

REGULAR MEETING – AUGUST 28, 2012

The regular meeting of the Common Council of the City of Marshall was held on August 28, 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, Larry Doom, Mike Boedigheimer and Dan Ritter. Absent were: Jennie Hulsizer and John DeCramer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Cathy Lee, Executive Assistant; Bob VanMoer, Wastewater Treatment Facility Superintendent; 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.

CONSIDER APPROVAL OF THE MINUTES OF THE SPECIAL MEETING HELD ON AUGUST 7, 2012, THE REGULAR MEETING HELD ON AUGUST 7, 2012 AND THE MEETING HELD ON AUGUST 13, 2012:

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the special meeting held on August 7, 2012, the minutes of the regular meeting held on August 7, 2012 and the minutes of meeting held on August 13, 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: **5** Nay: **0**. The motion **Carried 5 - 0**

PUBLIC HEARING FOR BUSINESS SUBSIDY AGREEMENT BY AND BETWEEN THE CITY OF MARSHALL, ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MARSHALL, AND BRAU BROTHERS BREWING COMPANY:

This was the date and time set for a public hearing for the Business Subsidy Agreement by and between the City of Marshall, Economic Development Authority in and for the City of Marshall and Brau Brothers Brewing Company. Cal Brink, CEO Marshall Area Chamber of Commerce, indicated that there have been lengthy ongoing discussions and negotiations with the Brau Brothers regarding the proposed move of their business from Lucan, MN to Marshall, MN. Those discussions have reached a successful conclusion and the financial package to facilitate that move is being finalized. City's financial commitment involves a \$250,000 CRIF grant/loan. Additional funding is being sought through SWIF, a private bank and other private financing. The CRIF money will be used to assist in the move and acquisition of equipment. It is anticipated that 8 fulltime jobs will be created at a rate of pay of at least \$12.25 per hour.

Trevor and Dustin Brau were in attendance at the meeting to answer any questions. Trevor indicated that they have been working on this for the past two years. He thanked everyone for the opportunity and all their hard work.

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: **5** Nay: **0**. The motion **Carried 5 - 0**

CONSIDERATION OF BUSINESS SUBSIDY AGREEMENT BY AND BETWEEN CITY, MARSHALL ECONOMIC DEVELOPMENT AUTHORITY AND BRAU BROTHERS BREWING COMPANY:

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'to approve the Business Subsidy Agreement by and between the City of Marshall, Economic Development Authority In and For the City of Marshall, and Brau Brothers Brewing Company'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

PUBLIC HEARING FOR BUSINESS SUBSIDY AGREEMENT BY AND BETWEEN THE CITY OF MARSHALL, ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MARSHALL, AND RALCO NUTRITION, INC:

This was the date and time set for a public hearing on the Business Subsidy Agreement by and between the City of Marshall, Economic Development Authority in and for the City of Marshall, and Ralco Nutrition, Inc. Ben Martig, City Administrator, indicated that the attorneys are continuing to work on the agreement; therefore he is recommending that the public hearing be continued to a later date.

Member (**Charlie Sanow**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to continue the Public Hearing on September 11, 2012'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

AWARD OF BIDS FOR ENGINEERING SERVICES FOR WWTF SOLIDS CONTACT CLARIFIER REPLACEMENT AND NEW BLOWER INSTALLATION:

Proposals were received for Engineering Services for WWTF Solids Contact Clarifier Replacement and a new Blower Installation. The proposals received were from:

	Review, Design & Bidding Services	Construction Services
Short Elliott Hendrickson Mankato, Minnesota	\$31,000	Hourly as needed Estimated \$33,900
Bolton & Menk Burnsville, Minnesota	\$70,000	Hourly as needed Estimated \$40,000

The Solids Contact Clarifier was part of the original plant built in 1975. This clarifier is used for settling solids and phosphorus removal in the treatment process. It is a crucial part of the treatment process. It is worn out beyond repair and needs replacing. Staff will evaluate reusing the existing fiberglass cover and concrete tank, these should be able to be reused. The blower addition would install a new high efficiency blower for oxygen transfer to the process. New technology provides the same air volumes at a much more efficient cost. The payback on this project would be very reasonable with the energy savings. The original blowers are 20 years old and are in need of some very expensive repairs. The new blower would allow staff to use the old blowers as back up units and save on needed repairs.

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Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council approve Engineering Services with Short Elliott Hendrickson, Mankato, Minnesota for Solids Contact Clarifier Replacement and High Efficiency Blower installation, including review of new equipment options, current design, and future needs for both the Clarifier and Blower; design services; bidding services; and construction services'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**Dan Ritter**) moved, Member (**Larry Doom**) 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: **5** Nay: **0**. The motion **Carried 5 - 0**

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on November 19, 2012 at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota for Taste of Marshall.

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on October 12, 2012 at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota for the Governor's Pheasant Hunt Banquet.

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 LG220 Application for Exempt Permit for Southwest Minnesota State University for a raffle to be held at 1501 State Street, Marshall, Minnesota on September 15, 2012 and that the 30 day waiting period be waived.

The approval of a Temporary On-Sale Liquor License for the Marshall Area Shrine Club to use on October 6, 2012 at 204 Mustang Trail.

The approval of a Temporary On-Sale Liquor License for Southwest Minnesota State University to use on September 15, 2012 at SMSU Recreational Athletic Facility, 400 Mustang Trail, Marshall, Minnesota for the Ag Bowl.

To call for a public hearing to be held at 5:30 P.M. on September 11, 2012 for a new On-Sale Intoxicating Liquor License for Bridget's of Marshall, Inc., dba Dickey's Barbecue Pit at 900 Clarice Avenue.

Authorization be granted to the Department of Public Safety to dispose of surplus City property – four (4) vehicles; bicycles and computers. One of the vehicles will be transferred to the Motor Pool and the other three vehicles along with the bicycles and computers will be auctioned using the State's On-Line auction process. Any item not receiving the minimum bid will be taken to Alter Metal Recycling for disposal.

The adoption of RESOLUTION NUMBER 3779, SECOND SERIES, which provides for the "Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment" for the following projects: Sonstegard Industrial Park-Phase I Project Y81: Sonstegard Industrial Park-Phase II Project Y85: NW Industrial Park Area Lift Station and

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Forcemain Project Y86: Northwest Industrial Area Stormwater Detention and Treatment Pond Project Project Y93 / S.A.P. 139-010-015: TH 68/Lake Road Intersection. This resolution provides for the assessment to be paid over a 10 year period at an interest rate of 4%.

The adoption of RESOLUTION NUMBER 3780, SECOND SERIES, which provides for the “Resolution for Hearing on Proposed Assessment” for setting the hearing date on the proposed assessments for September 25, 2012 for the following projects: Sonstegard Industrial Park-Phase I Project Y81: Sonstegard Industrial Park-Phase II Project Y85: NW Industrial Park Area Lift Station and Forcemain Project Y86: Northwest Industrial Area Stormwater Detention and Treatment Pond Project Y93 / S.A.P. 139-010-015: TH 68/Lake Road Intersection.

The adoption of RESOLUTION NUMBER 3781, SECOND SERIES, which provides for the “Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment” for the Walker Lane portion of Project Y80: Walker Lane/Park Avenue Reconstruction Project. This resolution provides for the assessment to be paid over a 10 year period at an interest rate of 4%.

The adoption of RESOLUTION NUMBER 3782, SECOND SERIES, which provides for the “Resolution for Hearing on Proposed Assessment” for the Walker Lane portion of Project Y80: Walker Lane/Park Avenue Reconstruction Project setting the hearing date on the proposed assessments for September 25, 2012.

The adoption of RESOLUTION NUMBER 3783, SECOND SERIES, which provides for the “Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment” for the Park Avenue portion of Project Y80: Walker Lane/Park Avenue Reconstruction Project. This resolution provides for the assessment to be paid over a 10 year period at an interest rate of 4%.

The adoption of RESOLUTION NUMBER 3784, SECOND SERIES, which provides for the “Resolution for Hearing on Proposed Assessment” for the Park Avenue portion of Project Y80: Walker Lane/Park Avenue Reconstruction Project setting the hearing date on the proposed assessments for September 25, 2012.

The adoption of RESOLUTION NUMBER 3785, SECOND SERIES, which provides for the “Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment” for Project Z02: South High Street Reconstruction Project. This resolution provides for the assessment to be paid over a 10 year period at an interest rate of 4%.

The adoption of RESOLUTION NUMBER 3786, SECOND SERIES, which provides for the “Resolution for Hearing on Proposed Assessment” for Project Z02: South High Street Reconstruction Project setting the hearing date on the proposed assessments for September 25, 2012.

The adoption of RESOLUTION NUMBER 3787, SECOND SERIES, which provides for the “Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment” for Project Y61 / S.A.P. 139-130-001: Kossuth Avenue Reconstruction Project.

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This resolution provides for the assessment to be paid over a 10 year period at an interest rate of 4%.

The adoption of RESOLUTION NUMBER 3788, SECOND SERIES, which provides for the “Resolution for Hearing on Proposed Assessment” for Project Y61 / S.A.P. 139-130-001: Kossuth Avenue Reconstruction Project setting the hearing date on the proposed assessments for September 25, 2012.

That the following bills and project payments be authorized for payment ACCOUNTS PAYABLE, Voucher No. 80611 through 80870.

IMMEDIATE REPAIR OF SANITARY SEWER LINE BETWEEN CLARIFIERS AT THE WASTEWATER TREATMENT FACILITY (WWTF):

Bob VanMoer, Wastewater Superintendent, indicated that last year they had a cave-in from a 24” pipe between their Primary Clarifiers. This pipe was installed in 1975 and was completely eroded from Hydrogen sulfide in the wastewater. This pipe was replaced with new PVC pipe and staff assumed the rest of this stretch of pipe was also bad. This year staff was able to televise this pipe and see that it was completely gone. There is about 150’ of 24” pipe that needs to be replaced. The ground is caving into this pipe which carries all of the incoming plant flow from the clarifiers to the rest of the plant. If this line collapses, there will be no way of getting the water through. Due to the immediate need of the repair, staff has made direct solicitation from two contractors working in the area-D&G Excavating, Inc. of Marshall, Minnesota, and Kuechle Underground, Inc. of Kimball, Minnesota. The following is a summary of that solicitation:

D&G Excavating, Inc.
Marshall, Minnesota
\$25,000.00 estimated for materials and hourly labor to repair

Kuechle Underground, Inc.
Kimball, Minnesota
\$43,000 estimated for materials and hourly labor to repair

The replacement of surfacing will be completed by the City and is estimated at approximately \$12,000.00.

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the Council authorize the award of work to D&G Excavating, Inc. for materials and hourly labor to repair a 24” sanitary sewer line at the WWTF in the estimated amount of \$25,000, plus approximately \$12,000 for surface replacement to be performed by the City'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

CONSIDERATION OF SCDP WAIVER REQUEST - FILE #70:

Cal Brink, CEO Marshall Area Chamber of Commerce indicated that a household to whom shall be referred as file number 70 was recently approved for the Small Cities Development Program (SCDP). This applicant meets all of the guidelines, but is unable to proceed with the project although this applicant has attempted to come up with matching funds. The applicant received a grant with the AHP program for \$5,000.00. The applicant was not able to receive anything from his bank. The applicant has received WCA's Weatherization funds. The applicant is extremely low income with a loan to value of 86.95% and his income is calculated at \$8,329.00. The grant

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would be \$21,255.00. Because of the inability to find other matching funds and as per the policies and procedures outlined in the contract, staff is requesting a waiver to proceed with this project over the 70% of grant. Furthermore, the policy states “Very Low Income Applicants will not be excluded from participation in the Housing Rehabilitation Program due to the lack of leverage funds (which this applicant meets). Two waiver requests have been approved in the past (April 2011) and have set a precedent.

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approves SCDP Waiver Request - File #70'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

CONSIDERATION OF SCDP WAIVER REQUEST - FILE #114:

Cal Brink, CEO Marshall Area Chamber of Commerce indicated that a household to whom shall be referred to as file number 114 was recently approved for the Small Cities Development Program (SCDP). Although the applicant has attempted to come up with matching funds, they have not been able to do so. The applicant is not eligible to receive the usual sources used for matching funds, such as MHFA and Weatherization. They are low income with a loan to value of 21.31% and their income is calculated at \$31,912.00. The full grant would be \$22,497.00. Because of the inability to find matching funds and as per the policies and procedures outlined in the contract, staff is requesting a waiver to proceed with this project using 100% grant fund. Two waiver requests have been approved in the past (April 2011) and have set a precedent.

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approves SCDP Waiver Request - File #114'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

THIS IS A REQUEST BY R&G CONSTRUCTION FOR A VARIANCE ADJUSTMENT PERMIT TO PROVIDE COMMON UTILITY SERVICE LINES TO A TWO-FAMILY DWELLING UNDER SPLIT OWNERSHIP:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from R & G Construction for a Variance Adjustment Permit to provide common utility service lines to a Two-Family Dwelling under split ownership in lieu of separate utility service lines as required by the City Code, Section 86-98. The building is located in an R-2 One to Four Family Residence District. The City Zoning Code Section 86-98 (b) (1) requires that two family dwellings under spilt ownership have separate utility service lines to each unit. Currently, common utility lines are serving this property; they split within the property to serve individual units. This duplex building was originally built under single ownership. A similar situation occurred in 2011 in another duplex in this subdivision. At that time the City Council approved the variance for common utility lines with the same condition. The city staff may consider revising this requirement in the future. R-2 One to Four Family Residence District regulations are located in Section 86-98. The variance regulations and procedures are found in Section 86-29.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve the variance request for the property located at 1501 Diamond Drive to provide common utility service lines for a Two-Family Dwelling under split ownership

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in lieu of separate utility service lines as required by the City Code, with the following conditions: 1. Each owner is fully responsible for the common portions of the utility lines serving this building; in case one party does not pay its share of repair or maintenance cost for the common portion of any utility line serving the building, the other party shall pay 100% of all associated costs. 2. A Common Maintenance Agreement shall be signed and recorded'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

THIS IS A REQUEST BY DR. ANTHONY NWAKAMA TO HAVE A GO-CART TRACK IN A B-3 GENERAL BUSINESS DISTRICT:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request of Dr. Anthony Nwakama to have a go-cart track in a B-3 General Business District. There is no reference to go-cart tracks in the City Ordinance; however, amusement parks are a conditional use in that district. Since a go-cart track is a common feature of amusement parks, it is being regarded as such. The conditions are intended to minimize an impact of this use on surrounding properties. The noise level at the property line and the ways to achieve it may be subject to discussion. General Business District regulations are located in Section 86-104. The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49.

Dr. Nwakama was in attendance at the meeting and indicated that the noise level of the go-carts is less than lawn mowers.

Member (**Dan Ritter**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve the conditional use permit for a Go-Cart Track in a B-3 General Business District at 901 Clarice Avenue with the following conditions 1. Parking is provided as required by the City Ordinance for similar uses. 2. That the whole track is screened from the outside with landscaping. 3. That the noise level at the property line does not exceed 80 dB'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **1**. The motion **Carried 4 – 1** with Mike Boedigheimer voting no.

COUNCILMEMBER COMMISSION/BOARD LIAISON REPORTS:

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

Byrnes No report.

Doom No report.

Sanow No report.

Boedigheimer No report.

Ritter No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Sanow questioned the cemetery land being subject to real estate taxes. Mayor Byrnes asked if this is a state mandated issue and a matter of interpretation. Ben Martig, City Administrator, indicated that this will be addressed in the Admin Brief dated August 31, 2012.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that there is a Budget Work Session immediately following the Council meeting; work is continuing on the Wage Study; staff is working on the Camden State Park Grant and staff is waiting to here if they have been awarded the Redevelopment Grant for Block 11.

Glenn Olson, Director of Public Works/City Engineer, provided an update on the improvement projects.

Dennis Simpson, City Attorney, indicated that they have completed the review and draft business subsidy agreement for Brau Brothers Brewing Company; Bend Rite Custom Fabrication, Inc., Development Agreement and TIF documents have been executed and Ralco representatives are reviewing their Contract for Private Development. He also indicated that the apartment located on Mill Street is vacant due to a fire.

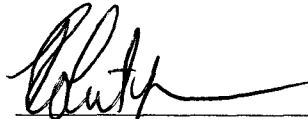
REVIEW OF PENDING ITEMS:

There were no questions on the pending agenda items.

INFORMATION ONLY:

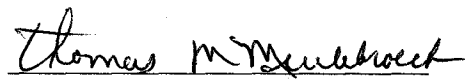
There were no questions on the information items.

Member (**Larry Doom**) Moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk