

REGULAR MEETING – JUNE 26, 2012

The regular meeting of the Common Council of the City of Marshall was held on June 26, 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 in attendance: 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; Sheila Dubs, Human Resource Coordinator; Rob Yant, Director of Public Safety; Taylor Gronau, Administrative Graduate Intern; Thomas M. Meulebroeck, Finance Director/City Clerk and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF AGENDA:

It was the general consensus that the agenda be approved as published on June 22, 2012 with the addition of item number 22, which is to consider adopting a resolution authorizing the proper city personnel to enter into a contract for Regional Hazardous Materials Chemical Assessment Team.

APPROVAL OF MINUTES

Member (**Charlie Sanow**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on June 12, 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 ON THE TRANSFER OF AN ON-SALE LIQUOR LICENSE:

This was the date and time set for a public hearing to consider the transfer of an On-Sale Intoxicating Liquor License from Mariachi Fiesta to Mariachi Fiesta LLC. Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that the transfer is due to a name change in the business.

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) 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 THE TRANSFER OF AN ON-SALE LIQUOR LICENSE:

Member (**Charlie Sanow**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to approve the transfer of the On-Sale Intoxicating Liquor License from Mariachi Fiesta to Mariachi Fiesta, LLC at 329 West Main Street'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) 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**

The approval of a Temporary On-Sale Liquor License for the American Legion Post 113 for July 21, 2012 at the Lyon County Fairgrounds. The fee for this license is \$30.00.

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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 the Rotary Club of Marshall, MN (noon) for a raffle to be held at the Marshall Golf Club, 800 Country Club Drive, Marshall, Minnesota on August 14, 2012 and that the 30 day waiting period be waived.

The adoption of RESOLUTION NUMBER 3758, SECOND SERIES Redistributing Assessments in Carr Estates Fourth Addition under Project Y31 / 139-131-02: Windstar Street from Scott Street to T.H. 59.

The adoption of RESOLUTION NUMBER 3759, SECOND SERIES Authorizing Application for a Contract with the State of Minnesota for a Regional Hazardous Materials Chemical Assessment Team.

The approval of a Transient Merchant License for Southwestern Advantage to sell educational books and software. This license will expire on December 31, 2012 and the fee for this license is \$315.00.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 79837 through 80105.

ADOPT ORDINANCE TO REZONE 53.7 ACRES (VARIOUS PROPERTIES ALONG CSAH 7):

Glenn Olson, Director of Public Works/City Engineer, indicated that this is a request by the City of Marshall to re-zone the newly annexed areas from A (Agricultural) to R-1 (One family residence district) and I-2 (General Industrial). All newly annexed areas are parts of the Orderly Annexation Area and therefore zoned A (agricultural). When any area is annexed, it is designated zoned A (Agricultural) per Section 86-96 (g) of the Zoning Ordinance. However, since the newly annexed areas already have structures built on them, the City staff's opinion is that it is reasonable to re-zone those areas in accordance with the current uses and surrounding zoning districts. All uses within the rezoned areas will be permitted per the City Zoning Ordinance except one parcel along County Road 7; it contains a metal shop which is not allowed in an R-1 district. However, it is not a permitted use in an A district either.

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 660, SECOND SERIES to rezone the 53.7 Acres (Various Properties along CSAH 7) from A (Agricultural) to R-1 (One family residence district) and I-2 (General Industrial) '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

ADOPT ORDINANCE TO REZONE 27.36 ACRE (PROPOSED WATER-BUS SECOND ADDITION AND AREA WITHIN WATER-BUS ADDITION):

Glenn Olson, Director of Public Works/City Engineer, indicated that this is a request by the City of Marshall to re-zone the newly annexed area from A (Agricultural) to B-3 (General Business district). All newly annexed areas are parts of the Orderly Annexation Area and enter the City zoned A (agricultural). When any area is annexed, it stays zoned A (Agricultural) per Section 86-

96 (g) of the Zoning Ordinance. However, since the newly annexed areas already have structures built on them, the City staff's opinion is that it is reasonable to re-zone those areas in accordance with the current uses and surrounding zoning districts. City staff also supports rezoning the water treatment plant area from A (Agricultural) to B-3 (General Business District) along with the newly annexed areas rezoning. Water treatment plants are a permitted use in a B-3 District. Requirements for B-3 Zoning Districts can be found in Section 86-104.

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER XXX, SECOND SERIES to rezone the properties as described above from A(Agricultural) to B-3 (General Business District)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF THE 2011 AUDITED FINANCIAL REPORT FOR THE CITY OF MARSHALL:

Kyle Meyers, partner from Abdo, Eick, and Meyers, presented the 2011 audit. Mr. Meyers reviewed and hi-lighted various sections of the report and responded to questions.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to accept and approve the 2011 Audited Financial Report as presented by Abdo, Eick & Meyers'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT – CONSIDER RESOLUTION RECEIVING REPORT AND CALLING FOR HEARING ON IMPROVEMENT:

Glenn Olson, Director of Public Works/City Engineer, indicated that the Tiger Park Stormwater Detention Pond Project Z05 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 surface water runoff for the entire area. An agreement with MnSCU will be necessary prior to the development of a stormwater pond on their property. The estimated cost of the project is \$1,730,000, including 10% contingencies and 16% administration and engineering.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3760, SECOND SERIES which is the "Resolution Receiving Report and Calling for Hearing on Improvement" for Project Z05: Tiger Park Stormwater Detention Pond Project and setting the public hearing on

improvement date for July 10, 2012'. Upon a roll call vote being taken, the vote was: Aye: 7
Nay: 0. The motion **Carried. 7 - 0**

CONSIDER A RESOLUTION DECLARING IMPLEMENTATION OF TEN PERFORMANCE MEASURES AND A PERFORMANCE MEASUREMENT SYSTEM:

Taylor Gronau, Administrative Graduate Intern, provided a summary of the results of the survey on the quality of nine services Marshall provides. In addition to surveying area residents, Marshall collected data on the change in taxable property market value from FY 2011 to FY 2012 and the Average System Availability Index (ASAI) of Marshall's electric utilities.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3761, SECOND SERIES, declaring that the City of Marshall has implemented the ten adopted performance measures and performance measurement system recommended by the Council on Local Results and Innovation'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER RESOLUTION CONSENTING TO TRANSFER OF CONTROL FOR CABLE FRANCHISE FROM KNOLOGY OF THE PLAINS, INC. TO WIDEPEN WEST FINANCE, LLC ("WOW"):

Ben Martig, City Administrator, reviewed the request from Knology indicating their pending merger with WOW and request for cable franchise transfer. Brian Grogan with Moss & Barnett has reviewed the request and Dennis Simpson, City Attorney, has also been provided with the information.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3762, SECOND SERIES, which is a resolution Approving the Proposed Change of Control of Knology, Inc to WideOpenWest Finance LLC ("WOW")'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Mike Boedigheimer voting no.

CONSIDER APPROVAL OF THE ADMINISTRATIVE CODE:

Ben Martig, City Administrator, indicated that several sections of the Administrative Code were presented at the City Council meeting on Tuesday, April 24, 2012. Additionally, the sidewalk policy was recently reviewed and recommended for approval by the Ways and Means committee. Mr. Martig indicated that this will be a central place for information, forms and policies of the City of Marshall.

Member (**Charlie Sanow**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'the approval of the Administrative Code Sections as follows'.

- 1.302 Workers Compensation_OSHA
- 1.303 Liability Insurance Forms
- 1.305 Payroll Forms
- 1.30 Fund Balance
- 1.301 Guidelines – Bonding Purposes
- 1.304 Instructions for Special Assessments
- 1.305 Marshall Capstone Endowment Fund Policy

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Administrative Policy 5.1.510 Mayor_Council Administrative References/Materials
Administrative Policy 5.1.530 Ethics Value Code
Sidewalk Policy

Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed 6 – 1** with Mike Boedigheimer voting no.

CONSIDER MERIT CENTER LEASE WITH THE MINNESOTA STATE COLLEGES AND UNIVERSITIES, MINNESOTA WEST COMMUNITY AND TECHNICAL COLLEGE:

Ben Martig, City Administrator, reviewed the proposed MERIT Center Lease with MnWest. Staff has been working with MnWest on a revised new three year agreement to begin in July of 2012. The proposed lease rate will be \$9,500 per year with a fixed annual increase thereafter. There was discussion related to cleaning responsibilities and other maintenance costs. It was indicated that the City is responsible for these costs and MnWest needs to reimburse the City for their share.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to approve the MERIT Center Lease with the Minnesota State Colleges and Universities, Minnesota West Community and Technical College for three years beginning July 1, 2012 through June 30, 2015'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0** Abstain: **1**. The motion **Passed 6 - 0** with Charlie Sanow abstaining.

CONSIDER GRANT AGREEMENT WITH STATE OF MINNESOTA FOR TED GRANT:

Ben Martig, City Administrator, briefly reviewed the grant agreement with the State of Minnesota related to funding for the Lake Road new construction, Highway 68 intersection and other related infrastructure to serve the expanding industrial park area. Once approved staff will be able to begin requesting the funding disbursement for the project from the State of Minnesota.

Member (**Dan Ritter**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to approve grant agreement with State of Minnesota for Sonstegard Subdivision industrial park development infrastructure'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried. 7 - 0**

ADOPTING A RESOLUTION AUTHORIZING THE PROPER CITY PERSONNEL TO ENTER INTO A CONTRACT FOR REGIONAL HAZARDOUS MATERIALS CHEMICAL ASSESSMENT TEAM:

The Southwest Chemical Assessment Team (C.A.T.) was formed ten years ago to provide a team with training and equipment to safely respond to any incident within the City of Marshall and Southwest Minnesota. The Team could also respond anywhere in southern Minnesota as this is a secondary response area. On June 26, 2012 Contract 47804 arrived by Fed Ex to allow the SWMN CAT to continue to operate and receive funds for July 1, 2012 to September 30, 2012.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3763, SECOND SERIES Authorizing Acceptance of a Contract No. 47804 for the period of July 1, 2012 through September 30, 2012

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with the State of Minnesota for a Regional Hazardous Materials Chemical Assessment Team'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

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 met.

Hulsizer Human Rights Commission some members have left town but have not provided their resignation. Staff needs to advertise to fill these positions; Library Board met and indicated that the Library Foundation is conducting a survey.

Doom No report.

Sanow Marshall Area Transit met.

DeCramer EDA met on Wednesday and elected new officers; Marshall Municipal Utilities approved a contract for optic fibers to connect with the school and approved a water supply plan that was suggested by the DNR.

Boedigheimer No report.

Ritter No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Sanow indicated that he has received several calls in regard to the work not being completed on the house that was moved in on Bruce Street. Council Member Boedigheimer indicated that he was registered for the League of Minnesota Cities Conference in Duluth but was unable to attend due to the weather in the Duluth Area. Council Member DeCramer invited everyone to the Food Security Expansion Groundbreaking & Fundraiser on Tuesday, July 10, 2012 at Western Community Action, 1400 South Saratoga Street.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that the Tour De Kota was successful; the 4th of July Celebration will be held next week; work is continuing on the wording for the ballot for the Amateur Sports Facility and MERIT Center and the budget process will be starting soon.

Glenn Olson, Director of Public Works/City Engineer, indicated there will be a meeting with the Corp of Engineers to discuss moving trees and scrubs along the dike.

Dennis Simpson, City Attorney, is continuing to work on finalizing the sale of property to Trident; the sale of the old library is to be completed soon; John Middleton has requested a two week extension on finalizing the sale of his property.

REVIEW OF PENDING ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:

There were no questions on the information items.

ADJOURN TO CLOSED SESSION:

Member (**Charlie Sanow**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to close the meeting for the purposes of discussing strategies for union negotiations related to LELS Local #190 union and LELS Local #245 union'. They went into closed session at 6:57 P.M. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Those present at the closed session included: Byrnes, Hulsizer, Doom, Sanow, DeCramer, Boedigheimer and Ritter. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Sheila Dubs, Human Resource Coordinator; Thomas M. Meulebroeck, Financial Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Council came out of closed session at 7:10 P.M. and reconvened.

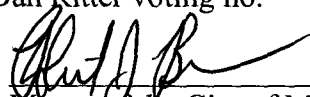
CONSIDER LABOR AGREEMENT BETWEEN THE CITY OF MARSHALL AND LAW ENFORCEMENT LABOR SERVICES, INC. (LELS) LOCAL 190:

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3764, SECOND SERIES Authorizing the Mayor and City Clerk to Execute a Collective Bargaining Agreement by and between the Law Enforcement Labor Services, Inc. Local No. 190 and the City of Marshall to be Effective through December 31, 2012'. This agreement provides for a 0% wage increase for 2011 and a 2% wage increase for 2012. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER AMENDED 2012 WAGE SCHEDULE:

Member (**Charlie Sanow**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the City of Marshall Wage Schedule be approved for the Law Enforcement Labor Services, Inc. Local No. 190 union employees'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Member (**Charlie Sanow**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 - 1** with Dan Ritter voting no.



Mayor of the City of Marshall

ATTEST:


Finance Director/City Clerk