

## REGULAR MEETING – NOVEMBER 27, 2012

The regular meeting of the Common Council of the City of Marshall was held on November 27, 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. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Shane Waterman, Assistant City Engineer; Ilya Gutman, Building Official; 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 of the council that the agenda be approved as presented with the deletion of item no. 23, which is to consider the introduction of an ordinance to enact the .5% General Sales and Use Tax.

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

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

1. Julia Hartmann from Australia
2. Camila Barria-Foschino from Chili
3. Julie Brunnschweiler from Switzerland
4. Teeraporn Meechumnarn from Thailand
5. Malin Forser from Sweden
6. Arianna Mariotti from Italy

### **CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 13, 2012:**

Member (**Larry Doom**) moved, Member (**Charlie Sanow**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on November 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: 7 Nay: 0. The motion **Carried 7 - 0**

### **CONSIDER APPROVAL OF CONSENT AGENDA:**

Council Member Boedigheimer requested that the approval of bills/project payments be removed from the consent agenda.

Member (**Charlie Sanow**) 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**

Authorization be granted to the Department of Public Safety to dispose of surplus City property – three (3) vehicles. These vehicles will be auctioned using the State's On-Line auction process.

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Those vehicles that don't receive the minimum bid will be taken to Alter Metal Recycling for disposal.

The proper city personnel be authorized to enter into a SMSU Scheduling & Event Services Office Use Agreement for testing of Police Officers on December 15, 2012.

Authorization be granted to the Department of Public Safety to dispose of six computer towers that were replaced. These towers were purchased in 2004 or 2005 and were not working properly or adequately.

To approve the request of Rennae Petersen for a three-year renewal of a Conditional Use Permit for Home Occupation to conduct a piano teaching business, with the following conditions:

1. That the regulations, standards and requirements as set forth in the City Code and as pertains to the Class of District which such premises are located therein shall be conformed with.
2. That the City reserves the right to revoke the Conditional Use Permit in the event that the owner has breached the conditions contained in this permit provided first, however, that the City serve the owner with written notice specifying items of any such default and thereafter allow the owner a reasonable time in which to cure any such default.
3. That the owner maintain the property to conform with the Housing Code, Zoning Ordinance, Building Code, and not cause or create negative impact on existing or future properties adjacent thereto.
4. The hours of business shall be between 6:00 a.m. and 10:00 p.m. only.
5. The permit expires three years after approval.

The proper city personnel be authorized to enter into an Artist Agreement between the City of Marshall, Marshall Area Fine Arts Council and John Sterner for the Mrs. Whitney Statue project.

**APPROVAL OF ITEMS PULLED FROM CONSENT - CONSIDER APPROVAL OF THE BILLS/PROJECT PAYMENTS:**

Council Member Boedigheimer was concerned that the construction contract for the Marshall Lyon County Library has not been finalized and wanted to know why. Ben Martig, City Administrator, indicated that staff has been working with the architects on warranty issues and hoped to finalize this project by the end of 2012.

Member (**Mike Boedigheimer**) moved, Member (**Charlie Sanow**) seconded that the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 81810 through 81935. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER THE REQUEST OF DAVID GISLASON FOR A CONDITIONAL USE PERMIT FOR AN EMBROIDERY BUSINESS:**

Member (**Larry Doom**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion to approve the request of David Gislason for an initial one-year Conditional Use Permit for a Home Occupation for an Embroidery Business at 102 South Minnesota Street, Marshall, Minnesota with the following conditions:

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1. That the regulations, standards and requirements as set forth in the City Code and as pertains to the Class of District in which such premises are located shall be conformed to.
2. That the City reserves the right to revoke the Conditional Use Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair any such default
3. That the property is maintained to conform to the Housing Code, Zoning Code, Building Code, and not cause or create negative impacts to adjacent existing or future properties
4. The permit expires one year after approval.
5. That the hours of business be between 6:00 a.m. to 10:00 p.m. only.

Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER THE REQUEST OF R&R OF GLENDIVE, LLC FOR A CONDITIONAL USE PERMIT TO HAVE BREW PUB IN A B-4 SHOPPING CENTER BUSINESS DISTRICT:**

Ben Martig, City Administrator, reviewed the request of R & R of Glendive, LLC for a Conditional Use Permit to have a brew pub in a B-4 Shopping Center Business District at the corner of East Main Street and Highway 23. By City Code definition brew pub is a small brewery that serves and sells its product on premises in addition to off-premises sales; it is a conditional use in a B-4 district. In this particular case, brewery tours may also be given to the general public in addition to beer manufacturing and sales. At this time, the City does not have a building or site plan; therefore, conditions proposed by staff are generic and intended to minimize an impact of this business use on the surrounding area.

Council Member Boedigheimer asked if the condition to plant trees could be more specific to ensure trees large enough to serve as a screen. Council Member Ritter was concerned that the City did not have a building plan for the project. Mr. Martig indicated that the brew pub would only affect the inside of the building and that the council received a tentative floor plan when the business subsidy agreement was approved.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion to approve the request of R & R of Glendive, LLC for a Conditional Use Permit to have a brew pub in a B-4 Shopping Center Business District at the corner of East Main Street and Highway 23 with the following conditions:

- 1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the Class of District in which such structure is located therein shall be conformed with.
- 2) That the City reserves the right to revoke the Conditional Use Permit in the event that the applicant has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.

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- 3) That the owner maintains the structure to conform to the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
- 4) No outside storage is permitted.
- 5) No new outside structures are erected.
- 6) Required parking is striped and complies with the City Ordinance.
- 7) No noxious odor is detectable outside of the building.
- 8) At least three trees are planted between the building and Highway 23

Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER THE REQUEST BY MINNESOTA VALLEY BROADCASTING FOR A VARIANCE ADJUSTMENT PERMIT TO CONSTRUCT A 12 FOOT HIGH FENCE HIGHER THAN ALLOWED BY THE CITY ORDINANCE AND TO HAVE OUTSIDE STORAGE WHEN THE ORDINANCE PROHIBITS IT IN A B-3 GENERAL BUSINESS DISTRICT:**

Ben Martig, City Administrator indicated that Minnesota Valley Broadcasting, the owner, and Border State Electric, the tenant originally requested to construct a 12 foot high fence and allow outside storage of construction materials. This building is located at the corner of South 4th Street and Lucille Street. This building is located in a B-3 General Business district while the area on the other side of Lucille Street is zoned R-1 Single family residential. The Ordinance allows 6 foot tall maximum fences in business and residential districts. The original Conditional Use Permit issued in 1974 classified a nonconforming use as a conforming use. General Business district permits a wholesale operation with no outside storage. Currently there is a 75 feet by 30 feet yard enclosed with 6 foot tall fence that is being used for storage. In addition, construction materials are being stored outside of the fence along the street.

At the Planning Commission meeting, Border State Electric representative amended their request to allow storage within the existing fence only for a period of 12 months and the City Staff concurred.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion to approve the request of Minnesota Valley Broadcasting for a Variance Adjustment Permit to allow storage with the existing fence only for a period of 12 months with the following conditions:

1. All other City Ordinance requirements are complied with.
2. No storage outside of the fence of any materials or equipment is allowed at any time for any duration.
3. No material shall be exposed above the existing 6 foot fence.
4. This variance is valid for 12 months from the date of approval.

Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Y81-PHASE II: SONSTEGARD INDUSTRIAL PARK IMPROVEMENT  
PROJECT-PHASE II AND PROJECT Y93 / SP 4210-40 / SAP 139-010-015: T.H.  
68/LAKE STREET TURN LANE IMPROVEMENTS - CONSIDER RESOLUTION  
AMENDING ASSESSMENT ROLL**

Member **(Dan Ritter)** moved, Member **(Charlie Sanow)** seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3826, SECOND SERIES, which provides for the "Resolution Amending Assessment Roll" for Project Y81-Phase II: Sonstegard Industrial Park Improvement Project-Phase II and Project Y93 / SP 4210-40 / SAP 139-010-015: T.H. 68/Lake Street Turn Lane Improvements Project.' This resolution provides for the assessment for Lot 1, Block 1 to be deferred per an agreement with Ralco Nutrition, Inc., and Knochenmus Enterprises, LLP and the assessments for Lots 3 & 4, Block 1 being waived per an agreement with Northern Star Bank and that the special assessments be funded through existing pooled TIF and also additional TIF from the district created for this Industrial Park pending future development. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER AMENDMENTS TO EMPLOYEE WAGE SCHEDULE--RECLASSIFY  
APPRAISER POSITION AND AMEND 2013 SCHEDULE IN ACCORDANCE WITH  
PRIOR APPROVAL OF LELS LABOR AGREEMENTS:**

Ben Martig, City Administrator, reviewed the request to reclassify the Appraiser position from a part-time to a full-time position effective immediately. The City Assessor has presented justification for this request in a prior budget work session. In summary, this included: a) a marked increase in the average number of building permits issued -Avg. number of building permits 2003-2010 was 517 per year. The number of building permits for 2011 was 1,739 (1,061 thru 9/30/11) and the number of building permits thru 9/30/12 is 1,165. -Staff must also complete additional follow up for permits issued last year but were not completed for the 2012 assessment; b) Statutory quintile inspection audit by the Department of Revenue---under current staffing levels, the City is not meeting this requirement; c) CAMA Completion (began with 2011 Assessment): though the Assessing office works on this conversion continuously, with the current staffing levels, progress is slow. Commercial will be 70% complete by January 2013 and Residential will be 53% complete by January 2013; d) Employee recruitment and retention: Assessor/Appraiser positions are difficult to recruit to Marshall/SW Minnesota. There is a very limited pool of eligible, licensed candidates throughout the state of MN and recruiting highly qualified candidates to Marshall is difficult. The current Appraiser position is 24 hours per week and does not include benefits. The combination of highly qualified Appraisers being sought after throughout the state and the City's position offering only part-time hours with no benefits leaves the City in a difficult position to retain qualified staff; e) Potential for collaboration with County Assessor's office; and f) Succession planning. If approved, the incumbent employee's existing position would be eliminated and he would be offered a transfer to the full-time position. This has informally been discussed with the employee and he has indicated a genuine interest in the position and stated, again informally, that he would accept the transfer if offered. If the employee decided to reject the transfer, he will be considered to have voluntarily terminated his employment and the full-time position will be posted for external applicants. Council will note that the 2013 schedule also reflects changes to the Police classifications pay schedule. When the two LELS contracts were approved, the appropriate amendments were made to the 2012

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schedule but not to the 2013 schedule. Neither LELS union has settled for 2013 so the wages reflect 2012 agreed upon rates.

Member (**Dan Ritter**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'City Council approval of the amended 2012 and 2013 employee wage schedules'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Carried 6 - 1** with Jennie Hulsizer voting no.

**CONSIDER RESOLUTION AMENDING BUDGET AMOUNTS FOR FISCAL YEAR ENDING DECEMBER 31, 2012:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3827, SECOND SERIES, which is a resolution Amending Budget Amounts for Fiscal Year Ending December 31, 2012'. This resolution provides for the items identified in the General Fund – Fund Balance as of January 31, 2011 in the amount of \$136,791 to be included in the 2012 General Fund Budget. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**FARM LEASE AMENDMENT - E. BOSSUYT FAMILY FARMS (PARCEL 14):**

Shane Waterman, Assistant City Engineer, indicated that at the October 25, 2011 meeting, the Council entered into a Farm Lease with E. Bossuyt Family Farms for the following described property: 58.10 acres all as located in the Southeast Quarter (SE¼) of Section Twenty nine (29), Township One Hundred Fourteen (114) North, Range Forty-one West, Lyon County, Minnesota. In 2012, the City contracted to construct a storm water detention and treatment pond located adjacent to this property including an excavation disposal area immediately adjacent to the ponding. This disposal area has now been completed and topsoil spread and is available for crop production until such time the City requires any or all of it for the MERIT Center development. The additional area available for lease is approximately 11.34 acres. After discussing the area with the Lessee, it is recommended that this area have a reduced rental rate with 50% of the original rental rate for the original 58.10 acres, plus a pro-rated rental adjustment based on crop production for the remaining 50% of the original rental rate, up to \$278.00/acre. The amended agreement still maintains provisions for the City's development of the property should any or all of the crop area be needed during the 2013 or 2014 cropping seasons.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the "Amendment to Farm Lease" with E. Bossuyt Family Farms for 2013 and 2014 for an additional 11.34 acres; have a reduced rental rate with 50% of the original rental rate for the original 58.10 acres, plus a pro-rated rental adjustment based on crop production for the remaining 50% of the original rental rate, up to \$278.00/acre'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**FARM LEASE AMENDMENT - RJC, INC. (PARCEL 16):**

Shane Waterman, Assistant City Engineer, indicated that at the February 28, 2012 meeting, the Council entered into an agreement with RJC, Inc. for the following described property: 3.00 acres of farm land in the Southeast Quarter (SE¼) of Section Twenty-nine (29), Fairview Township. In 2012, the City contracted to construct a storm water detention and treatment pond located adjacent to this property. The original lease area was estimated at 3.00 acres. After measuring the area farmed in 2012, the area is actually 4.30 acres. The amended lease has been

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revised to reflect the actual acres farmed. The amended agreement still maintains provisions for the City's development of the property should any or all of the crop area be needed during the 2013 or 2014 cropping seasons.

### **ORIGINAL - Motion**

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'that the Council approve the "Amendment to Farm Lease" with RJC, Inc. for 2013-2014, which increases the rental farm lease area from 3.0 acres to 4.30 acres'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

### **FARM LEASE AMENDMENT - PAUL WAMBEKE (PARCEL 5):**

Shane Waterman, Assistant City Engineer, indicated that at the October 25, 2011 meeting, the Council entered into an agreement with Paul Wambeke for the following described property: Two parcels containing 118.40 acres more or less located in Section Six (6), Township One Hundred Eleven (111) North, Range Forty-one (41) West of the Fifth Principal Meridian. In 2012, the City completed the installation of the access roadway to Marshall Airpark East. In addition the City has contracted with R&G Construction Co. in 2012 for the construction in 2013 as defined in Schedule 1 of the new ramp and taxiway areas of Marshall Airpark East. Also, the City will be designing and constructing watermain and sewer main extensions to Marshall Airpark East enabling this area to be "shovel ready". The result of this existing development and 2013 construction schedule will reduce the rentable farm lease area from 118.40 acres to 97.40 acres. The amended agreement still maintains provisions for the City's development of the property should any or all of the crop area be needed during the 2013 or 2014 cropping seasons.

### **ORIGINAL - Motion**

Member (**Larry Doom**) Moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the "Amendment to Farm Lease" with Paul Wambeke for 2013-2014 which reduces the rentable farm lease area from 118.40 acres to 97.40 acres'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

### **CONSIDER APPROVAL OF AGREEMENT WITH PERMITWORKS FOR BUILDING PERMIT SOFTWARE:**

Ben Martig, City Administrator, indicating that staff reviewed demonstrations from PermitWorks and Incode. The market is fairly small on options specific to building inspection management. Staff also discussed the potential of a custom designed program with Versatile Solutions, a Marshall based consulting company. Mr. Darren Brownlee is the owner and developed the Marshall Community Services online registration program. It is critically important to the building inspection department to upgrade their software in order to keep up with inspections. This was presented to the Council at the budget worksession on November 20.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve PermitWorks software agreement'. This motion provides for the proper City Personnel to execute the agreement with PermitWorks. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER 2013 PARTNERSHIP AGREEMENT BETWEEN THE CITY OF MARSHALL AND MARSHALL MUNICIPAL UTILITIES:**

Ben Martig, City Administrator, reviewed the 2013 Partnership Agreement between the City of Marshall and Marshall Municipal Utilities. Mr. Martig is recommending one revision that would provide an upgrade to the laserfiche system to include an added workflow feature. The County was already pursuing this option and upon demonstration the Marshall Public School and MMU have expressed interest to move ahead. The system has the opportunity to substantially transform document and process management. The Laserfiche Workflow Suite can take the paper routing process and make it incredibly efficient. Laserfiche Workflow can automatically route documents to various locations, inform users when they have documents waiting, and even send documents back to previous steps if certain rules are not followed. The best part of electronic workflow management is the ability to always know where a file is in the process. Laserfiche has the ability to search and access documents in the workflow process at any point in the process. Utilizing these features can significantly, if not eliminate, the costly errors that come up in paper workflows like the misfiling or even the loss of records. Numerous immediate applications are planned including usage for permitting (non-building permit), agreement management, automated data management controls and more. The shared cost allows the City to save by working together on the shared software. The annual cost will be comparable to what it is now. The up-front cost for software and training to the City is \$8,050. The budget will be amended to include this new cost.

Council Member Boedigheimer indicated that he has requested several times to receive a hard copy of large spread sheets and is not receiving them. He indicated that it is very difficult to read these documents on-line; therefore he will be voting no on this item.

Member (**John DeCramer**) moved, Member (**Dan Ritter**) seconded to approve the **ORIGINAL** motion 'to approve the 2013 Partnership Agreement between the City of Marshall and Marshall Municipal Utilities with the upgrade to the Laserfiche System'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1**, with Boedigheimer voting no.

**CONSIDER INTRODUCTION OF ORDINANCE TO ENACT .5% GENERAL SALES AND USE TAX:**

This item was removed from the agenda.

**COMMISSION/BOARD LIAISON REPORTS:**

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

Byrnes            No report.

Hulsizer        Convention and Visitors Bureau discussed their budget.

Doom            Planning Commission actions were acted on earlier in the meeting; Senior Citizen Center Commission met.

Sanow            No report.



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DeCramer     EDA discussed the Small Cities Grant; Utilities Commission actions were acted on earlier in the meeting.

Boedigheimer MERIT Center Commission indicated that with the approval of the sales tax they discussed what needs to happen next.

Ritter         Housing Commission met and the minutes are included in the agenda packet.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

Council Member Boedigheimer asked when the City would be receiving the appraisal on the Bud Rose Property and Attorney Simpson indicated that he has received the appraisal. The City Council expressed their appreciation to Dan Ritter and Charlie Sanow for the years of service on the City Council.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that the public hearing for the Proposed 2013 Budget and Tax Levy is scheduled for 6:00 P.M. on December 4, 2012; there will be a work session held after the regular meeting tonight; there will be a Meet and Greet on December 10, 2012 for the two newly elected Council Members. Ben indicated that a work session needs to be scheduled to discuss the MERIT Center and Amateur Sports Facility Project.

Shane Waterman, Assistant City Engineer, provided an update on the construction projects.

Dennis Simpson, City Attorney, indicated that the Ralco Project is ready to close. Work is continuing on the land acquisition for the Amateur Sports Facility.

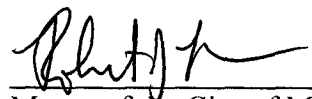
**PENDING ITEMS:**

There were no questions on the current list of pending agenda items.

**INFORMATION ONLY:**

There were no questions on the information items.

Member (**Dan Ritter**) 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: 7 Nay: 0. The motion **Carried. 7 - 0**

  
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Mayor of the City of Marshall

ATTEST:

  
\_\_\_\_\_  
Financial Director/City Clerk