

REGULAR MEETING – MAY 22, 2012

The regular meeting of the Common Council of the City of Marshall was held on May 22, 2012 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: Charlie Sanow, Dan Ritter, Jennie Hulsizer, John DeCramer, Larry Doom, Mike Boedigheimer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Ilya Gutman, Building Official; Sheila Dubs, Human Resource Coordinator; Cathy Lee, Executive Assistant; Ray Hendrickson, First Assistant Fire Chief; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk. Others in attendance included, Cal Brink, CEO Marshall Area Chamber of Commerce.

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 as presented.

BOARDS AND COMMISSIONS RECOGNITION:

At this time the City Council took the opportunity to recognize community residents for their contributions and time provided to the various boards and commissions. The following members in attendance at the meeting were recognized:

David Sturrock, Airport Commission, 2008-2012
Bruce Berg, Housing Commission, 2007-2012
Kenneth Wilson, Human Rights Commission, 2009-2012
Kris Shover, Planning Commission, 2009-2012
Alan Greig, Utilities Commission, 2008-2012

The following member was not present at the meeting to receive his recognition:

David Patterson, Cable Television Commission, 2006-2012

MAYOR'S PROCLAMATION WELCOMING FOREIGN EXCHANGE STUDENTS FOR 2012/2013:

Mayor Byrnes welcomed the following Foreign Exchange Students for 2012/2013. Ben Martig, City Administrator read each of the Mayor's Proclamations welcoming the following Foreign Exchange Students:

Bom Yoon from So. Korea (YFU)
Jasmin (Mina) Kotara from Germany (YFU)
Jeanne Bouhon from Belgium (AFS)
Charles Dalle from France (AFS)
Alexander (Alex) Lwowski from Germany (AFS)
Markus Manner from Finland (AFS)
Pannaporn Prakittimongkol from Thailand (AFS)

Sanow moved, Doom seconded, to adopt the Mayor's Proclamation Welcoming Foreign Exchange Students for 2012/2013. All voted in favor of the motion.

APPROVAL OF MINUTES:

Member (Charlie Sanow) moved, Member (Dan Ritter) seconded to approve the ORIGINAL motion that the minutes of the regular meeting held on May 8, 2012 be approved as filed with each member and

that the reading of the same be waived'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR ORDINANCE AMENDING SEC. 86-1, SEC. 86-104, SEC. 86-105, SEC. 86-106, AND SEC. 86-107 OF THE MARSHALL CITY CODE OF ORDINANCES REGARDING MICROBREWERIES – PUBLIC HEARING AND ADOPTION OF ORDINANCE:

This was the date and time set for a public hearing on amending Section 86-1, Sec. 86-104, Section 86-105, Section 86-106, and Section 86-107 of the Marshall City Code of Ordinances relating to zoning. A micro-brewing company has indicated an interest in locating in Marshall. Currently, brewing operations are not listed as a permitted or conditional use in any zoning district in the City of Marshall. Bottling is listed as a permitted use in an I-1 Limited Industrial district and I-2 General Industrial district. I-2 district permits "Manufacturing, processing, and associated storage, servicing and testing" which can be interpreted as to allow any manufacturing.

Member (**Charlie Sanow**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF ORDINANCE AMENDING SEC. 86-1, SEC. 86-104, SEC. 86-105, SEC. 86-106, AND SEC. 86-107 OF THE MARSHALL CITY CODE OF ORDINANCES REGARDING MICROBREWERIES – PUBLIC HEARING AND ADOPTION OF ORDINANCE:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 655, SECOND SERIES amending Section 86-1, Section 86-104, Section 86-105, Section 86-106, and Section 86-107 of the Marshall City Code of Ordinances'. The Summary Ordinance was also approved. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR RESOLUTION GRANTING A PETITION FOR VACATION OF AN ALLEY IN ORIGINAL PLAT, BLOCK 16 -- PUBLIC HEARING AND ADOPTION OF RESOLUTION:

This was the date and time set for a public hearing on the Vacation of an Alley adjacent to Original Plat, Block Sixteen, Lots 3 – 10. The purpose of the vacation is for development of the property eliminating the need for a public alley through the property. The petition is only for the westerly portion of the property owned by the HRA. The Housing & Redevelopment Authority, in conjunction with Trident Development, LLC of St. Cloud, Minnesota is in the process of the redevelopment of the former Junior High School property.

Glenn Olson, Director of Public Works/City Engineer indicated that there have been several iterations of the subdivision of the property including the vacation of the public alley just north of and adjacent to the Christ United Presbyterian Church (the Church) property. City staff's most recent discussions with the proposed developer and the Church are as follows: 1. The vacation of the alley between North 4th Street and North 5th Street adjacent to the developer's and Church's property. 2. The transfer of the entire alley adjacent to Lots 3-10 to the petitioner. The transfer of half of the alley adjacent to Lots 1-2 and Lots 11-12 to each of the adjacent property owners (the Church gets half and Trident gets half). This is the normal procedure for transfer of property during the vacation process. 3. The Church met on

Tuesday evening, May 15, 2012, concerning the petition for vacation and the potential inclusion of the Church property in Heritage Pointe Addition. Rev. Celeste Lasich and Bob Archbold met with City staff on Wednesday, May 16, 2012, requesting the vacation and transfer of the property in accordance with Item 2 above. 4. The developer, Roger Fink of Trident, discussed this proposal with staff on Wednesday and directed proceeding with the vacation and without the Church included in the Heritage Pointe Addition plat.

Member (**Charlie Sanow**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF A RESOLUTION GRANTING A PETITION FOR VACATION OF AN ALLEY IN ORIGINAL PLAT, BLOCK 16 -- PUBLIC HEARING AND ADOPTION OF RESOLUTION:

Member (**Charlie Sanow**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3738, SECOND SERIES, which provides for the Granting of a Petition for Vacation of an Alley located between Lots 1-12, Block Sixteen, Original Plat'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR ORDINANCE AMENDING SEC. 86-1, SEC. 86-30, SEC. 86-72, AND SEC. 74-151 OF THE MARSHALL CITY CODE OF ORDINANCES REGARDING THE DOWNTOWN DISTRICT - PUBLIC HEARING AND ADOPTION OF ORDINANCE:

This was the date and time set for a public hearing on amending Section 86-1, 86-30, 86-72, and 74-151 of the Marshall City Code of Ordinances pertaining to the definition of the Downtown District. This amendment would provide for revisions to the downtown district boundaries related to the former junior high school block development.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF ORDINANCE AMENDING SEC. 86-1, SEC. 86-30, SEC. 86-72, AND SEC. 74-151 OF THE MARSHALL CITY CODE OF ORDINANCES REGARDING THE DOWNTOWN DISTRICT - PUBLIC HEARING AND ADOPTION OF ORDINANCE:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 656, SECOND SERIES, amending Sec. 86-1, 86-30, 86-72, and 74-151 of the Marshall City Code of Ordinances pertaining to the definition of the Downtown District'. The Summary Ordinance was also approved. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR RESOLUTION APPROVING A REDEVELOPMENT PLAN FOR REDEVELOPMENT PROJECT NO. 4, A TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 4-1:

This was the date and time set for a public hearing on the Redevelopment Plan for Redevelopment Project No. 4, a Tax Increment Financing Plan for Tax Increment Financing District No. 4-1. Ben Martig, City Administrator, briefly reviewed the Redevelopment Plan for Redevelopment Project No. 4,

a Tax Increment Financing Plan for Tax Increment Financing District No. 4-1. This is the former Marshall Middle School property that has been sold to Trident Financial LLC. Roger Fink, representative from Trident Financial LLC, indicated that their intent is to convey the property to Heritage Pointe Partners LLC.

Member (**Charlie Sanow**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER RESOLUTION APPROVING A REDEVELOPMENT PLAN FOR REDEVELOPMENT PROJECT NO. 4, A TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 4-1:

Member (**Larry Doom**) Moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to approve RESOLUTION NUMBER 3739, SECOND SERIES approving a Redevelopment Plan for Redevelopment Project No. 4, A Tax Increment Financing Plan for Tax Increment Financing District No. 4-1 and a Contract for Private Development Between the City, the Housing and Redevelopment Authority in and for the City of Marshall and Heritage Pointe Partners, LLC'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR ORDINANCE AMENDING ARTICLE V. FINANCE SEC. 2-121 OF CHAPTER 2 OF THE CITY CODE RELATING TO THE ESTABLISHMENT OF THE MARSHALL CAPSTONE ENDOWMENT FUND AND SUMMARY ORDINANCE AMENDING ARTICLE V. FINANCE SEC. 2-121 OF CHAPTER 2 OF THE CITY CODE RELATING TO THE ESTABLISHMENT OF THE MARSHALL CAPSTONE ENDOWMENT FUND:

This was the date and time set for a public hearing amending Article V. Finance Sec. 2-121 of Chapter 2 of the City Code Relating to the Establishment of the Marshall Capstone Endowment Fund.

Member (**Charlie Sanow**) Moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF ORDINANCE AMENDING ARTICLE V. FINANCE SEC. 2-121 OF CHAPTER 2 OF THE CITY CODE RELATING TO THE ESTABLISHMENT OF THE MARSHALL CAPSTONE ENDOWMENT FUND AND SUMMARY ORDINANCE AMENDING ARTICLE V. FINANCE SEC. 2-121 OF CHAPTER 2 OF THE CITY CODE RELATING TO THE ESTABLISHMENT OF THE MARSHALL CAPSTONE ENDOWMENT FUND:

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to adopt ORDINANCE NUMBER 657, SECOND SERIES Amending Article V. Finance Sec. 2-121 of Chapter 2 of the City Code Relating to the Establishment of the Marshall Capstone Endowment Fund. The Summary Ordinance was also approve'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PUBLIC HEARING FOR MODIFICATION OF REDEVELOPMENT PROJECT AREAS NO. 1 AND REDEVELOPMENT PROJECT AREAS NO.2:

This was the date and time set for a public hearing on the Modification of Redevelopment Project Area No.1 and Redevelopment Project Area No.2. The primary purpose of this modification is to add the Airpark East Development area into the area eligible for use of pooled TIF funds to cover local matches

REGULAR MEETING – MAY 22, 2012

with State FAA funds. Presentations have been made to the school district and County board without objection. Since the initiation of this modification, a new proposed TIF project (Bend Rite) has been initiated. Springsted is recommending that since that item would also require a modification if approved that the two in effect be combined into one modification. City staff is comfortable with that direction and will be working to clarify procedurally how to meet all requirements to in effect have modifications done concurrently. This may still need to be completed through separate approvals but may be able to reduce publication or filing expenses by conducting the two simultaneously.

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to continue the public hearing to the regular Council meeting of June 12, 2012.' Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 - 1** Hulsizer voted no.

PUBLIC HEARING FOR APPROVAL OF ORDINANCE AMENDING LIQUOR ORDINANCE AND RELATED SUMMARY ORDINANCE AMENDING LIQUOR ORDINANCE:

This was the date and time set for a public hearing to amend Chapter 6 of the City Code relating to Alcoholic Beverages. The proposed amendment allows for a brewer taproom license as well as amendments related to the allowance of temporary winery license and farm winery license.

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF ORDINANCE AMENDING LIQUOR ORDINANCE AND RELATED SUMMARY ORDINANCE AMENDING LIQUOR ORDINANCE:

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to adopt ORDINANCE NUMBER 658, SECOND SERIES Amending Chapter 6 related to Alcoholic Beverages. The Summary Ordinance was also approved'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

AWARD OF BIDS - CONSIDER APPROVAL OF FIRE STATION WATER LINE REPLACEMENT PROJECT:

Ray Hendrickson, First Assistant Fire Chief, indicated that the Marshall Fire Department had a water break on June 1, 2011 in the fire hall. The break was found early with damages limited to just under \$700. It was discovered when they returned from a fire call outside hours that anyone would normally be in the fire hall. Bisbee's did an initial investigation and was going to do the repairs for under \$5,000. However, upon further inspection it was determined that the piping was substandard and needed more extensive work. Staff decided to recommend delaying until 2012. Quotes were received from:

Bisbee Plumbing & Heating
Marshall, Minnesota
\$25,600.00

Heartland Mechanical
Marshall, Minnesota
\$25,750.00

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'to award bid to Bisbee Plumbing and Heating for fire hall repairs'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

AWARD BIDS - CONSIDER AWARD OF PROPOSALS FOR HEATING AND COOLING DUCT REPAIR AND FLOORING REPLACEMENT AT THE ADULT COMMUNITY CENTER:

There are areas in the Adult Community Center where heating and cooling is difficult or non-existent. An inspection was made with the City's televising system, and it was found that the heating and cooling duct was crushed in several locations in an approximate 20-ft. section of duct. The repair would consist of removal of the flooring, removal of the concrete floor, replacement of the crushed sections of duct, and replacement of the floor and flooring. In accordance with the City Purchasing Policy and Procedures, three proposals were received as follows:

Independent Lumber	Bisbee Plumbing & Heating	Doom & Cuypers, Inc.
Marshall, Minnesota	Marshall, Minnesota	Marshall, Minnesota
\$15,897.65	\$19,015.00	\$36,424.00

Member (Larry Doom) moved, Member (Dan Ritter) seconded to approve the ORIGINAL motion 'that the Council award the proposal for heating and cooling duct repair and flooring replacement at the Adult Community Center Staff to Independent Lumber of Marshall, Minnesota, in the amount of \$15,897.65, including sales tax'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion Carried. 7 - 0

AWARD BID - PROJECT Y80: WALKER LANE/PARK AVENUE RECONSTRUCTION PROJECT / PROJECT Z02: SOUTH HIGH STREET RECONSTRUCTION PROJECT – CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS AND RESOLUTION ACCEPTING BID (AWARDING CONTRACT):

Bids were received, opened and read on May 8, 2012 for Project Y80 Walker Lane/Park Avenue Reconstruction and Z02 South High Street Reconstruction Projects. The bids received, opened and read were from:

Rogge Excavating, Inc.	D & G Excavating, Inc.
Ghent, Minnesota	Marshall, Minnesota
\$499,349.51	\$540,278.10
Chad Monson Excavating, LLC	Winter Bros. Underground, Inc
Willmar, Minnesota	Sioux Falls, South Dakota
\$602,751.96	\$650,000.00
Duininck, Inc.	Cartensen Contracting, Inc.
Prinsburg, Minnesota	Pipestone, Minnesota
\$712,994.95	\$777,666.69

Glenn Olson, Director of Public Works/City Engineer, indicated that a bid bond was not included with the bid from Rogge Excavating, Inc. Mr. Rogge indicated that his bonding agent faxed a copy of his bond to the City of Marshall. The City of Marshall did not receive a faxed copy before the 10:00 A.M. deadline. It was determined that the bonding agent inadvertently sent the fax to 507-537-6803 (Records – Sheriff's Office) and not City Hall (507-537-6830). It was determined that the fax was received at the

REGULAR MEETING – MAY 22, 2012

Sheriff's Office after the expiration of the bid opening time. The following comments were made by staff and the Council:

Council Member Ritter was concerned that the bid bond was not included in the bid packet and wanted to know why the bid would be read.

City Attorney Simpson indicated that the council has the discretion to waive any irregularities and has the right to accept or reject any bids.

Council Member Doom indicated that the bid was not in compliance and should be thrown out.

Council Member Boedigheimer indicated that the contractor has plenty of time to get a bid bond to be submitted with his bid.

Council Member Sanow indicated that the council waived all irregularities when they sold the old Library, so he does not understand why there is such an issue now.

Council Member DeCramer indicated that the bids could be rejected.

Mayor Byrnes asked if the council needed any more information. It was indicated that all required items need to be include in the bid packet.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3740, SECOND SERIES which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds and that the Council adopt RESOLUTION NUMBER 3741, SECOND SERIES, which provides for the Resolution Accepting Bid (Awarding Contract) authorizing entering into an agreement with D&G Excavating, Inc. of Marshall, Minnesota, in the amount of \$540,278.10 and going forward that a bid not be read and be rejected if the bid bond is not included at the time of the bid opening'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Mayor Byrnes called for a 5-minute recess at 6:58 P.M.

**AWARD BID - PROJECT Z10: WEST COLLEGE DRIVE/COUNTRY CLUB DRIVE
SANITARY SEWER REPLACEMENT PROJECT – CONSIDER RESOLUTION DECLARING
OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH
THE PROCEEDS OF TAX-EXEMPT BONDS AND RESOLUTION ACCEPTING BID
(AWARDING CONTRACT):**

A bid was received, opened and read on May 14, 2012. The bid received, opened and read was from:

Thompson Excavating

Taunton, Minnesota

\$90,154.50

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3742, SECOND SERIES, which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds and that the Council adopt RESOLUTION NUMBER 3743, SECOND SERIES which provides for the Resolution Accepting Bid (Awarding Contract) authorizing entering into an agreement with Thompson Excavating of Taunton, Minnesota, in the amount of \$90,154.50 for Project Z10'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSENT AGENDA

Member (**Dan Ritter**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the council approve all consent agenda items as presented'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

That the proper City personnel be authorized to enter into a lease with the State of Minnesota for Driver and Vehicle Services to Conduct Motorcycle Skill Tests. This lease will expire on June 30, 2014.

BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Application to Conduct Off-Site Gambling for Holy Redeemer Church to use at the Lyon County Fairgrounds, 504 Fairgrounds Road, Marshall, Minnesota on September 23, 2012.

Authorization be granted to the Department of Public Safety to dispose of surplus City property – two (2) vehicles. These vehicles will be auctioned using the State's On-Line auction process. Those vehicles that don't receive the minimum bid will be taken to Alter Metal Recycling for disposal.

That the Council approve the "Terms and Conditions of Accepting Airport Improvement Program (AIP) Grants.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 79379 through 79577.

HERITAGE POINTE ADDITION – INTRODUCTION OF PRELIMINARY PLAT AND CALL FOR PUBLIC HEARING:

Glenn Olson, Director of Public Works/City Engineer, reviewed the preliminary plat of Heritage Pointe Addition. This is a request by HRA of Marshall (the current owner) and Trident Development (the future owner) to subdivide the former Junior High site for development of an assisted living care and memory care facility.

Member (**Charlie Sanow**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council introduces the preliminary plat and calls for a public hearing to be held on the Preliminary Plat of Heritage Pointe Addition to be held at the June 12, 2012 City Council meeting'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF ADOPTION OF ORDINANCE TO REZONE 400 & 404 WEST LYON STREET:

Glenn Olson, Director of Public Works/City Engineer, reviewed the rezoning request by HRA of Marshall (the current owner) and Trident Development (the future owner). Currently, the four lots that HRA owns are vacant and the rezoning will facilitate the future development by Trident. Adjacent is an existing church situated on two lots which are currently zoned R-4; the City of Marshall staff believes that these two lots should also be rezoned to B 2 to terminate what looks like spot zoning now. Churches are a permitted use in B-2 Zoning District. According to the Ordinance, the Central Business District is restricted to the Downtown District. Therefore, the City staff requests a Downtown District revision to include these rezoned properties. The church currently does not have off-street parking. Requirements for B-2 Zoning District can be found in Section 86-103. Rezoning procedures are described in Section 86-30 Amendments.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 659, SECOND SERIES to rezone Lots 7, 8, 9, 10, 11 and 12 of Block 16 of Original Plat; 400 and 404 West Lyon Street; from R-3 (Low to medium density multiple Family Residence District) and R-4 (Higher density multiple Family Residence District) to B-2 (Central Business District) and include those properties into the Downtown District'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

FIRST DEVELOPMENT CONTRACT WITH AVERA MARSHALL REGIONAL MEDICAL CENTER FOR CHARLES AVENUE STREET IMPROVEMENTS (SOUTH BRUCE STREET TO MINNESOTA STREET):

Glenn Olson, Director of Public Works/City Engineer, indicated that Avera Marshall is in the process of significant improvements to the Bruce Street Medical Facility. Included in those improvements is the reconstruction of Charles Avenue from South Bruce Street to Minnesota Street. Mr. Olson reviewed the First Development Contract for these improvements to be constructed by the Developer and subsequently transferred to the City for ownership. All improvements must be done in accordance with the plans and specifications which have been provided to the City and inspected in accordance with City requirements. Prior to the Council's acceptance of the improvements, the engineer must provide documentation of as-built conditions, certified for compliance with City specifications.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council authorizes execution of the attached First Development Contract with Avera Marshall Regional Medical Center for Charles Avenue Street Improvements, subject to agreement by Marshall Municipal Utilities and review by the City Attorney'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PRESENTATION OF NORTH MEMORIAL AMBULANCE 2011 YEAR-END REPORT:

Dan DeSmet, Manager of the North Memorial Ambulance System was in attendance at the meeting to present the annual year-end report for 2011.

CONSIDER AMENDED FEE RESOLUTION TO INCLUDE BREWER TAP ROOM LICENSE:

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3744, SECOND SERIES, Amending Resolution 3670, Second Series – Resolution Approving Specific Fees to be Charged by the City of Marshall. This resolution provides for fees to include the brewer taproom license fee of \$250'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER RESOLUTIONS REGARDING THE JOINT RESOLUTION FOR ORDERLY ANNEXATION WITH LAKE MARSHALL TOWNSHIP:

Glenn Olson, Director of Public Works/ City Engineer, indicated that the City has an agreement with Lake Marshall Township for Orderly Annexation of certain properties adjacent to the city limits for the purpose of potential development and provision of City services. The City received several petitions for annexation from property owners within the Orderly Annexation area, including properties along CSAH 7 and the Township Road east of T.H. 23 just south of Knology. The City has also been working with Southwest Coaches of Marshall for repair and expansion of the bus garage which included additional property outside the city limits at the time of the repair and new construction. It was decided at that time that the City would not hold up the repair and construction until annexation of the additional property was complete. The area adjacent to CSAH 7 includes one residential property annexed previously (former Tople property), two residential properties petitioning for annexation (Andres and Gile), and

one major commercial property (Magellan Pipeline Company, LP) already receiving City power, City water, and availability of City sanitary sewer. Because of these requests and issues, staff believes it is necessary to annex the entire section of property west of CSAH 7 from T.H. 19 south to the Redwood River.

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3745, SECOND SERIES; RESOLUTION NUMBER 3746, SECOND SERIES; and RESOLUTION NUMBER 3747, SECOND SERIES; which relate to the Joint Resolution for Orderly Annexation with Lake Marshall Township for the annexation of various properties along CSAH 7 (53.7 acres +/-); Vincent LaPorte property (2.67 acres +/-); and proposed Water Bus Second Addition property (1.0 acres +/-), respectively'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER REQUEST FOR STREET CLOSURE FOR SCHWAN'S EMPLOYEE APPRECIATION EVENT ON AUGUST 12, 2012:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City received a request from The Schwan Food Company for street closures for an Employee Appreciation Event on August 12, 2012 utilizing segments of East Saratoga Street and Marvin Schwan Memorial Drive. This is a relocation from the SMSU location of previous years. The intent is to have tents, games, food and fun for all Marshall-based employees and families of The Schwan Food Company. It was further indicated that the Bloomington employees are invited to the event as well. No detour routes will be put in place. The City will deliver the barricades to the boulevard of the street segments and Schwan's will put the barricades in place in the morning and removal back to the boulevards in the evening after conclusion of the event. Public notification will be provided in accordance with the City's press release procedures and placing the information on the City website. The Police Department will be responsible for contacting all other emergency services of this street closure in accordance with previous procedures.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council authorizes the closure of the following streets for The Schwan Food Company Employee Appreciation Event on August 12, 2012 from 6:00 am to 5:00 pm: 1) Closure of East Saratoga Street from College Drive to Greeley Street; and 2) Closure of Marvin Schwan Memorial Drive from West College Drive to the entrance of the YMCA parking lot on Marvin Schwan Memorial Drive'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER RESOLUTION IDENTIFYING PUBLIC PURPOSE AND ENTERING INTO COOPERATIVE CONSTRUCTION AGREEMENT BETWEEN LYON COUNTY AND THE CITY OF MARSHALL FOR DESIGN AND CONSTRUCTION OF CAMDEN TO MARSHALL BIKE TRAIL PROJECT:

Member (**Dan Ritter**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3748, SECOND SERIES, Identifying Public Purpose and Entering Into Cooperative Construction Agreement between Lyon County and the City of Marshall for Design and Construction of Camden to Marshall Bike Trail Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**PROJECT Y61 / S.A.P. 139-130-001: KOSSUTH AVENUE RECONSTRUCTION PROJECT --
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 replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The proposed project will reconstruct the street and described utilities on Kossuth Avenue from North 4th Street to North 7th Street and North 5th Street from Mason Street to Hudson Avenue. The proposed project will include a change in alignment from North 6th Street to North 7th Street and include the demolition of the old rendering building and small storage building adjacent to the animal impound center, which are in the way of the street construction.

Brenda Lee, 809 North 6th Street, was concerned with sidewalks being installed on their side of Kossuth because they will lose trees. Ms. Lee asked if they would be reimbursed for the trees. Mr. Olson indicated that the trees in the boulevard would be removed and the replacement would be in the private yard because of root development and tree growth. The replacement trees will not be the same size as the trees that are removed. The Public Improvement Transportation Committee discussed this issue. Ms. Lee indicated that they would like to see sidewalks on both sides of Kossuth and that if only one side why not the other side where there are not trees. Council Member Sanow indicated that the Public Improvement Transportation Committee were in favor of sidewalks on one side only. Council Member Ritter indicated that he was unable to attend the Public Improvement Transportation Committee meeting and that he was in favor of sidewalks on both sides of Kossuth from North 5th Street to Oak Street.

Member (**Charlie Sanow**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt a Resolution Approving Plans and Specifications and Ordering Advertisement for Bids' for Project Y61 / S.A.P. 139-130-001: Kossuth Avenue Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 2 Nay: 5. The motion **Failed. 2 – 5** Voting no were: Ritter, Hulsizer, DeCramer, Boedigheimer and Byrnes.

Member (**Dan Ritter**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3749, SECOND SERIES which is the "Resolution Approving Plans and Specifications and Ordering Advertisement for Bids" for Project Y61 / S.A.P. 139-130-001: Kossuth Avenue Reconstruction Project and include inclusion of sidewalks on North 5th Street to Oak Street along Kossuth Avenue north to the newly constructed entrance to the street shop'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion (**Carried**). **5 - 2** Voting no were: Sanow and Doom.

LG220 APPLICATION FOR EXEMPT PERMIT:

Member (**John DeCramer**) moved, Member (**Larry Doom**) BE IT RESOLVED, that the proper City personnel be authorized to advise the State of Minnesota Charitable Gambling Control Board that they have approved the Application for Exempt Permit for Marshall Area Fine Arts Council for a raffle to be held at 115 West College Drive, Marshall, Minnesota on August 16, 2012 and that the 30 day waiting period be waived. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER A SPECIAL VEHICLE PERMIT:

Ben Martig, City Administrator, indicated that Karen Meister has applied for a Special Vehicle Permit to run errands around Marshall. She would like to be able to use the permit to drive on all Marshall Streets

designated 30 mph or less. Rob Yant, Director of Public Safety, is recommending this permit be approved for standard special vehicle use, which would allow her to go to and from their home and the Marshall Golf Club avoiding highways and busy streets. Several Council Members were concerned with granting this permit as requested by the Meisters to be able to drive on all Marshall Streets designated at 30 mph or less. Steven Meister indicated that they would not drive on major highways and only license drivers would be allowed to use it.

Member **(Dan Ritter)** moved, Member **(John DeCramer)** seconded to approve the **NEW** motion 'refer review of city code related to unlicensed vehicles to Legislative and Ordinance Committee'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER AUTHORIZATION TO MAINTAIN CELL PHONE ALLOWANCE FOR EMPLOYEE ON LEAVE:

Sheila Dubs, Human Resource Coordinator, indicated that Rob Yant, Director of Public Safety will be taking a leave of absence for approximately nine (9) weeks beginning in July. The Director currently receives an allowance for a cell phone and data service plan totaling \$80.00 per month. The City Personnel Policy on Mobile Communication Devices requires City Council approval to maintain this allowance when a leave of absence exceeds 45 days. During the period of leave, the Director of Public Safety intends to maintain contacts and communications with the City to assure smooth operations in his absence.

Member **(Larry Doom)** moved, Member **(John DeCramer)** seconded to approve the **ORIGINAL** motion 'Rob Yant, Director of Public Safety, be allowed to receive the allowance for a cell phone and data service plan totaling \$80.00 per month during his leave of absence'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 - 1** Voting no was: Boedigheimer.

CONSIDER INTERIM TEMPORARY POSITION TITLED "ASSISTANT POLICE CHIEF" AND RELATED TEMPORARY INCREASE IN THE SALARY RELATED TO POSITION:

Sheila Dubs, Human Resources Coordinator, indicated that Rob Yant, Director of Public Safety will be taking a leave of absence for approximately nine (9) weeks beginning in July. Staff has reviewed the essential duties and responsibilities of this position and has determined that the operations of the Fire Department and Chemical Assessment Team can be served utilizing the City Administrator as a point of contact for critical concerns that arise during the Director's absence. It is the responsibilities within the operations of the Police Department that require the most support from the Director, and due to the nature of the everyday events dealt with and the duration of the Director's leave of absence, it is staff's recommendation that an alternative command structure be implemented during the interim period of time. In the absence of a Director, the current command structure of the Police Department relies on Sergeants as the next highest personnel in command. There are three Sergeants, two are Patrol Sergeants and one is an Investigative Sergeant. Currently, all three individuals are qualified to assume the back-up police duties of the Director in his absence. Staff is recommending that one of our current Sergeants be designated to the temporary position of Assistant Police Chief and that the individual selected by staff receive a temporary increase in compensation while performing in this designated role. Staff is recommending the Assistant Police Chief be compensated at step 1 of the Director of Public Safety wage rate on the 2012 Wage Schedule. The Assistant Police Chief would be classified as a non-exempt position, meaning the employee would be eligible for overtime compensation.

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **NEW** motion 'to approve an Interim Position of Assistant Police Chief with an hourly rate of \$33.72 with City Administrator approval required for overtime'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 – 1** Hulsizer voted no.

CONSIDER PURCHASE OF A 360 DEGREE FEEDBACK SURVEY SYSTEM FROM CUSTOM INSIGHT:

Sheila Dubs, Human Resource Coordinator, reviewed a 360 degree feedback system which is a process by which employees receive confidential, anonymous feedback from the people that work around them. A 360 degree feedback system is often used in organizations for managers and leaders to obtain broader feedback that provides a better understanding of the employee's strengths and weaknesses and supports professional development. Staff is interested in pursuing this type of feedback system for the City Administrator and other key positions within the organization. Focal 360 is an online software system offered by a company called Custom Insight for conducting 360 degree feedback evaluations. This is an online software program; there is no software to download. They offer complete 360 questionnaires and feedback reports. The process of setting up a questionnaire, collecting survey responses, and downloading reports is fully automated with their online software solution. Custom Insight offers two product options. Both options include an unlimited number of raters to participate in the surveys. Option A: \$180.00 per participant fee. – Key Features: • This is a standardized survey and collection process. • This product does not allow for customization of the survey or reporting features. • Staff sets the schedule and manages the process. • The Feedback Report is emailed to the City automatically once the feedback period is complete. Option B: Initial set up fee of \$750.00 (one-time fee) and \$95.00 per participant fee thereafter. – Key Features: • This option allows for customization of the survey and reporting features. • Staff can use their benchmarked and validated competency model and survey items or use our own. • Staff can add participants at their convenience. • Staff can monitor response progress. • Staff can generate reports on demand. • Low per-participant cost—pay as you go. • No software to download. Manage everything via the internet. Staff would like to utilize this evaluation tool for multiple positions within the City as a standard evaluation tool (e.g., every year or every other year) to assist with employees' professional growth.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **NEW** motion 'consider approval of 360 Degree Feedback Survey System from Custom Insight for purchase of fully customizable option'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Carried. 5 - 2** Voting no were Sanow and Boedigheimer.

CONSIDER APPOINTMENTS TO VARIOUS BOARDS/COMMISSIONS:

Per the recommendation of Mayor Byrnes, Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'approve the following appointments be made'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Carried. 6 - 0** Boedigheimer abstained.

Airport Commission – Michael Dulas be reappointed for a three year term to expire on May 31, 2015

Leland Sorum be reappointed for a three year term to expire on May 31, 2015

Cable Commission – Ken Smith be appointed for a three year term to expire on May 31, 2015

REGULAR MEETING – MAY 22, 2012

Housing Commission – Jacob Buchanan be appointed for a three year term to expire on May 31, 2015

Planning Commission – Kristine Willrett be reappointed for a three year term to expire on May 31, 2015

Scott Stewart be reappointed for a three year term to expire on May 31, 2015

Utilities Commission – David Sturrock be appointed for a five year term to expire on May 31, 2017

CONSIDER RESOLUTION CALLING FOR A PUBLIC HEARING ON THE PROPOSED ESTABLISHMENT OF PROPOSED TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 1-12 WITHIN REDEVELOPMENT PROJECT NO. 1 OF THE MARSHALL HOUSING & REDEVELOPMENT AUTHORITY:

Member (Charlie Sanow) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'to adopt RESOLUTION NUMBER 3750, SECOND SERIES Calling for a Public Hearing on the Proposed Establishment of Proposed Tax Increment Financing Plan for Tax Increment Financing District No. 1-12 Within Redevelopment Project No. 1 of the Marshall Housing & Redevelopment Authority'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion Carried. 7 - 0

CONSIDER APPROVAL OF REAL ESTATE PURCHASE AGREEMENT WITH LYON COUNTY FOR FORMER LIBRARY BUILDING AND LAND LOCATED AT 301 W. LYON STREET:

Member (Dan Ritter) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'to approve the Real Estate Purchase Agreement with Lyon County for the former library building and land located at 301 W. Lyon Street'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion Carried. 5 – 2 Voting no were: Sanow and Hulsizer

COUNCILMEMBER COMMISSION/BOARD LIAISON REPORTS:

Reports by the Mayor and Council Members of the various Boards and Commission were presented at this time:

Byrnes No report.

Hulsizer Convention and Visitors Bureau met, but did not have a quorum

Doom No report.

Sanow No report.

DeCramer Utilities Commission awarded the sale of their bonds

Boedigheimer No report.

Ritter No report.

REGULAR MEETING – MAY 22, 2012

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Boedigheimer asked about the status of the structural engineer's report on the Marshall Hotel Property. Glenn Olson, Director of Public Works/City Engineer, indicated that the final structural report has been received from the structural engineer Jim Panko regarding the Marshall Hotel Property. Boedigheimer indicated that he was not in favor of putting two or three items together in one memo and the council should review the cost of variances (i.e. over \$600).

STAFF REPORTS – CITY ADMINISTRATOR:

Ben Martig, City Administrator indicated that Taylor Gronau, Administrative Graduate Intern started today (unpaid). One of these first priorities is working on a survey instrument to meet the requirements of performance measurement. Mr. Martig reminded everyone of the MERIT open house on Wednesday, May 23rd. He also reminded everyone of the meeting on Thursday evening with Lyon County at 7 p.m. The Administrative Code will be presented at a June Council meeting.

STAFF REPORTS - DIRECTOR PUBLIC WORKS/CITY ENGINEER:

Glenn Olson, Director of Public Works/City Engineer, did not have a report at this time.

STAFF REPORT - CITY ATTORNEY:

Dennis Simpson, City Attorney, indicated that staff is formulating a recommendation to have the property located at 620 West Main Street that was damaged in the July 1st storm declared hazardous property.

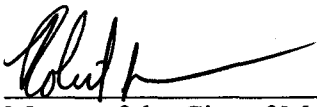
REVIEW OF PENDING ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:


There were no questions on the information items.

Member (John DeCramer) moved, Member (Dan Ritter) seconded to approve the ORIGINAL motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion Carried. 4 – 3 Voting no were: Sanow, Ritter, and Boedigheimer.



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk