the request of Avera Marshall for a Variance Adjustment Permit to provide 106 new parking spaces for the clinic addition in lieu of 120 parking spaces as required by City Code. All voted in favor of the motion.

CONSIDER HOLDING TANK SEWAGE DISCHARGE AGREEMENTS WITH ENVIRO PUMP PLUS AND SOUTHWEST SANITATION:

Glenn Olson, Director of Public Works/City Engineer, indicated that Enviro Pump Plus and Southwest Sanitation propose to be able to discharge holding tank sewage from septic tanks and porta potties at a waste facility owned and operated by the City of Marshall. City staff had prepared a similar agreement in 2011 upon the requirement of MPCA permitting. The terms and conditions of disposal were signed by the operators. The proposed agreement is very similar and staff is recommending the Council formally approve the agreement. The City of Marshall would agree to accept controlled discharge of holding tank sewage in accordance with the following restrictions:

1. The waste must be free of grit, grease, sand, cups, bottles, sticks or any other debris that is not conducive to wastewater treatment. Care must be taken while discharging so no spillage will occur.
2. The discharger will be responsible for any spill cleanup or mitigation related to any spill.
3. It is the discharger's responsibility to notify the Minnesota Department of Public Safety Duty Officer, and the Marshall Wastewater Facility of any spill larger than 5 gallons.
4. It will be necessary to contact Wastewater Treatment Facility staff prior to discharge at (507) 537-6776.

Any violation of these terms could result in voiding this agreement.

This agreement shall become effective immediately and shall automatically renew on January 1 of each year, and said agreement shall remain in effect until terminated by either party. This agreement is not transferable without the prior written permission of the City of Marshall. The City of Marshall's Highway 23 Lift Station will be the designated waste disposal site. This site may be terminated or relocated by the City Wastewater Department at any time. The rates for Holding Tank Sewage Discharge (Porta Potty Waste) will be set annually according to current wastewater user fees and rates.

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Boedigheimer moved, Sanow seconded, the proper city personnel be authorized to enter into a Holding Tank Sewage Discharge Agreement with Enviro Pump Plus and Southwest Sanitation effective January 1, 2012. All voted in favor of the motion, except Ritter who abstained.

**MERIT CENTER WIND TOWER PROJECT – PHASE II (TOWER & NACELLE) –
ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the contractor is working on five (5) minor “Punch List” items for the MERIT Center Wind Tower Project – Phase II (Tower & Nacelle).

Doom moved, Boedigheimer seconded, acknowledgement of the final payment in the amount of \$16,776.00 to KHC Construction for the MERIT Center Wind Tower Project – Phase II (Tower & Nacelle) contingent upon the “Punch List” items being completed in accordance with the specifications. All voted in favor of the motion.

**2010 CUL DE SAC RECONSTRUCTION PROJECT (Y63, Y64, Y75) – CONSIDER CHANGE
ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION
(NO. 5):**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 (Final) for the 2010 Cul de sac Reconstruction Project Y63, Y64, Y75 with Thompson Excavating, Taunton, Minnesota resulting in a contract increase of \$17,912.95. This change order is the result of final measurements and changes in item quantities during construction.

Ritter moved, Sanow seconded, the approval of Change Order No. 1 (Final) with Thompson Excavating, Taunton, Minnesota for a contract increase of \$17,912.95 and the acknowledgement of the final payment in the amount of \$35,447.49 for the 2010 Cul de sac Reconstruction Project Y63, Y64, Y75. All voted in favor of the motion.

**PROJECT Y72 – FLOOD RETENTION LEVEE AND GABION IMPROVEMENTS ON THE
REDWOOD RIVER – CONSIDER CHANGE ORDER NO. 1 (FINAL) AND
ACKNOWLEDGEMENT OF FINAL PAYMENT (NO. 3):**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 (Final) for the Flood Retention Levee and Gabion Improvement – Project Y72 with R & G Construction Co., Marshall, Minnesota resulting in a contract decrease of \$2,520. This change order is the result of final measurements and changes in item quantities during construction.

Sanow moved, Doom seconded, the approval of Change Order No. 1 (Final) with R & G Construction Co., Marshall, Minnesota for a contract decrease of \$2,520 and the acknowledgement of the final payment in the amount of \$35,912.00 for the Flood Retention Levee and Gabion Improvement Project Y72. All voted in favor of the motion.

**PROJECT Y41 – TIGER LAKE EXPANSION PROJECT – CONSIDER CHANGE ORDER NO. 4
(FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 4 (Final) for Tiger Lake Expansion Project Y41 with Rogge Excavating, Inc., Ghent, Minnesota resulting in a contract increase of \$5,146.03. This change order is the result of final measurements and changes in item quantities during construction.

Doom moved, Ritter seconded, the approval of Change Order No. 1 (Final) with Rogge Excavating, Inc., Ghent, Minnesota for a contract increase of \$5,146.03 and the acknowledgement of the final payment in the amount of \$52,375.05 for the Tiger Lake Expansion Project Y41. All voted in favor of the motion.

PROJECT Y 33 / 139-132-02 – CLARICE AVENUE FROM SUSAN DRIVE TO T.H. 23 IMPROVEMENT – CONSIDER CHANGE ORDER NO. 1 AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1(Final) for Clarice Avenue from Susan Drive to T.H. 23 Improvement Project Y33 / 139-132-02 with R & G Construction Co., Marshall, Minnesota resulting in an increase of \$19,857.33. This change order is the result of final measurements and changes in item quantities during construction.

Doom moved, Ritter seconded, the approval of Change Order No. 1 (Final) with R & G Construction Co., Marshall, Minnesota for a contract increase of \$19,857.33 and the acknowledgement of the final payment in the amount of \$100,076.33. All voted in favor of the motion.

CONSIDER RESOLUTION AUTHORIZING CLOSURE OF CAPITAL PROJECT FUND 483 FOR THE 1997 TIF CONSTRUCTION FUNDS:

Ben Martig, City Administrator, indicated that Capital Project Fund 483 was originated in 1997 for the purpose of multiple redevelopment projects. There is currently an approximate balance of \$60,000 within the fund. The entire balance upon transfer is recommended to be designated to the “429 Capital Project Fund” and designated toward future expenditures related to the Block 11 development. This was initiated by a recommendation from the City’s financial consultants Springsted, Inc.

Sanow moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3683, SECOND SERIES and that the reading of the same be waived. Resolution Number 3683, Second Series is a resolution Authorizing Closure of Capital Project Fund 483 for the 1997 TIF Construction Fund. The balance of this fund is approximately \$60,000 will be transferred to fund 495 “429 Capital Project Fund” and will be reserved for expenditures related to Block 11 of the Original Plat. All voted in favor of the motion.

GASB 54 – POLICY IMPLEMENTATION – A. RESOLUTION COMMITTING SPECIAL REVENUE SOURCES AND CONFIRMING RESTRICTION FOR SPECIFIC PURPOSES IN SPECIAL REVENUE FUNDS; B. RESOLUTION COMMITTING FUND BALANCES FOR SPECIFIC PURPOSES; C. FUND BALANCE POLICY:

Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that the objective of GASB Statement No. 54 (GASB 54) is to enhance the usefulness of fund balance information and provide clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. The statement will be effective for the fiscal year ending December 31, 2011. Fund balance reclassifications made to conform to the provisions of this Statement should be applied retroactively by restating fund balance for all prior periods presented. GASB 54 does not affect the government-wide or accrual-based statement presentations, nor does it change the amount of total fund balance on any fund statements. Mr. Meulebroeck indicated that he has consulted with the City’s Auditors, Abdo, Eick & Meyers on the development of these resolutions and Fund Balance Policy.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3684, SECOND SERIES and that the reading of the same be waived. Resolution Number 3684, Second Series is a resolution Committing Specific Revenue Sources and Confirming Restrictions for Specified Purposes in Special Revenue Funds. All voted in favor of the motion.

Sanow moved, Ritter seconded, the adoption of RESOLUTION NUMBER 3685, SECOND SERIES and that the reading of the same be waived. Resolution Number 3685, Second Series is a resolution Committing Fund Balances for Specific Purposes. This resolution provides for up to 75% of

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the earnings from the proceeds of the Hospital sale to be used to pay Library debt and that the balance of the earnings on the \$2,000,000 to be used at the City Council discretion. All voted in favor of the motion.

Sanow moved, Doom seconded, the adoption of the Fund Balance Policy to comply with Government Accounting Standards Board (GASB) Statement No. 54. All voted in favor of the motion.

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

AUTHORIZATION TO ACCEPT OWNERSHIP AND GRANT FROM HOMELAND SECURITY AND EMERGENCY MANAGEMENT FOR UPGRADE ON A DECONTAMINATION TRAILER:

Ben Martig, City Administrator, indicated that the Marshall Fire Department is requesting that the City of Marshall take ownership of a decontamination trailer that is to be used by the West Central Region, which the Marshall Fire Department is in. The trailer is through HSEM and will aid in the emergency situations with industries in Marshall. The trailer will be stationed at the Marshall Fire Station and will be available for the region. The West Central Region has a fund to take care of the repairs and maintenance. HSEM takes care of the updates to the trailer. The City will have to insure the trailer, and the Fire Department will be required to take the trailer, if needed, to other towns in the region. HSEM has a grant that the City needs to accept for the updates to the trailer. The grant is for \$10,600, which will be paid to the City of Marshall, to cover the expense of the updates made.

Doom moved, Boedigheimer seconded, that the City of Marshall accept ownership of the decontamination trailer and that the proper city personnel be authorized to enter into the MN Department of Safety Homeland Security and Emergency Management Division Grant in the amount of \$10,600. All voted in favor of the motion.

AUTHORIZATION TO ALLOCATE DESIGNATED FUND BALANCE TO SATISFY SPECIAL ASSESSMENT SON WINDSTAR PARK PROPERTY:

Ben Martig, City Administrator, indicated that staff is recommending to approve the satisfaction of special assessments from Windstar Park that originated from the Windstar Street improvement project.

Doom moved, Sanow seconded, to authorize satisfaction of Windstar Park special assessment in the amount of \$204,702.72 from the designated general fund reserves for this use. All voted in favor of the motion.

AUTHORIZATION TO APPROVE SERVICE AGREEMENT FOR MARKET SURVEY AND COMPENSATION STUDY:

Ben Martig, City Administrator, indicated that the City's most recent compensation study was completed in March, 2007. For that study, the City utilized the services of Springsted, Incorporated (consultant Ann Antonsen) for the salary and benefit market study and implementation plan components. At the conclusion of the study, the City Council provided direction to Staff to complete these (classification and compensation) studies approximately every five (5) years to ensure the City maintains market-comparable wages and benefits.

On November 3, 2011, Staff advertised a Request for Proposals (RFP) for a Market Survey and Compensation Study for the City's full-time and part-time positions. City Staff is also recommending the Library and Public Housing classifications be included in the proposed study, provided approval from their respective Board and Commission. If approved, this study will encompass 72 job classifications.

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Staff has reviewed each of the five (5) proposals received and the following are the firm names and each proposal's not-to-exceed project cost:

1. Public Sector Personnel Consultants--\$16,500 (less two cost-saving options of \$1,500)
2. Springsted Incorporated--\$17,000 (\$16,000 plus out-of-pocket costs not to exceed \$1,000; out-of-pocket costs include travel and sustenance, overnight or messenger deliveries, conference calling beyond their internal capabilities, photocopying, and mailing).
3. CBIZ Human Capital Services--\$23,900
4. The Waters Consulting Group, Inc.--\$23,900
5. Condrey & Associates, Inc.--\$29,500

City Staff removed the CBIZ Human Capital Services, The Waters Consulting Group, Inc., and Condrey & Associates, Inc. proposals from consideration due to their proposals exceeding the City's budget of \$15,000 for this project. Staff spent considerable time reviewing the two proposals that came in closer to the budgeted amount for the project.

Mr. Martig indicated that City Staff is recommending the Public Sector Personnel Consultants (PSPC) firm for the City's market survey and compensation study due to the following:

- Lowest overall cost proposal at a not-to-exceed amount of \$16,500.
- The proposal contained two cost reduction options for the City where work could be completed by videoconference or by phone, thereby reducing the overall cost to the City. Though Staff feels strongly that the Employee Briefing meetings are critical to the success of the project, the second cost reduction option of reviewing a draft survey could be accomplished without a site-visit from the firm. This would reduce the City's costs by \$1,500, thereby bringing the total project cost to \$15,000.
- PSPC proposal includes extensive implementation support during the 1st year.
- Includes one-year of post project services (i.e., analyze, evaluate, classify and provide a salary range recommendation) at no additional cost.
- Mr. Wayne Brede (Phase I Consultant) is affiliated with this firm and would be partnering with them to complete our project. Based on the City's recent experience and consulting relationship with Mr. Brede, Staff is confident that this firm will provide valuable insight and quality services to the City in this next phase of the project. During and at the conclusion of Phase 1 of the project, Staff also received positive feedback from employees related to Mr. Brede's professionalism, expertise, and timely responses.
- The PSPC firm provides opportunities that engage our employees, department heads, City Administrator, and the City Council in the process and project outcomes. They offer pre-project meetings with employees and City officials to discuss the project's scope and answer questions. PSPC will conduct final report presentations to the City Administrator, City Officials, employees and employee representatives.
- PSPC does not utilize databases or data warehouses to collect pay/salary information. They build a custom survey database from each of the City's selected comparators.
- PSPC specializes in services to public sector employers.
- PSPC has a regional office located in St. Paul.
- Includes installation of EZ COMPTM program files for ongoing system maintenance.

Though the Springsted Incorporated proposal met the scope of work as outlined in the RFP, it exceeded the project budget, and Staff felt that the PSPC proposal provided for a higher level of employee involvement via participation and informational meetings on the process and its likely outcomes. Effective communications with employees is a factor that Staff believes is integral to the success and acceptance of the resulting compensation system. Additionally, partnering with Mr. Brede, the consultant

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from Phase 1, will provide for a smooth transition of information—he designed our Classification structure and established the Hay points for each position.

Staff has requested a draft professional services agreement from PSPC which will be forwarded to the City Attorney for review.

Mr. Martig indicated that the Council Personnel Committee discussed the two cost-reduction options provided in the PSPC proposal. It is the Committee's recommendation to the City Council that Staff negotiate an agreement with Public Sector Personnel Consultants in an amount not-to-exceed \$15,000. The original proposal has a not-to-exceed amount of \$16,500. The Personnel Committee is recommending that Staff utilize the \$1,500 cost reduction option of a phone/videoconference for the following service: Review of the Draft Survey with City Project Designee(s) to bring the total project costs in line with the budgeted amount.

Sanow moved, Ritter seconded, that the proper city personnel enter into a Professional Services Agreement with the consulting firm of Public Sector Personnel Consultants in an amount not to exceed \$15,000 for a market survey and compensation study. All voted in favor of the motion, except Boedigheimer who voted no.

APPROVE AMENDMENTS TO THE PERSONNEL POLICY MANUAL:

Ben Martig, City Administrator, indicated that staff is proposing to amend section 6.9 Employee and Volunteer Recognition of the Personnel Policy Manual to incorporate the "Employee of the Year" program. This program was initiated in 2010. The objective of this program is to annually recognize an outstanding City of Marshall employee who demonstrates creativity, exemplary performance, provides exceptional contributions, and models excellent service to the City's customers. All permanent full-time and part-time employees, except Division Directors and the City Administrator, are eligible to receive nominations and be selected as Employee of the Year. The City's Administration office will administer the program on an annual basis.

The Employee of the Year award benefits include the following:

- a) \$100.00 in Marshall Area Chamber of Commerce Gift Checks.
- b) Employee's name is inscribed on an "Employee of the Year" plaque that is located at City Hall.
- c) A Certificate of Recognition is presented from the City Administrator.
- d) A news release and photo of the recipient will be given to the local media for publication.

Staff is also proposing to amend the language for the Employee and Volunteer Appreciation Events section to read: "Annually, the City will sponsor and incur the cost associated with recognition for members of the City Board and Commissions, City volunteers, and employees that assist in the staffing and support of these groups.

Doom moved, Ritter seconded, approval of these two amendments to the Personnel Policy Manual. All voted in favor of the motion.

APPROVE 2012 WAGE SCHEDULE:

Ben Martig, City Administrator, reviewed the proposed the wage schedules for City employees. There are four schedules: 1) Full-time 2) Part-time 3) Paid-on-call and 4) Temporary/Seasonal. The Marshall-Lyon County Library and Public Housing Commission Wage Schedules have been placed on a separate schedule as their respective Boards have exclusive authority in establishing classifications and amending the wages for those positions.

Full-time Wage Schedule:

In accordance with the 2012 City Budget approved on December 13, 2011, staff have provided for a 1.0% general wage increase for non-union full-time employees.

Contracts for the two LELS unions and AFSCME union have not yet been settled; therefore, the wage rates for these employees will continue to reflect 2010 wage rates.

Part-time Wage Schedule:

In accordance with the 2012 City Budget approved on December 13, 2011, staff have provided for a 1.0% general wage increase for non-union part-time employees. Two additional amendments to the part-time wage schedule are:

- 1) deletion of the classification *Police Records Clerk*. The City no longer employs this classification.
- 2) deletion of the classification *Crossing Guard*. Employment of the Crossing Guards will be transitioned to the School District effective 1/1/12.

Paid-On-Call Wage Schedule:

In accordance with the 2012 City Budget approved on December 13, 2011, staff have provided for a 1.0% general wage increase for all employees on this schedule.

The State of Minnesota retains exclusive authority by contract in establishing the maximum compensation rates for the CAT Team. The compensation rates must include an hourly wage rate, PERA, FICA, Medicare, and workers compensation payments. The current total compensation rate maximums are \$25.00 for in-jurisdiction responses and \$75.00 for non-jurisdiction (i.e., State) responses. Providing a 1.0% general wage increase will comply with these rates. Contract dates follow the state fiscal year of 7/1/2011-6/30/2012.

Temporary/Seasonal Wage Schedule:

The recommended changes to the 2012 Temporary/Seasonal Wage Schedule are as follows:

- 1) Appraisal Assistant—delete from schedule.
- 2) Appraiser—add to schedule with a salary range that corresponds with the City's part-time appraiser.
- 3) Building Custodian—amend wages. Starting pay rate would stay the same but the increases would be in \$0.50 intervals instead of \$0.25 intervals.
- 4) Engineering Aid—amend wages. Starting pay rate would increase to \$10.00 and increase at \$.50 intervals instead of \$0.25 intervals.
- 5) Grounds Maintenance Worker (PW)—delete from schedule.
- 6) Landscape Maintenance Worker—add to schedule. This is a new position/classification.
- 7) Parks Maintenance Worker—delete from schedule.
- 8) Public Ways Worker—(Staff recommendation) add to schedule and amend wages. This position reflects a titling change—the Parks Maintenance Worker and Grounds Maintenance Worker would be deleted on the schedule and replaced with this new title. The wages would begin with Step 1 at \$8.00 and increase in \$0.50 increments with each step up to step 7.

Mr. Martig indicated that the Personnel Committee reviewed these changes and are recommending these amendments to the full-time, part-time, and paid-on-call wage schedules. They also approved the amendments to the temporary/seasonal wage schedule with the exception of the Public Ways Worker wage schedule. It is the Committee's recommendation that the wage rates for this classification remain

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the same, that is, a Step 1 rate of \$7.25 with \$0.25 increases with each step to Step 7.

Ritter moved, Doom seconded, approval of the Full-time Wage Schedule, the Part-time Wage Schedule, the Paid-On-Call Wage Schedule for 2012 as presented. The motion also approved the Temporary/Seasonal Wage Schedule for 2012 with the exception of the Public Ways Worker wage schedule. The Public Ways Worker wage schedule remains the same, that is, a Step 1 rate of \$7.25 with \$0.25 increases with each step to Step 7. 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 will hold their annual meeting on January 10, 2012.

Doom No report.

Sanow No report.

Boedigheimer No report.

Ritter No report.

STAFF REPORTS – CITY ADMINISTRATOR:

Ben Martig, City Administrator, indicated that the Wind Tower project has been completed but options are being considered for the Burn Prop that has to be completed in order for the City to receive the \$300,000 grant monies. Notice had been received that the Legacy Grant Fund request for the Camden Trail has been denied. Information is being gathered for the reimbursement to the City of the T.E.D. Grant. Work is in process for the development of an RFP for the Marshall Lyon County Library Building located at 302 West Lyon Street.

STAFF REPORTS – CITY ENGINEER:

No report.

STAFF REPORTS – CITY ATTORNEY:

Dennis Simpson, City Attorney, indicated that he is continuing to work on the Middleton Property title issues.

COUNCIL MEMBER INDIVIDUAL ITEMS:

Other items brought forth by the City Council included a concern with the house located on "A" Street by the Ambulance building has not been removed yet. Administrator Martig will check on this.

REVIEW OF PENDING AGENDA ITEMS:

There were no questions on the pending agenda items.

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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.	Sussner Construction, Inc.	1605	Halbur	Road	Partial Reside (steel), Skylights	\$14,500
2.	Elevation Restoration LLC	908	West Main	Street	Residing - Partial - Vinyl	\$900
3.	James Lozinski Construction Inc.	707	Viking	Drive	Windows (3)	\$6,000
4.	Sussner Construction, Inc.	601	Michigan	Road	Ice Cream Plant Expansion	\$2,100,000
5.	Aspen Exteriors Inc	504	Harriett	Drive	Reroof (asphalt), Partial Reside (vinyl)	\$17,000
6.	James Lozinski Construction Inc.	1201	Alan	Avenue	Reroof (asphalt) 4:12	\$9,900
7.	James Lozinski Construction Inc.	200	East Main	Street	Basement Remodel	\$18,000
8.	James Lozinski Construction Inc.	102	East Thomas	Avenue	Partial Reside (vinyl)	\$7,000
9.	Michael Slagel Construction	1405	Ellis	Avenue	Replace Overhead Garage Doors, Partial Reside (vinyl)	\$3,000
10.	Michael Slagel Construction	102	West Southview	Drive	Replace Entry Doors	\$800
11.	Michael Slagel Construction	506	Kennedy	Street	Replace Entry Doors	\$900
12.	Exterior Solutions MN LLC	1213	Patricia	Court	Reside (vinyl), 2 Windows, Gutters	\$15,000
13.	Exterior Solutions MN LLC	607	West Lyon	Street	Reside (vinyl)	\$5,700
14.	American Home Remodeling/MN	620	West Main	Street	Roof Repair, Reroof (asphalt), Partial Reside (vinyl), Framing	\$25,000
15.	James Lozinski Construction Inc.	1005	North 4th	Street	Reroof (asphalt) 4:12, Partial Reside (vinyl)	\$10,900
16.	James Lozinski Construction Inc.	1007	North 4th	Street	Reroof (asphalt) 4:12	\$7,900
17.	James Lozinski Construction Inc.	302	West Redwood	Street	Reroof (asphalt) 5:12	\$5,800
18.	Patrick Kloeckl Construction	208	Athens	Avenue	Additional Partial Reside (vinyl)	\$2,500
19.	D&G Excavating, Inc.	1701	East College	Drive	Demolish Storage Facility	\$90,000
20.	Swanson Home Specialists LLC	1105	Travis	Road	Partial Reside (vinyl) garage front only	\$400
21.	Darin & Karen Jensen	218	Oslo	Avenue	Sheetrock Garage	\$1,200
22.	Dale & Amy MacArthur	205	East Thomas	Avenue	3 Overhead Doors	\$2,300
23.	Geske Home Improvement Co.	1103	Colombine	Drive	Reside (steel), Patio Door	\$15,300
24.	Geske Home Improvement Co.	710	South 4th	Street	Reside (steel)	\$9,800
25.	Geske Home Improvement Co.	624	Donita	Avenue	Patio Door	\$2,200

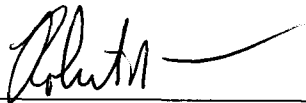
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26.	Geske Home Improvement Co.	513	South	1st	Street	Patio Door	\$2,400
27.	Geske Home Improvement Co.	408	South	4th	Street	Patio Door	\$3,300
28.	CAB Quality Construction LLC	113	West	Southview	Drive	Reside (steel)	\$14,000
29.	CAB Quality Construction LLC	1118		Clifton	Circle	Partial Reroof (asphalt) 6:12, Partial Reside (vinyl)	\$8,800
30.	Layle French Construction Inc.	602	North	5th	Street	Interior Remodel	\$2,300
31.	S S Construction of Montevideo	804		Deschepper	Street	Partial Reside (vinyl)	\$3,300
32.	Dennis Lozinski Construction	412		Legion Field	Road	Reroof (asphalt) 4:12, 7:12, Partial Reside (vinyl)	\$8,000
33.	Todd & Catherine Altermatt	224		Legion Field	Road	Reroof (asphalt), Partial Reside (vinyl)	\$10,100
34.	Dennis Lozinski Construction	611		Adobe	Circle	Reroof (asphalt) 7:12, Reside (vinyl)	\$36,500
35.	Richard J. Cady / Todd A. Cady	206	West	James	Avenue	Replace Windows	\$1,600
36.	Executive Exteriors & Remodeling	109		Greeley	Street	Partial Reside (vinyl), Window	\$12,000
37.	Geske Home Improvement Co.	601		Lawerence	Street	Partial Reside (steel)	\$8,500
38.	Geske Home Improvement Co.	615		Camden	Drive	Partial Reside (steel)	\$1,900
39.	Vernon Goslar	1007		Woodfern	Drive	Reside (vinyl), 2 Entry Door	\$9,000
40.	Kesteloot Construction, Inc.	106-B	South	5th	Street	Partial Reside (steel)	\$3,400
41.	Buyse Roofing Systems & Sheet Metal Inc.	1602	West	College	Drive	Reroof (membrane)	\$56,500
42.	Dennis Lozinski Construction	625		Soucy	Drive	Reside (vinyl)	\$3,800
43.	Dennis Lozinski Construction	616	West	Marshall	Street	Reroof (asphalt) 10:12	\$6,000

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	Applicant	Location Address				Description of Work	Valuation
1.	Bisbee Plumbing & Heating	300	South	Bruce	Street	Lab Remodel	\$0.00
2.	Bisbee Plumbing & Heating	601		Ontario	Road	Water line	\$500.00
3.	Bisbee Plumbing & Heating	505	West	Main	Street	Bathroom Remodel	\$0.00
4.	Bisbee Plumbing & Heating	601		Michigan	Road	Ice Cream Plant Expansion	\$0.00

Doom moved, Ritter 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:


 Finance Director/City Clerk