

REGULAR MEETING – JULY 10, 2012

The regular meeting of the Common Council of the City of Marshall was held on July 10, 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; Marc Klaith, Fire Chief; Jim Marshall, Assistant Police Chief; Harry Weilage, Director of Community Services; 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 presented.

APPROVAL OF MINUTES:

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on June 26, 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 PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT:

This was the date and time set for a public hearing on the Tiger Park Stormwater Detention Pond Project Z05. Glenn Olson, Director of Public Works/City Engineer, indicated that this project includes 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.

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'to close Public Hearing on Improvement'. 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 ORDERING IMPROVEMENT AND PREPARATION OF
PLANS.**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3765, SECOND SERIES, which is the "Resolution Ordering Improvement and Preparation of Plans" 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**

CONSIDER AWARD OF PROPOSAL FOR 6X6 UTV FOR THE AIRPORT

Proposals were received, opened and read on July 3, 2012 for a 6x6 UTV for the Airport. The Proposals received, opened and read were from:

Action Sports
Marshall, Minnesota
Polaris Government / Fleet Resale Program Pricing
Polaris Ranger 6x6 800
\$12,816.45 (includes trade-in and sales tax)

Schuneman Equipment
Marshall, Minnesota
2012 John Deere Gator 6x4
\$5,985 (includes 10% discount, trade-in and sales tax)

Glenn Olson, Director of Public Works/City Engineer, indicated that the Council Equipment Review Committee reviewed the proposal. Schuneman Equipment did not meet the minimum specifications.

Member (**Dan Ritter**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council award the proposal for a 6x6 UTV for the Airport to Action Sports of Marshall, Minnesota, in the amount of \$12,816.45, including trade-in, contingent upon receipt of Mn/DOT Aeronautics Grant Agreement'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Carried 6 – 0** with Larry Doom abstaining.

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**Mike Boedigheimer**) moved, Member (**Dan Ritter**) 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**

A Temporary On-Sale Liquor License for Southwest Minnesota State University Foundation for August 17 - 18, 2012 at SMSU Recreational Athletic Facility, 400 Mustang Trail, Marshall, Minnesota for a Smokefest.

The adoption of RESOLUTION NUMBER 3766, SECOND SERIES, amending the tax parcel ID# 27-819014-1 and description of the property which is owned by Armella Deutz and included in the Rural Service District.

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Authorization be granted to the Department of Public Safety to dispose of surplus City property – seven (7) 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.

A Temporary On-Sale Liquor License is for the Marshall Area Shrine Club to use on August 3 - 4, 2012 at 204 Mustang Trail, Marshall, Minnesota.

A Temporary 3.2 Percent Malt Liquor License for the VFW Post 742 for the month of August, 2012. The VFW Post will be using this license for the Lyon County Fair from August 1, 2012 through August 4, 2012 and the Rolle Bolle Tournament from August 10, 2012 through August 12, 2012.

Call for a public hearing to be held at 5:30 P.M. on July 24, 2012 to consider the transfer of the On-Sale Liquor License from the Landmark Bistro to the Caldo Italian Kitchen.

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 Avera Marshall Foundation for a raffle to be held at the Marshall Country Club, 800 Country Club Drive, Marshall, Minnesota on September 10, 2012 and that the 30 day waiting period be waived.

That the following bills and project payments be authorized for payment, ACCOUNTS PAYABLE, Voucher No. 80106 through 80259.

BI-ANNUAL REPORT OF THE AVERA MARSHALL REGIONAL MEDICAL CENTER:

Mary Maertens, CEO of Avera Regional Medical Center, was in attendance at the meeting to provide the bi-annual report for the Medical Center as per the transfer agreement. Ms. Maertens provided an update on the Physicians Office Building; recruitment of providers; service expansion; the expansion of their footprint; technology; financial milestones; Health Care Reform; and the State Legislative update.

CONSIDER BALLOT LANGUAGE AND BALLOT TITLES AND CONSIDER RESOLUTION APPROVING BALLOT LANGUAGE AND BALLOT TITLES FOR VOTER CONSIDERATION OF LOCAL SALES TAXES AND AUTHORIZING ACTIONS TO BE TAKEN BY THE CITY IN CONNECTION WITH SUCH TAXES:

Ben Martig, City Administrator, reviewed the Ballot Language and Ballot Titles for special referendum related to the MERIT Center and Amateur Sports Facility projects. Mr. Martig indicated that the language was drafted by Attorney's Mike Norton and John Utley of Kennedy & Graven under the advisement of City Administrator Martig. Kennedy & Graven assisted in drafting the original bills presented to the legislature and also serve as bond counsel for the City of Marshall. The language was drafted with special attention to be as simple and straightforward for voters while also meeting the legal requirements of past legislative action as well as legal requirements of pending bond issuance related to the projects.

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the ORIGINAL motion 'the adoption of RESOLUTION NUMBER 3767, SECOND SERIES, Approving Ballot

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Language and Ballot Titles for Voter Consideration of Local Sales Taxes and 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** with Charlie Sanow and Jennie Hulsizer voting no.

CONSIDER SPECIAL VEHICLE PERMIT APPLICATION:

Ben Martig, City Administrator, reviewed the request from Thomas Percy for a Special Vehicle Permit. Mr. Martig indicated that Rob Yant, Director of Public Safety, has reviewed the application and talked with Mr. Percy and is recommending that this permit be denied as per the City's long time past practice of very limited authorization of Special Vehicle Permits. The past allowed uses have been to allow golf carts directly to and from the golf course and for the senior "Hals Pals" purpose for special events. Section 74-263b of the Code requires that the Council "shall approve or deny such permit, by a majority vote. If the permit is denied, there shall be a finding by the council setting forth the reasons the issuance of a permit would endanger the health, safety or welfare of the public." Public Safety Director Yant is advising that the finding in the motion include a statement that expanded use for this permit would create precedence for other non-vehicles create a potential unsafe driving environment. Mr. Percy was advised that the Council would be having a work session discussion in the future and would be encouraged to present at that time.

Member (**Mike Boedigheimer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to deny the Special Vehicle Permit application for Thomas Percy until the Council can discuss this at the Council Work session to be held on July 30, 2012'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

FLOOD PROTECTION DIKE - CORPS DIRECTION REGARDING REMOVAL OF VEGETATIVE OBSTRUCTIONS/ENCROACHMENTS:

Glenn Olson, Director of Public Works/City Engineer, indicated that on June 28, 2012, an informational meeting was held with property owners along the flood protection dike of the City to address a directive from the Corps of Engineers to remove all obstructions, including trees, shrubs, flowers, and plantings of any kind other than grass from the dike prism and within 15 feet of the toe of the embankment or to the project easement line whichever is less.

Dana Werner, Corps representative, was in attendance at the informational meeting to explain the history of the design, construction, and required maintenance by the City to keep the dike in compliance with the agreement with the Corps to provide certified flood protection for the properties protected by the dike. The Corps is the entity that provides annual inspections of the dike to ensure the dike is properly maintained and one of the requirements is that all vegetation other than grass must be removed. This requirement is a Federal directive as a result of the Katrina disaster and other dike breaches due to trees and root systems allowed in the dike area.

Two of the main reasons for requiring the removal of this vegetation are when an excessive wind topples a tree located in the restricted area, a large root ball and surrounding soil is lost from the dike providing a strong possibility of erosion and loss of the dike itself and, secondly, the root system of the vegetation extends through the dike creating a conduit for water and erosion during large rainfall and runoff events also contributing to dike failure.

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Dan Bueltel, Land Surveyor, will begin the process of identifying the city ownership/easement of the dike allowing the city to determine the vegetation to be removed. This survey is expected to begin late next week or the week after, weather permitting. The city will work with the property owners to minimize disruption while complying with the Corps directive.

In accordance with our directive concerning the removal of this vegetation by March of 2013, Mr. Olson will be sending out a summary of the meeting with a directive to the property owners to have any vegetation removed that they would like to salvage for firewood or any trees the City does not intend to move because of condition or size or any shrubs or flowers by September 1, 2012. Mr. Olson is requesting that the City would relocate any trees within the property that are eligible to be relocated (trunks less than 4"-6"). Any holes from relocated trees outside the dike prism will be replaced with the dirt plug taken from the location that the owner wants the tree moved to and the plug compacted in to place. Any holes from trees removed from the dike prism must be replaced with compacted clay with 6" of topsoil on the surface matching in to the existing slope. If extra dirt has been placed adjacent to the dike by the property owner outside of the original dike design, the original design will be used to determine the toe of the dike. Topsoil will be spread over the areas where vegetation is removed from the dike by the city and seeded and mulched. No sodding will be provided. No watering will be provided by the city. The city will not be responsible for any rutting or damages to the property outside the easement area if the property owner directs the relocated trees off the easement area.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council direct the Director of Public Works/City Engineer to proceed with the U.S. Army Corps of Engineers directive to remove all obstructions/encroachments within the dike prism, within 15 feet from the toe of the designed dike, within the dike easements, whichever is less'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER RESOLUTION APPROVING THE ISSUANCE OF AND PROVIDING THE FORM, TERMS, COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF ITS TAX INCREMENT REVENUE NOTE, SERIES 2012 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$500,000:

Dennis Simpson, City Attorney, indicated that all parties have agreed to the language in the Contract for Private Development (CPD). HRA is the present owner of the property and will be conveying that property to Heritage Pointe Partners, LLC as assignee of Trident Development. The CPD is a term and condition of the sale and all parties must agree to those conditions as to current and future use.

HRA adopted a resolution Approving the Issuance of, and Providing the Form, Terms, Covenants and Directions for the Issuance of its Tax Increment Revenue Note, Series 2012 in an Aggregate Principal Amount not to exceed \$500,000; therefore the City Council does not need to approve this resolution. The City Council only needs to approve the Contract for Private Development between the HRA, City of Marshall and Heritage Pointe Partners LLC.

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Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **AMENDED** motion 'the adoption of RESOLUTION NUMBER 3768, SECOND SERIES, which is a resolution Approving the 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**

COUNCILMEMBER COMMISSION/BOARD LIAISON REPORTS:

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

Byrnes Fire Relief Association reviewed their annual report. Copies have been provided to the Council Members. Regional Development Commission will hold their annual meeting on July 12, 2012.

Hulsizer Library Board met, but she was not able to attend.

Doom No report.

Sanow No report.

DeCramer No report.

Boedigheimer Airport Commission met on July 3rd, but he was not able to attend.

Ritter No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Boedigheimer indicated that there are dead branches in some of the trees at Freedom Park that needs to be removed.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that the DEED Grant Application has been resubmitted; Ben plans on attending the Coalition of Greater Minnesota Cities Conference along with Council Member Boedigheimer; there is a budget work session scheduled for July 30, 2012. Ben attended the Library Board meeting – they adopted there budget and will present the budget at the Council work session. The Military All Star Game with the “A’s” is scheduled for Sunday, July 15th. Ben indicated that staff is working with Precision Marketing Concepts, LLC on posting weather related information on the digital billboard and that Amber Alerts will automatically be posted. Funding for the Wind Tower and Burn Tower at the MERIT Center were done together; therefore both projects need to be completed before the City can receive any reimbursement. The City will be assisting the County with grants for the Bike Trail. There is another round of Redevelopment Grants available that could potentially be used for Block 11 to upgrade parking, tearing down existing buildings that the City has purchased to provide shovel ready lots for development.

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Mayor Byrnes indicated that he would not be able to attend the Library Joint meeting on July 24th.

Glenn Olson, Director of Public Works/City Engineer, indicated that he has been in contact with Richard Doom in regard to completing the house that was moved in on Bruce Street. Glenn indicated that an amendment is being worked on for the Mosch/Bladholm property storm water pond. Mn/DOT will be striping the area of College Drive and Legion Field.

Dennis Simpson, City Attorney, indicated that the sale of the old library will close on July 11, 2012. Mr. Simpson indicated that he has received a response from Joe Bot's attorney in regard to the Marshall Hotel. He is working on documents for the sports facility. Dennis indicated that he is working to finalize the sale of property to Trident Development.

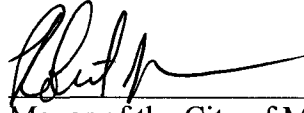
REVIEW OF PENDING ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:

There were no questions on the information items.

Member (**Larry Doom**) 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: 7 Nay: 0. The motion **Carried 7 - 0**



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk