

REGULAR MEETING – JUNE 12, 2012

The regular meeting of the Common Council of the City of Marshall was held on June 12, 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, and Mike Boedigheimer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works; Rob Yant, Director of Public Safety; Marc Klaith, Fire Chief; Sheila Dubs, Human Resource Coordinator; Taylor Gronau, Administrative Graduate Intern; 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:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'to approve the agenda with removal of item 8, which is to consider approval of TIF Development Agreement with Trident Development'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

APPROVAL OF MINUTES

Member (**Mike Boedigheimer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the minutes of the Local Board of Appeal and Equalization held on April 30, 2012 and the minutes of the regular meeting held on May 22, 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 CONTINUE PUBLIC HEARING FOR MODIFICATION OF REDEVELOPMENT PROJECT AREAS NO. 1 AND REDEVELOPMENT PROJECT AREAS NO.2:

This was the date and time set to continue the public hearing for the Modification to the TIF District related 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 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 (**Charlie Sanow**) moved, Member (**Larry Doom**) 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**

HERITAGE POINTE ADDITION -- PUBLIC HEARING ON PRELIMINARY PLAT:

This was the date and time set for a public hearing on the Preliminary Plat of Heritage Pointe Addition in Marshall, Minnesota. 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. Copies of the proposed subdivision have been sent to the local utility companies for their review and comments, comments were received, and all necessary utility easements have been included in the preliminary plat. The preliminary plat includes the vacation of the alley between Lots 3 through 6 and Lots 7 through 10 and the north half of said vacated alley adjacent to Lots 1 and 2, all in Block 16 of the Original Plat of Marshall. Prior to the final plat being recorded, the alley vacation must be recorded. This vacation was approved at the May 22, 2012 Council meeting and has been sent to the Lyon County Recorder's office. The Planning Commission recommended approval subject to all alley issues being resolved to the satisfaction of Christ United Presbyterian Church. All alley issues have been resolved to the satisfaction of the Church.

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on the Preliminary Plat of Heritage Pointe Addition'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

HERITAGE POINTE ADDITION -- APPROVAL OF PRELIMINARY PLAT:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council approve the Preliminary Plat of Heritage Pointe Addition'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

HERITAGE POINTE ADDITION -- CONSIDER RESOLUTION ADOPTING THE FINAL PLAT:

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3751, SECOND SERIES, which provides for the approval of the Final Plat of Heritage Pointe Addition'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF TIF DEVELOPMENT AGREEMENT WITH TRIDENT DEVELOPMENT:

This item was removed from the agenda.

PUBLIC HEARING FOR TIF DISTRICT 1-12 IN MODIFIED REDEVELOPMENT PLANS IN PROJECT AREA 1 AND 2:

This was the date and time set for the public hearing for Tax Increment Finance District 1-12 and the modification of the modified redevelopment plans for Redevelopment Project No. 1 in which the TIF District is to be located and Schwan's Redevelopment Project No. 2. Cal Brink, CEO Marshall Area Chamber of Commerce, briefly reviewed this Tax Increment Plan.

Member (**Dan Ritter**) 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 TIF DISTRICT 1-12 IN MODIFIED REDEVELOPMENT PLANS IN PROJECT AREA 1 AND 2:

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'adopt RESOLUTION NUMBER 3752, SECOND SERIES approving the tax increment financing plan of the Housing and Redevelopment Authority in and for the City of Marshall for proposed tax increment financing District No. 1-12 and modification of the modified redevelopment plan for redevelopment Project No. 1 in which the TIF District is to be located and modification of Schwan's redevelopment Project No. 2'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 - 1** Voting no was Jennie Hulsizer.

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**Larry Doom**) 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**

Per the Personnel Committee and Staff the amendments, as presented, to Appendices A and B of the Personnel Policy manual be approved.

The approval of the amended 2012 and 2013 Wage Schedules.

To approve a Transient Merchant License for Minnesota Remodeling Solutions. This license will expire on December 31, 2012. The fee for this license is \$315.00.

Call for a public hearing to be held at 5:30 P.M. on June 26, 2012 for the transfer of the On-Sale Liquor License for Mariachi Fiesta Mexican Restaurant.

The Police Department be given authorization to apply online for Bureau of Justice Assistance Bulletproof Vest Partnership FY 2012 funds.

The introduction of an ordinance amending Chapter 86 of the Marshall City Code of Ordinances relating to rezoning 53.7 Acres (various properties along CSAH 7) within the Orderly Annexation Area of Lake Marshall Township.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 79578 through 79836.

The introduction of an ordinance to rezone 27.36 Acres (proposed Water-Bus Second Addition and the area within Water-Bus Addition) within the Orderly Annexation Area of Lake Marshall Township.

ITEMS PULLED FROM CONSENT - CONSIDER APPROVAL TO TRANSFER A TOBACCO LICENSE:

The licensee of Marshall Tobacco, Inc., Mr. Kehelaouinet, currently requesting the license transfer has been charged with four counts (2 gross misdemeanors, 2 misdemeanors) of selling a controlled substance. County Attorney Rick Maes is handling the prosecution of the matter. As of last Friday, June 8, 2012, a back-up trial has been set for August 15/16 and a date-certain trial date has been set

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for Dec. 20/21, unless it can be settled prior to those dates. This information is relevant to the license of tobacco sales. The City Council may want to consider the implications of the issue relevant to final court actions in relation to the existing location license or requested new license. Staff does support an alternate consideration to remove from consent and table item to be returned to the agenda by Council action. The City Attorney would advise council of the appropriate time after conclusion of final court action.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'approve the transfer of the Tobacco License for Marshall Tobacco, Inc., from 204 West Main Street to 200 West Main Street'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **2**. The motion **Carried. 5 - 2** Voting no were: Charlie Sanow and Robert Byrnes

CONSIDER A SPECIAL VEHICLE PERMIT:

Ben Martig, City Administrator, indicated that the Legislative and Ordinance Committee reviewed the Special Vehicle Ordinance and indicated that they did not come to a consensus at the meeting. Mr. Martig indicated that City staff is considering amending the current ordinance and this will be introduced later in the meeting. The Council Members were concerned with City staff riding lawn mowers on various City Streets. Council Member Ritter questioned if the City is in compliance with the Special Vehicle Ordinance. Dennis Simpson, City Attorney, indicated that golf carts can be driven by non-licensed drivers, that no lights are required and there are different safety requirements. Council Boedigheimer indicated that the City Council can impose any type of safety equipment on these vehicles that they consider necessary. Rob Yant, Director of Public Safety, indicated that the State allows all of these vehicles on streets.

Steve and Karen Meister indicated that they had to purchase the vehicle before they could apply for a permit. He stated that the ordinance should be changed to allow people to get a permit before purchasing a golf cart. Steve and Karen Meister respectively disagree with the City Attorney. They indicated that per state statutes lights are required and the City Ordinance requires that the driver has to be licensed. They indicated that the Golf Club only allows golf carts that they own on the golf course. The City needs to think outside of the box and be greener.

Council Member DeCramer indicated that there is more pollution from the golf cart than a car.

Meister's were asked if the permit was approved would they proceed with getting the permit. Mr. Meister indicated that they would have a golf cart for sale.

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'a Special Vehicle Permit be approved for Karen Meister to be used to go to and from her residence to the Marshall Golf Club avoiding highways and busy streets with provision that if applicant is not supportive of conditions added that the permit be voluntary revoked with no \$35.00 fee charged.'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **2**. The motion **Carried. 5 - 2** Voting no were: Jennie Hulsizer and Mike Boedigheimer

APPROVAL OF RESOLUTION APPROVING LOCAL SALES TAXES AND AUTHORIZING ACTION TO BE TAKEN BY THE CITY:

Ben Martig, City Administrator, indicated that this resolution is required to be adopted to certify the special laws. The resolution was drafted by Kennedy & Graven and City staff.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3753, SECOND SERIES, Approving Local Sales Taxes & Authorizing Actions to be Taken by the City in Connection with Such Taxes'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Carried. 5 - 2** Voting no were: Charlie Sanow and Jennie Hulsizer

CONSIDER APPROVAL OF RESOLUTION CALLING FOR TWO SPECIAL REFERENDUM QUESTIONS ON THE NOVEMBER 6, 2012:

Ben Martig, City Administrator, indicated that he is working with Kennedy & Graven on the wording for the ballot. The wording needs to meet certain criteria according to the law. Ben indicated that the lodging part does not need to be voted on – only the food and beverage needs to be voted on. Council Member DeCramer clarified that food and beverage does not include items purchased in a grocery store. He indicated that the public needs to be educated on what items would be taxable. A final version will be presented to the Council at a later meeting in June or July.

CONSIDER CONTINGENT LAND DONATION AGREEMENT WITH THE SCHWAN FOOD COMPANY:

Ben Martig, City Administrator, reviewed the property that is proposed to be donated by Schwans for use of Amateur Sports facilities pending the vote in November. The City Attorney's office has completed a draft agreement and staff is working with Schwans to complete a final version for review at an upcoming meeting in June or July. The donation would include transfer of the outlot for the sports center (9.81 acres), parking area (2.32 acres), and remaining drainage ponds.

CONSIDER RESOLUTION FOR DEED CAPITAL GRANT FOR AMATEUR SPORTS PROJECT:

Ben Martig, City Administrator, indicated that eligible applicants for the Business Development Capital Projects Grant Program are local governmental units including counties, cities, towns, special districts, public higher education institutions, or other political subdivisions or public corporations. Eligible projects must be capital projects for acquisition or improvement of publicly owned fixed assets having a useful life of at least ten years for which state general obligation bonds may be used. Eligible costs include predesign, design, acquisition of land or buildings, construction, furnishing and equipping a new or renovated building. Projects may also include publicly owned physical infrastructure required to support an eligible project including, but not limited to, wastewater collection and treatment systems, drinking water systems, storm sewers, utility extensions, telecommunications infrastructure, streets, roads, bridges, and parking ramps.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3754, SECOND SERIES, which is a Resolution certifying that project funds are available and committed to complete the project for the Southwest Minnesota Regional Amateur Sports projects'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 – 1** Voting no was Jennie Hulsizer

CONSIDER RESOLUTION AUTHORIZING DEED CAPITAL GRANT REQUEST FOR MERIT CENTER PROJECT:

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3755, SECOND SERIES, which is a Resolution Certifying That Project Funds Are Available and Committed to Complete the Project for the Minnesota Emergency Response and Industry Training (MERIT) Center Projects'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 – 1** Voting no was Jennie Hulsizer

MARSHALL HOTEL STRUCTURAL ASSESSMENT – PRESENTATION OF DRAFT FINAL REPORT BY PAULSEN ARCHITECTS:

Jim Panko from Paulsen Architects provided a power point presentation on the Marshall Hotel Structural Assessment. Mr. Panko indicated that his firm along with City Employees spent 2 days going through the Marshall Hotel. Mr. Panko indicated that the major concern is the roof continuing to deteriorate if not repaired.

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council accept the Structural Assessment Report, subject to City Attorney review and approval'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

MARSHALL HOTEL (326 W. MAIN ST.) HAZARDOUS BUILDING ORDER:

Dennis Simpson, City Attorney, indicated that the Marshall Hotel has been the subject of ongoing contentious litigation between the City of Marshall and building owner Joseph V. Bot. The City of Marshall had previously obtained a search warrant and representatives of the Marshall Fire Department entered the building and took extensive number of photographs outlining the condition of the building. Contemporaneous with the inspection, litigation had been initiated against City of Marshall and other entities alleging that the City and others had denied the building owner access to rehabilitation funds. Litigation has been resolved in the City's favor. As a result of the conclusion to litigation, the City of Marshall did hire a structural engineer to review the structural integrity of the building. Another search warrant was obtained and the structural engineer and members of the Marshall Fire Department entered the building for an extensive review and testing was done regarding the interior and exterior of the Marshall Hotel building. Jim Pakno from Paulsen Architects prepared a report and provided a power point presentation. Action to be taken by a City against "hazardous buildings" is set forth in Minnesota Statute Chapter 463. That action against the property begins with an order from the City Council ordering that the building be repaired. In this situation, repairs would need to be done in compliance with the structural engineer report.

Alternatively, the building owner can also agree to raze and remove the building. Minnesota statutes indicate that the order to repair or raze the building must be served on the building owner. Building owner shall have a "reasonable time to repair or raze the building". The present order gives the building owner 60 days to repair or raze the building. If the owner does not take the corrective action within the timeframe set and the building owner has not answered the order within 20 days, the City can then proceed to district court to get an order to remove the property. Any costs incurred by the City to remove the property would be assessed as a special assessment against the property.

Alternatively, if the property owner does answer this matter by filing with district court, then this will proceed through district court as any other litigation matter would proceed. This action does get

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a priority scheduling but it will still take some time to work its way through the court system. If there is a formal answer filed, the action against the property would be delayed until that litigation is concluded.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Marshall City Council issue an order to the building owner ordering that repairs be made or that the building is razed and removed. Said repairs or raze and removal to be completed within 60 days of the order being served on property owner'. 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 7:17 P.M.

AUTHORIZATION FOR FINANCING OF FIRE RELIEF ASSOCIATION FOR THE PURCHASE OF A NEW PICK-UP, SCOUT (ATV) AND NEW TRAILER FOR THE FIRE DEPARTMENT:

Marc Klaith, Fire Chief, indicated that the Fire Department is requesting authorization to purchase a new 4-wheel drive, 4 door cab diesel pickup; an International Scout ATV and a trailer. The Fire Department will be using funds raised for this equipment. Mr. Klaith indicated that the Fire Department has received donations to put towards the purchase of this equipment. The Fire Department is requesting the City of Marshall provide a loan to the Fire Department in the amount of \$21,761.25 to be financed over a 4 year period with payment of \$5,440.31 due at the end of each year. The first payment would be in 2012.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'approve financing of Fire Relief Association for the Purchase of a new Pick-up, a Scout (ATV) and new Trailer for the Fire Department'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER ADOPTION OF RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY FOR THE MARSHALL FIRE DEPARTMENT:

Member (**Dan Ritter**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'adopt RESOLUTION NUMBER 3756, SECOND SERIES Accepting the Donation of Personal Property by the City of Marshall to be used for a new pickup, ATV and trailer for the Marshall Fire Department'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Marc Klaith indicated that the ladder truck is back in operation.

CONSIDER TWO SPECIAL VEHICLE PERMITS FOR AVERA:

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to approve two Special Vehicle Permits for Morningside Heights Care Center and Daybreak Adult Day Services with the following conditions: the city agrees to waive the \$35.00 permit fee; and the vehicles be driven during daylight hours, must have turf tires, a beacon light attached to the rear of the vehicle and be higher than the rear of the vehicle and trailer; and the permit is limited exclusively to transport residents of Morningside Heights Care Center and Daybreak Adult Day Services; and the speeds of the permitted vehicle and trailer shall not exceed 20

miles per hour; and the permit is valid for all streets except East & West Main Street, East & West College Drive, Channel Parkway and all State Highways (except to cross) within the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Carried. 5 - 2** Voting no were: Jennie Hulsizer and Charlie Sanow

**PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT –
CONSIDER RESOLUTION ORDERING PREPARATION OF REPORT ON
IMPROVEMENT:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Tiger Park Stormwater Detention Pond Project Z05. The project includes the expansion of the existing Marshall High School storm water pond, the construction of two new storm water ponds in the northeast and northwest portions of the intersection of East College Drive (TH 19) and TH 23, and related storm sewer work. The proposed work will provide storm water storage and storm water treatment prior to the outfall to Branch 10 of the Lyon County Ditch System. The project is necessary due to the impending commercial development of the areas served by these proposed stormwater detention ponds. The current plan consists of proposed automobile dealerships, Amateur Sports Commission facilities, and other supportive commercial developments. This will require stormwater detention and treatment ponding to accommodate the entire undeveloped area. The proposed stormwater detention ponds include three separate ponds, two on site and one off site located on property owned by Minnesota State Colleges and Universities System (MnSCU) (Southwest Minnesota State University) to provide the necessary acreage for the detention and treatment of the entire area. An agreement with MnSCU will be necessary prior to the development of a stormwater pond on their property. The Feasibility Report will address this issue.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3757, SECOND SERIES, which is the Resolution Ordering Preparation of Report on Improvement for Project Z05: Tiger Park Stormwater Detention Pond Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**PROJECT Y40: "C" STREET RECONSTRUCTION PROJECT – CONSIDER CHANGE
ORDER NO. 2 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT
APPLICATION TO ROGGE EXCAVATING:**

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approves Change Order No. 2 (Final) with Rogge Excavating, Inc. of Ghent, Minnesota, resulting in a contract increase of \$17,710.42 and a total contract cost of \$493,678.97 and acknowledgement of Final Payment Application in the amount of \$42,218.40 for the above referenced project'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Carried. 5 - 2** Voting no were: Dan Ritter and Jennie Hulsizer

REVISIONS TO THE AIRPORT CAPITAL IMPROVEMENT PROGRAM (CIP):

Glenn Olson, Director of Public Works/City Engineer, briefly reviewed the proposed revisions to the 5-Year Capital Improvement Program (2013-2017) that was recommended for approval by the Airport Commission with a prioritization of federal projects, inclusion of the extension of Runway & Taxiway 02/20 and a phased development of the ramp and taxiway area for Marshall Airpark East. The revisions were made necessary because of the potential cost increases due to federal

participation decreases and additional estimated construction costs. The 90% FAA reimbursement comes from our accumulated General Aviation (GA) entitlement funds, of which the City currently receives \$150,000 per year. The current total accumulated GA entitlement funds for the City is \$38,000 from FFY2010, \$90,000 from FFY2011, and \$150,000 from FFY2012, and \$150,000 from FFY2013 (October 2012), for a total of \$428,000.

Mr. Olson indicated that the City was contacted by the owner of Bud Rose Flowers indicating an interest in selling their property to the City. This acquisition had not been a high priority as other federal projects were higher on the priority list. Now that the owner has contacted the City for sale, the Airport Commission has determined that it should be of higher priority. The federal process for land acquisition utilizing federal dollars is a very formal process involving specific appraisal processes and negotiations with the landowner. Mr. Olson has been in contact with the FAA concerning the availability of the City to utilize federal funds in the acquisition in relation to the federal process. The FAA indicated that at least the process of environmental inspection and formal appraisal would be necessary for the utilization of federal funds. The City would normally require an appraisal anyway for the acquisition, and staff has proposed the authorization of environmental inspection for the three properties intended to be acquired at some time (Helena Chemical, Bud Rose Flowers, Farmers Co-Op Association). If the City follows the federal acquisition process, the City would be eligible for reimbursement utilizing their GA entitlement funds in the future, even though the City would have allocated current federal GA entitlement funds for other priorities. If the City would commit to the acquisition of Bud Rose Flowers and the construction of the ODALS, these two commitments would total \$507,000. This would mean that the City would need to fund the local participation (\$50,700) plus the difference between \$507,000 and the total \$428,000 GA entitlement funds available (\$79,000). This \$79,000 would be available for reimbursement upon future distribution of FFY2014 federal entitlements (October 2013). An alternate method of acquisition of the Bud Rose Flowers property would be direct acquisition utilizing 100% City funds only. This would eliminate any federal restrictions to the property other than the existing restrictions due to Airport zoning. In the 5-Year CIP, the first two years of the CIP are intended to be fairly accurate for commitment for local funding. The items for three or more years out are intended to be planning proposals to provide information to Mn/DOT-Aeronautics and the FAA as to what the local community needs may be.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approves the submission of a revised 5-Year Capital Improvement Program (CIP) to Mn/DOT-Aeronautics as recommended by the Marshall Airport Commission'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried**. 7
- 0

CONSIDER AWARD OF PROPOSAL FROM TKDA FOR ENGINEERING & PLANNING SERVICES FOR DESIGN AND CONSTRUCTION OF RUNWAY 12/30 ODALS & LAND ACQUISITION:

Glenn Olson, Director of Public Works/City Engineer, indicated that the City has included Omni Directional Airport Lighting System (ODALS) in the current Airport Capital Improvement Program (CIP). The CIP also includes acquisition of three properties located within the Runway Protection Zone of Runway 12/30. The properties include Helena Chemical, Bud Rose Flowers and Farmers Co-Op Association gas facility. The ODALS are an Airport safety lighting system that reduces the

minimum visual requirements necessary to make a safe landing. This system is similar to an Instrument Landing System (ILS) lighting approach but significantly less expensive and does not bring the minimums down quite as far. The Airport Commission has reviewed the approach lighting system and discussed it with the current users at the Airport and, while this system does not provide all the benefits of an ILS, they believe it is a more economical method to improve safety for the users. The budget for the Airport for 2012 included \$3,750 for participation in the development of the ODALS. Due to the reduction of federal funding from 95% to 90% (doubling the local participation for federal projects from 5% to 10%) and the increase in cost of the ODALS from the estimated \$75,000 to \$250,000, the estimated local expense is revised from \$3,750 to \$25,000. This change in estimated construction cost, as well as the increased local participation, was reviewed by the Airport Commission and recommended for approval to the City Council, subject to available City funding. The environmental work necessary for the land acquisition of the properties within the Runway Protection Zone have been on the CIP for several years. Recently, the City has been contacted by Helena Chemical and Bud Rose Flowers potentially interested in the sale of their property to the City. In order to proceed with land acquisition, the FAA requires environmental discovery prior to acquisition. This process will be especially needed in the case of the Helena Chemical property. The CIP included federal/local funding at 95%/5%. The new federal regulations include federal/local funding at 90%/10%. The current Airport CIP includes \$948,000 for acquisition of the three properties, including environmental services. The 90% FAA reimbursement comes from our accumulated General Aviation (GA) entitlement funds, of which we currently receive \$150,000 per year. The current total accumulated GA entitlement funds for the City is \$38,000 from FFY2010, \$90,000 from FFY2011, and \$150,000 from FFY2012, and \$150,000 from FFY2013 (October 2012), for a total of \$428,000. Reimbursement from entitlement funds is allowable before or after acquisition is completed, if necessary, at a rate of \$150,000 total per year.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council authorizes entering into a Professional Services Agreement with TKDA for Planning Services for Design and Construction of Runway 12/30 ODALS & Land Acquisition (Environmental) in the amount of not-to-exceed \$88,600.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

MARSHALL AIRPARK EAST DEVELOPMENT-PHASE 2 – DEVELOPMENT OPTIONS:

Glenn Olson, Director of Public Works/City Engineer, indicated that the development of the Marshall Airpark East has been required to be a phased approach due to availability of Federal, State and local funding. The first phase was the development and construction of the Madrid Street Bridge allowing access to Marshall Airpark East over the City's Diversion Channel. The second phase was the development and construction of the roadway access and limited parking area to access the future development area. The third phase will be the construction of ramp and taxiway areas for access of potential commercial and industrial properties' aircraft to the runways and existing taxiways. This third phase has been on the City's Capital Improvement Program (CIP) and was estimated to cost approximately \$1,500,000. The City Council, at their meeting of May 8, 2012, authorized the development of the third phase (design and construction phase services) with the City's airport consultant, TKDA. Upon review of the scope of the work for the apron and taxiways, the projected project cost has increased over the last several years to an estimated \$3 million. Rather than continue with the entire ramp and taxiway development, with the increased cost, the Airport Commission has recommended this phase of the development to include the area shown on the

design drawing for the “Marshall Airpark Development Phase 2 – Option 2”, limiting the current construction to a project that would fall within the current budget. This procedure would allow access and development of adjacent commercial properties, sufficient to provide initial development areas in the Marshall Airpark East. It would also allow future expansion of the apron to accommodate future additional development of Marshall Airpark East.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approves proceeding with the design of Phase 2-Option 2 for Marshall Airpark East Development for the ramp and taxiway construction'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. the motion **Carried. 6 - 1** Voting no was Jennie Hulsizer

CONSIDER THE REQUEST OF CHAD WYFFELS OF BORCH'S FOR A VARIANCE ADJUSTMENT PERMIT TO HAVE BUSINESS SIGNAGE OF 40 SF IN EXCESS OF THE SIGNAGE AREA PERMITTED BY THE CITY CODE:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from Chad Wyffels of Borch's for a Variance Adjustment Permit to have business signage of 40 SF in excess of the signage area permitted by the City Code. The owner wants to replace the existing changeable letters board with an LED sign. The new LED board is larger than existing but will also replace multiple temporary banners periodically mounted between the sign supports. The total sign area permitted by the City Code in B-3 General Business district for this property is 131 SF; it is based on the frontage of the property along East College Drive. This property is not located on the corner lot because there is another parcel between it and Mustang Trail. However, the adjacent property at the corner of East College Drive and Mustang Trail is vacant and most likely will not be built upon (it belongs to SMSU). This makes the Borch's property a corner lot for all practical purposes and if it were a corner lot, the permitted signage area will be about 160 SF.

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council approve the Variance Adjustment for Chad Wyffels of Borch's for a business signage of 40 S.F. in excess of the signage area permitted by the City Code'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. the motion **Carried. 7 - 0**

CONSIDER INTRODUCTION OF ORDINANCE FOR AMENDMENTS TO SPECIAL VEHICLE PERMITS:

Ben Martig, City Administrator, briefly reviewed the ordinance amending the Special Vehicle Permits. The intent is to amend the ordinance to specifically allow the limited use of golf carts for access to and from the local golf course and also special vehicles for Hals Pals related uses. Additionally, staff is proposing amendments to require insurance and VIN number upon approval of permit and not as part of the application. The other change relates to use during daylight hours and the permit application fee being paid at the time of application not after. The fee change would be consistent with other permit fees. Mr. Meister provided the Council with a definition of a golf cart per Minnesota State Statute.

Member (**Charlie Sanow**) moved to introduce the ordinance for amendments to the Special Vehicle Permits and to call for a public hearing on the ordinance. The motion died due to the lack of a second.

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Member **(Mike Boedigheimer)** moved, Member **(John DeCramer)** seconded to approve the **SUBSTITUTE** motion 'to refer this ordinance to a City Council work session for further discussion'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **2**. The motion **Carried. 5 - 2** Voting no were: Dan Ritter and Jennie 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 Regional Development Commission meets this week.

Hulsizer Library Board met on Monday evening.

Doom No report.

Sanow No report.

DeCramer No report.

Boedigheimer MERIT Center Commission held an open house; Legislative and Ordinance Committee met and discussed Special Vehicle Permits.

Ritter No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Hulsizer indicated the speech presented by Minnesota Secretary of State Mark Ritchie was biased and out of order. She indicated that she did not feel informed but felt offended.

There is a concern with vehicles parking too close to the corner on East College Drive & Legion Field Road.

Council Member Boedigheimer indicated that there is no American Flag at Legion Field Park; the first band concert was held last Wednesday. He asked if there could be a no-parking sign installed by the entrance into Liberty Park to allow more room for Hals Pals to enter and exit.

Mayor Byrnes indicated that the employee summer picnic was well attended and that the YMCA announced they have hired a new director.

STAFF REPORTS:

Ben Martig, City Administrator indicated he would include his report with the Administrative Brief.

Glenn Olson, Director of Public Works/City Engineer, indicated that he is working with the Library Staff on parking issues.

Dennis Simpson, City Attorney, indicated that work is being completed on the Heritage Pointe Addition Plat and Development Agreement; the property transfer agreement with Schwans is under

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review by their attorney; work is continuing on the declaring the property located at 620 West Main Street that was damaged in the July 1st storm as hazardous property; land acquisition for the airport area and Country Club Drive is being worked on and the sale of the old library is being finalized.

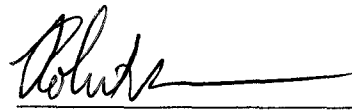
REVIEW OF PENDING ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:

There were no questions on the information items.

Member (**Charlie Sanow**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk