

REGULAR MEETING – JANUARY 8, 2013

The regular meeting of the Common Council of the City of Marshall was held on January 8, 2013 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: Ellayne Conyers, Glenn Bayerkohler, 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; Rob Yant, Director of Public Safety; 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.

CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON DECEMBER 11, 2012 AND THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 18, 2012:

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the minutes of the work session held on December 11, 2012 be approved as presented and the minutes of the regular meeting held on December 18, 2012 be approved as corrected, 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 DeCramer requested that item number 12, which is to consider approval of the bills/project payments be removed from the consent agenda and Council Member Bayerkohler requested that item number 9, which is to consider acceptance of the MERIT Commission bylaw changes be removed from the consent agenda.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the council approve the following 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 adoption of RESOLUTION NUMBER 3837, SECOND SERIES Designating the Official Depositories for the City Funds for 2013.

The adoption of RESOLUTION NUMBER 3838, SECOND SERIES Designating the Marshall Minnesota "Independent" as the Official Newspaper for the City of Marshall.

The Council adopt RESOLUTION NUMBER 3839, SECOND SERIES, which is the "Resolution Ordering Preparation of Report on Improvement" for Victory Drive Improvement Project Z06 and West Lyon Street/North 3rd Street Reconstruction Project Z07.

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

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The proper city personnel be authorized to approve a software licensing agreement with Intergraph to continue the use of the State Patrol's I/Mobile system in-car computer system.

The approval of a Temporary On-Sale Liquor License for Marshall Area Chamber of Commerce to use on April 15, 2013 at SMSU, 1501 State Street for the Lyon County Community Summit.

AUTHORIZATION TO ACCEPT THE MERIT COMMISSION BYLAW CHANGES:

Council Member Bayerkohler reviewed several changes that he was proposing for the MERIT Commission By-Laws. Bayerkohler was concerned with the Commission size of the 18 members. Rob Yant, Director of Public Safety, indicated that this commission wanted a diverse representation and there was no issue in terms of operation with 18 members.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the proposed changes to the MERIT Commission By-Laws along with the administrative changes proposed by Bayerkohler. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

REVIEW OF MEMORANDUM OF UNDERSTANDING, CITY OF MARSHALL AND MARSHALL SCHOOL DISTRICT RELATED TO THE SCHOOL RESOURCE OFFICER (SRO) PROGRAM:

Ben Martig, City Administrator, indicated that this item was discussed at the December 18, 2012 City Council meeting. At the time, staff did not have a copy of the School Resource Officer agreement with the school district. Since the meeting, Administrator Martig did share with the City Attorney and did forward on to his opinion to the Council on 12-19-12. The memo clarified that city staff did not violate the agreement nor was the policy violated. The Standard Operating Guidelines that are referenced in the agreement do provide additional operating guidelines. These terms in the guidelines were not violated. Staff did immediately return the position into the school facility rather than just on general patrol for the one day as directed by Council. City Administrator Martig has met with school administration on several occasions since the last meeting to review the agreements and proposed temporary schedule change. Chief Yant has also had discussions with the school administration. The Director of Public Safety has decided to permanently terminate the proposed temporary schedule assignment for the remainder of the school year. In effect, the School Resource Officer will be back to the original schedule and only one school day was impacted by the change. This decision was based on a combination of factors. Most recently, the Director of Public Safety, Administrator Martig and Police Sergeant Curry attended a meeting with the school district administration (Willert, Lamprecht, Williams) on Friday, January 4th to review the SRO agreements and operations. It was a very positive and productive meeting. Mr. Martig indicated that there will be some enhancements to the communication processes and designated contact persons with the school district but otherwise there are no immediate changes of significance proposed for the SRO agreements. The support for the SRO position and appreciation of the complexity and crossover between the duties of the SRO was evident in the discussions between the staff involved. Administrator Martig is working on scheduling a work session in late May or early June (not yet set) that would include the school board to go over a few related joint ventures including amateur sports facilities, community services joint powers agreements as well as discussing other partnerships. This would be an appropriate time to discuss SRO as well as crossing guard partnerships as they relate to public

safety. If the council or school board would like additional clarification or amendments to any agreements such as the SRO it would be a good time to discuss. Also, the Council has had regular quarterly work sessions and the February 19th meeting is planned to include Marshall Municipal Utilities related to the industrial park partnership agreement and related financing. There are a few other city specific items planned for that evening as well. This further strengthens that a late May/June work session really will work well for a joint meeting. The Public Safety Director and Administrator are open to other direction provided by the council at the meeting.

CONSIDER RELEASE OF REQUEST FOR PROPOSALS FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE MERIT CENTER AND THE AMATEUR SPORTS PROJECTS:

Ben Martig, City Administrator, briefly reviewed the proposed RFP for construction management services related to the MERIT Center and the Amateur Sports Projects. The timelines and details are included in the RFP's.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve the release of the Request for Proposals for Construction Management Services related to the MERIT and Amateur Sports Commission projects'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVAL OF PROGRAM INCOME PROJECT (SMALL CITIES DEVELOPMENT GRANT FUNDS):

Ben Martig, City Administrator, indicated that Southwest Minnesota Housing Partnership (SWMHP) and Western Community Action (WCA) would like to utilize \$11,681.00 for a project that cannot be completed prior to the Small Cities Development Program (SCDP) grant closing on December 31, 2012. The project was processed along with the other applications for the SCDP grant. At this time the contractor does not have enough "permissible" weather to complete the full project. Staff is proposing that the project be pulled out of the SCDP funding and use only program income to move forward with helping this client. The client is a handicap individual and the rehabilitation is to accomplish installing a sidewalk to the rear of his home to be used by his wheelchair, installing 2 windows, a metal door to his garage from kitchen with a handicap opener and then the electrical for the opener and hardwired smoke detectors. The total amount for this project is \$12,351. The homeowner will need to contribute \$3,730 as well as the Program Income funds. Currently WCA receives \$2,110 per project in Field Administration and SWMHP Receives \$950 for general Administration. WCA has followed all the requirements of the SCDP program and all items are an eligible expense as set forth by the Department of Employment and Economic Development. WCA is estimating that the work can be started during the winter months but the cement work will need to wait until the weather is agreeable. SWMHP will continue to hold the funds and pay them out to the contractor and WCA as we currently do within the SCDP program. As stated before this money has already been set aside with the SCDP it just cannot be completed in the timeframe so SWMHP and WCA are asking to hold those funds out and finish the project after the SCDP grant closes. Staff will not include this project in the totals of the SCDP grant and will not utilize any of the SCDP funds. The goals of SCDP have been met and exceeded without including this project.

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Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'EDA recommends a motion to approve the Program Income Project to allow SWMHP & WCA to utilize \$11,681.00 for a project that cannot be completed prior to the SCDP grant 12/31/2012 closing '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER CHANGE ORDER NO. 9 WITH ROBERT L. CARR COMPANY FOR THE LIBRARY PROJECT:

Ben Martig, City Administrator, reviewed Change Order Number 9 with Robert L. Carr Company for the Marshall Lyon County Library Project. The change order is in the amount of \$2,030.00. The changes proposed include an additional \$2,354 for geothermal piping modification and zone controls and a deduct of \$324 for landscaping work.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve Change Order No. 9 with Robert L. Carr Company in the amount of \$2,030.00 for the Marshall Lyon County Library project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPLICATION AND CERTIFICATE FOR PAYMENT #16 (FINAL) IN THE AMOUNT OF \$12,354.28 FOR THE MARSHALL LYON COUNTY LIBRARY PROJECT:

Ben Martig, City Administrator, indicated that staff has been working for some time to complete a number of issues related to the final closeout of the library project. Most recently, the issues were related to the front entry door and limited leaking on the south/west windows of the library. The door issue has been completed in compliance with the contract. The leaking remains unresolved and has been noted on the project "punch list" as a contract item unresolved. The contractor and subcontractor have committed to checking back in 2013 when there is rain in the spring to determine if the corrective measures have been successful. If not, they have committed to correcting those at that time. The \$12,354.28 is the final funds left in the project to be paid. There is no retainage remaining in addition to this amount. Staff is suggesting leaving the project open until the leaking issue is resolved in order to maintain some additional security that the item will be completed. The Council could choose to close the project out and make payment but then the issue would become a warranty protection for completion which is less leverage than retain some cash to ensure it is addressed. All other construction items have been addressed. Therefore, staff is proposing to leave this final pay request open until such time the water leaking is resolved. Staff would then bring back to council for final approval. Staff understands the interest to close this project and will work to continue to make this a priority with the contractor, subcontractor and architect.

CONSIDER APPROVAL OF THE BILLS/PROJECT PAYMENTS:

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 82298 through 82530 with the removal of Voucher No. 82525 payable to Robert L. Carr Company in the amount of \$12,354.28 for the final payment for the Marshall Lyon County Library Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER THE REQUEST BY FAIRVIEW DEVELOPMENT LLC, FOR A MAP AMENDMENT (REZONE) PART OF THE PROPERTY 604 VILLAGE DRIVE FROM R-2 ONE TO FOUR FAMILY RESIDENCE DISTRICT, TO R-4 HIGHER DENSITY MULTIPLE FAMILY RESIDENCE DISTRICT:

Ilya Gutman, Building Official, indicated that Fairview Development LLC, is planning to build an assisted living facility at 604 Village Drive, similar to Boulder Estate across the street. R-4 (Higher Density Multiple Family Residence District) zoning allows for this type of facility; therefore, a rezoning of this property is required to match the rest of the property and surrounding areas.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 670, SECOND SERIES, which Amends Chapter 86 Relating to Zoning. This ordinance provides for 604 Village Drive to be rezoned from R-2 (One to Four Family Residence District) to R-4 (Higher Density Multiple Family Residence District) which would allow for the construction of an assisted living facility'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER THE REQUEST BY FAIRVIEW DEVELOPMENT LLC, FOR A VARIANCE ADJUSTMENT PERMIT TO ALLOW A REAR YARD HAVING A DEPTH OF 10% OF THE LOT DEPTH IN LIEU OF 25% AS REQUIRED BY CITY ORDINANCE:

Ilya Gutman, Building Official, reviewed the request by James Carr for a Variance Adjustment Permit to reduce a rear yard from 25% of the lot depth as required by the Ordinance to 10% of the lot depth. The owner is contemplating building an assisted living or similar facility on this property spread among several buildings. This property is a corner lot which requires having a front yard along each street. The Ordinance allows the owner to choose which of the remaining yard becomes a rear yard and which becomes a side yard. The lot size is 443 feet by 367 feet with the short dimension running along Fairview Street. A rear yard equal to 25% of the smaller dimension will be almost 92 feet and will significantly reduce the buildable area within the lot. The City staff recommendation to reduce it to 15% of the lot depth or 55 feet, which allows for more buildable area allowing placing 3 buildings on the lot but still takes natural landscape into account. A single story facility was an added condition by the Planning Commission.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the request of Fairview Development LLC for a Variance Adjustment Permit to allow a rear yard to have a depth of 15% of the lot depth at 604 Village Drive with condition that 2-inch minimum caliper trees will be planted within the rear yard outside of any easements on the property at a minimum rate of one tree every 50 lineal feet and that a building (s) built within northern 140 feet of the property shall be single story only in height'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER RESOLUTION AUTHORIZING EXECUTION OF MN/DOT GRANT AGREEMENT NO. 02308 / A4201-88 FOR BEACON REPAIR AT THE AIRPORT:

Shane Waterman, Assistant City Engineer, reviewed the Grant Agreement for Beacon Repair at the Airport. The beacon was scheduled for replacement in 2013 (State FY2014). The beacon became inoperable in 2012 and was accelerated for funding by Mn/DOT-Aeronautics according

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to this agreement. The Capital Improvement Program (CIP) will be modified to reflect the advancement of this funding. This Agreement will remain in effect until September 30, 2015. The agreement provides for project costs not to exceed \$8,495.09 with the state paying 70% and the City 30%.

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3840, SECOND SERIES, which is the Resolution providing Authorization to Execute Mn/DOT Grant Agreement No. 02308 for Airport Improvement Excluding Land Acquisition for Beacon Repair at the Southwest Minnesota Regional Airport'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Z01: WEST REDWOOD STREET / NORTH 3RD STREET / WEST MARSHALL STREET RECONSTRUCTION PROJECT -- CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS

Shane Waterman, Assistant City Engineer, indicated that this project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The proposed project will reconstruct the street and described utilities on West Marshall Street from East College Drive to North 3rd Street, North 3rd Street from West Marshall Street to West Redwood Street, and West Redwood Street from North 3rd Street to East College Drive. The plans and specifications have been prepared by the City staff.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3841 SECOND SERIES, which is the "Resolution Approving Plans and Specifications and Ordering Advertisement for Bids" for Project Z01: West Redwood Street / North 3rd Street / West Marshall Street Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Y97: SOUTH 1ST STREET LIFT STATION / GRIMES STREET RECONSTRUCTION PROJECT -- CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS:

Shane Waterman, Assistant City Attorney, indicated that this project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. This project also includes the replacement of a sanitary sewer lift station and forcemain. The proposed project will reconstruct the street and described utilities on Grimes Street from South 2nd Street to Williams Street and South 1st Street from DeSchepper Street to George Street. The plans and specifications have been prepared by the City staff.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3842 SECOND SERIES, which is the "Resolution Approving Plans and Specifications and Ordering Advertisement for Bids" for Project Y97: South 1st Street Lift Station / Grimes Street Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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CONSIDER APPOINTMENTS TO VARIOUS BOARDS/COMMISSIONS:

Per the recommendation of Mayor Byrnes, Member (**Ellayne Conyers**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'approve the various appointments to the Boards and Commissions'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Community Services Advisory Board – Craig Schaefer be appointed to an unexpired term to expire on February 28, 2014

Library Board – Gwen Sturrock be appointed to a term to expire on December 31, 2015

Planning Commission – Chris Ellingson be appointed to a term to expire on May 31, 2015

COMMISSION/BOARD LIAISON REPORTS:

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

Byrnes Fire Relief Association held their annual meeting on January 8th;
Regional Development Commission will be meeting on January 17th; Regional Radio Board has completed their work; SW MN Amateur Sports Center met on January 8th.

Hulsizer No report.

Doom SW MN Amateur Sports Center met today.

Bayerkohler No report.

DeCramer EDA item was acted on earlier in the meeting; Utilities Commission discussed their 2013 budget.

Boedigheimer No report.

Conyers Community Services Advisory Board – Gustavo Estrada provided information on a new program.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Boedigheimer and Conyers indicated that they have received calls from Marshall residents in regard to snow and ice removal on city streets. Conyers indicated that residents were also concerned about sidewalks not being shoveled. Shane Waterman, Assistant City Engineer, indicated they have received complaints about icy streets and ice being pushed into their driveways by the plows. Sidewalk complaints are handled on a complaint basis.

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STAFF REPORTS:

Ben Martig, City Administrator, provided a summary of the expenses related to information items leading up to the November 2012 vote on local sales taxes. No city funds were used on "vote yes" activities. Mr. Martig also provided information on the following:

Council work session will be held on February 19th. One main topic includes summarizing the industrial park financing of sources and uses of funds. Terri Heaton will be in attendance to assist in presenting. The Marshall Municipal Utilities Board and EDA have been notified of their invitation to this presentation as well. Other tentative topics include an update on assessing discussions and potentially other financing related topics such as TIF pooled fund dedicated uses and possibly others. Staff also is working on a Quarter 2 work session that would be intended to include the Marshall Public School District Board of Directors related to various cooperatives agreements. He also anticipates some discussion on the Amateur Sports and MERIT projects.

Mary Maertens, President and CEO of Avera Marshall Regional Medical Center will be in attendance on January 15th to present the bi-annual report. If any Council Member has any specific questions please let Ben know and he will pass those along to her.

Lyon County was awarded a little of \$1.4 million in State Legacy funds for the Camden Regional Trail project.

Staff is working to finalize a special meeting of the full Council dedicated to the presentation of the draft pay study. The dates appear to be getting close in early February.

Council subcommittee meetings have been initiated with several meeting this week. The intent is primarily to set priority items for 2013 to address and also any immediate items.

Ben provided a brief State of Minnesota Legislative update.

Ben indicated that the next Council meeting will be held on January 15th and reminded the Council of the Employee Appreciation Event on January 18th.

Shane Waterman, Assistant City Engineer, provided an update on the current and upcoming projects.

Dennis Simpson, City Attorney, indicated that the property transfer for Ralco has been completed and all the documents have been recorded. Dennis is continuing to work with Schwans in regard to the land for the Amateur Sports Center and the ponds. He also indicated that they have received the appraisal for the Bud Rose property, but since federal funds are involved a second appraisal is required.

PENDING ITEMS:

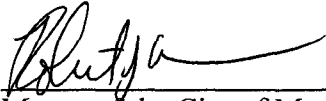
There were no questions on the current list of pending agenda items.

INFORMATION ONLY:

There were no questions on the information items.


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Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) 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