

REGULAR MEETING – JANUARY 15, 2013

The regular meeting of the Common Council of the City of Marshall was held on January 15, 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; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Bob VanMoer, Wastewater Superintendent; 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 with the addition of item number 21, which is to consider an agreement with Knology - Business Service for the Marshall Police Department.

**CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 8, 2013:**

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on January 8, 2013 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**

**AWARD OF BIDS - PROJECT E22: LEVEE TREE REMOVAL AND RESTORATION PROJECT-PHASE II:**

Bids were received, opened and read on January 3, 2013 for Phase II Tree Removal on Flood Levee System Project E22. The bids received, opened and read were from:

D & G Excavating, Inc.  
Marshall, Minnesota  
\$211,899.90

Midwest Contracting, Inc.  
Marshall, Minnesota  
\$88,008.00

Rogge Excavating  
Ghent, Minnesota  
\$155,508.00

Glenn Olson, Director of Public Works/City Engineer indicated that this project involves the removal of trees, stumps and shrubs along portions of the flood protection levee system in the southwest portion of the city. The U.S. Army Corps of Engineers (Corps) has directed the removal of all vegetation except grass from the City's flood protection dike in order to preserve its integrity for flood protection. The City must comply with this directive in order to allow the Corps to continue to certify the adequacy of the dike for flood protection to the Federal Emergency Management Agency (FEMA). The Corps has given the City until March 2013 to complete these improvements. The Corps has also indicated they will work with the City concerning this project for extension of the deadline based upon the City's cooperation and intent to make the improvements.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council award the proposal for Project E22 Levee Tree Removal and Restoration Project-Phase II to Midwest Contracting, Inc. of Marshall, Minnesota, in the

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amount of \$88,008.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF CONSENT AGENDA:**

Member (**John DeCramer**) 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**

Approve the renewal of the Group Self-Insured Accident Plan for Volunteers for the City of Marshall for the period January 1, 2013 to January 1, 2014. The annual premium for the coverage is \$1,289.00 which is the same premium as the past year.

The adoption of RESOLUTION NUMBER 3843, SECOND SERIES Authorizing the Transfer and Closure of Debt Service Fund 304 and Special Revenue Fund 250. The shortage in cash of \$1,052.34 is to be transferred from Capital Project Fund 495 to the Special Revenue Fund 250 and the delinquent tax receivable balance of \$206.70 is to be transferred to the Capital Project Fund 495.

The adoption of RESOLUTION NUMBER 3844, SECOND SERIES Authorizing Transfer of Surplus Funds and Closure of Debt Service Fund 360. The cash balance of \$6,389.97 is to be transferred to Debt Service Fund 378 to offset some of the deficit in this fund. Fund 378 is the 2000 Public Improvement Fund.

The adoption of RESOLUTION NUMBER 3845, SECOND SERIES Authorizing Transfer of Surplus Funds and Closure of Debt Service Fund 315. The cash balance of \$25,931.93 is to be transferred to Debt Service Fund 378 to offset some of the deficit in this fund. Fund 378 is the 2000 Public Improvement Fund.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 82531 through 82652.

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

Mary Maertens, CEO of Avera Regional Medical Center was in attendance at the meeting to present the bi-annual report for the Avera Regional Medical Center.

**WASTEWATER SOLIDS CONTACT CLARIFIER PROJECT - CONSIDER AUTHORIZATION TO ADVERTISE FOR BIDS:**

Bob VanMoer, Wastewater Superintendent, indicated that 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 be reusing the existing concrete tank and fiberglass cover. Short Elliott Hendrickson has completed the design, and MPCA has approved the plans and specifications. The City Attorney has reviewed the project manual.

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Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council authorize advertisement for bids for the Solids Contact Clarifier project at the Wastewater Treatment Facility'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Y87 / S.P. 4210-50: WEST MAIN SANITARY SEWER IMPROVEMENT PROJECT – CONSIDER RESOLUTION AUTHORIZING ENTERING INTO COOPERATIVE CONSTRUCTION AGREEMENT NO. 02407 WITH MN/DOT:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Cooperative Construction Agreement No. 02407 with Mn/DOT relating to Project Y87 / S.P. 4210-50: West Main Sanitary Sewer Improvement Project. This agreement provides for a lump sum payment by the State to the City of the State's share of the costs of the bituminous, mill and overlay, ADA improvements and storm sewer construction and other associated construction to be performed upon, along and adjacent to T.H. 68 from 0.09 miles west of Channel Parkway to T.H. 59 within the corporate city limits under State Project 4210-50. The City Attorney has reviewed the agreement.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3846, SECOND SERIES, which is a resolution Authorizing Entering into Cooperative Construction Agreement No. 02407 with Mn/DOT relating to Project Y87 / S.P. 4210-50: West Main Sanitary Sewer Improvement Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z10: WEST COLLEGE DRIVE SANITARY SEWER PROJECT – CONSIDER CHANGE ORDER NO. 1 (FINAL) AND ACKNOWLEDGEMENT OF FINAL PAYMENT APPLICATION (NO. 3):**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 (Final) for West College Drive Sanitary Sewer Project Z10 with Thompson Excavating, of Taunton, Minnesota. The items on the final change order are the result of final measurements and changes in item quantities during construction. The work performed on the change order includes \$7,934.00 of equipment and labor time related to the disposal of petroleum contaminated soils. Other notable work included \$8,647.60 for additional paving (thin overlay) to correct the pavement section on Country Club Drive to West College Drive. All project costs related to the disposal of petroleum contaminated soils will be submitted to the Minnesota PETRO fund for reimbursement. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the City Council approve Change Order No. 1 (Final) with Thompson Excavating of Taunton, Minnesota, resulting in a contract increase of \$22,891.60 and acknowledgement of the final payment in the amount of \$31,532.38'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Y61 / S.A.P. 139-130-001: KOSSUTH AVENUE RECONSTRUCTION PROJECT – CONSIDER CHANGE ORDER NO. 2:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 2 for Kossuth Avenue Reconstruction Project Y61 / S.A.P. 139-130-001 with Kuechle Underground,

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Inc. This project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The project reconstructs the street and described utilities on Kossuth Avenue from North 4th Street to North 7th Street and North 5th Street from Mason Street to Hudson Avenue. The project includes a change in alignment of Kossuth Avenue from North 4th Street to North 7th Street and includes the demolition of the old rendering building and small storage building adjacent to the animal impound center. Change Order No. 2 involves the removal of storm sewer near the water tower, connection to storm sewer and 16" watermain fitting.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council approves Change Order No. 2 with Kuechle Underground, Inc. resulting in a contract increase in the amount of \$5,261.36 and a total contract amount of \$1,700,746.78'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**PROJECT Z00: WEST LYON STREET / NORTH 7TH STREET RECONSTRUCTION PROJECT – CONSIDER RESOLUTION ORDERING PREPARATION OF REPORT ON IMPROVEMENT:**

Glenn Olson, Director of Public Works/City Engineer, briefly reviewed Project Z00 West Lyon Street / North 7<sup>th</sup> Street Reconstruction. This project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The proposed project will reconstruct the street and the described utilities on West Lyon Street from North 6<sup>th</sup> Street to the Burlington Northern Railroad property and North 7<sup>th</sup> Street from West Main Street to West Marshall Street.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3847, SECOND SERIES, which is the "Resolution Ordering Preparation of Report on Improvement" for West Lyon Street / North 7<sup>th</sup> Street Reconstruction Project Z00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**PROJECT Z00: WEST LYON STREET / NORTH 7TH STREET RECONSTRUCTION PROJECT – CONSIDER RESOLUTION RECEIVING REPORT AND CALLING FOR HEARING ON IMPROVEMENT:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the Feasibility Report covers the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule. The proposed improvements as described in the report are necessary, cost-effective, and feasible from an engineering standpoint.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3848, SECOND SERIES, which is the Resolution Receiving Feasibility Report and Calling Hearing on Improvement for West Lyon Street / North 7<sup>th</sup> Street Reconstruction Project Z00 and setting the public hearing for 5:30 P.M. on February 12, 2013'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**MAINTENANCE SERVICE CONTRACT WITH BENSON TECHNICAL WORKS, INC. FOR MALSr LIGHTING AT THE AIRPORT:**

Glenn Olson, Director of Public Works/City Engineer indicated that the FAA requires that the Airport "Medium Intensity Approach Lighting System with Runway Alignment Indicator Lights" (MALSr) be maintained by a certified technician. The Maintenance Service Contract is with Benson Technical Works, Inc. for \$2,485.31 per year effective January 1, 2013 to December 31, 2014 for maintenance on the MALSr approach lighting. The maintenance will include periodic maintenance and certification as defined by the FAA and the support of FAA ground inspections and FAA flight inspections.

Member (**Mike Boedigheimer**) moved, Member (**Glenn Bayerkohler**) seconded to approve the **ORIGINAL** motion 'that the proper City personnel be authorized to enter into a Maintenance Service Contract with Benson Technical Works, Inc. for services to be performed at the Airport'. This agreement is for January 1, 2013 through December 31, 2014 at a cost of \$2,485.31 per year. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPOINTMENT TO THE POLICE ADVISORY BOARD:**

Per the recommendation of Mayor Byrnes, Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'approve the appointment to the Police Advisory Board'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Police Advisory Board – Scott Crowell be reappointed to a term to expire on May 31, 2015

**CONSIDER AMENDING IMPLEMENTATION DATE FOR 2013 EMPLOYEE WAGE ADJUSTMENT FROM JANUARY 1, 2013 TO DECEMBER 31, 2012:**

Thomas M. Meulebroeck, Finance Director/City Clerk indicated that the City Council has approved a 2% increase in wages for City employees (AFSCME and non-union) for 2013 beginning January 1, 2013. The first pay period that wages would be impacted for 2013 begins on December 31, 2012. In the past, when there are days from two different years included in the first pay period staff has paid the prior year hours at one rate and the hours for the new year at a different rate. This is very time consuming for payroll personnel to complete this task. Due to the pay period beginning on December 31, 2012, City staff is requesting that the 2% pay change for 2013 be implemented on that date; therefore all hours for the pay period would be at one rate. Also, the City Administrator has indicated the pay study will be recommending some wage adjustments be recommended that would be effective the first of the year. This would create an additional set of calculations that would need to be done if made retroactive to January 1, 2013 rather than December 31, 2012 to coincide with the beginning of a new payroll. The Personnel Committee (DeCramer and Doom in attendance) met on January 10, 2013 and are recommending the effective date to be December 31, 2012. The Personnel Committee members also suggested in the future having a policy on implementation in conjunction with a pay period to have it match up every year with each payroll so that it is cost neutral. Staff is suggesting a similar but alternate action that "pay rates will become effective the first pay period of the year that includes the first day of January." However, staff would bring that permanent policy back for discussion later in a proposed personnel policy amendment clarification.

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Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to approve amending the implementation date for 2013 employee wage adjustment increase of 2% for AFSCME and non-union employee from January 1, 2013 to December 31, 2012'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER KNOLOGY - BUSINESS SERVICE AGREEMENT FOR MARSHALL POLICE DEPARTMENT:**

Rob Yant, Director of Public Safety, indicated that the City of Marshall Police Department and Lyon County Government Center and Law Enforcement Center both utilize a phone system provided by Knology through phones and service agreements. Lyon County has been working with Knology on a change to their phone system. Specifically, Knology is changing the technology of their platform that requires a switch upgrade that will no longer support the existing phone system. The conversion will occur by the end of March 2013. Knology is proposing to pay for the full cost of the new switch and phones if Lyon County and the City of Marshall Police Department approve a new 36 month contract. Knology indicated the current agreement will otherwise end after March when the change occurs. Staff was informed that the new platform and phones are an upgrade to the existing system. Staff was aware a conversion was in planning mode but not aware that this was moving ahead under this schedule and also were not aware of contract changes that would be required. Knology was working with Lyon County on the conversion for some time and staff was told Knology was not aware that the City needed to be engaged in the approval. Staff received formal notice of an agreement that would be necessary on late Friday and have been working to get details clarified since then. The Director of Public Safety, Finance Director/City Clerk, City Attorney and City Administrator met early afternoon Tuesday and agreed to bring this forward for consideration.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the proper City personnel be authorized to enter into the Business Service Agreement for the Marshall Police Department with Knology'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**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; Regional Development Commission will meet on January 17<sup>th</sup>.
- Hulsizer        Marshall Area Transit Committee will meet on January 17<sup>th</sup>; Library Board met and elected new officers; Police Advisory Board will meet on January 18<sup>th</sup>.
- Doom            Personnel Committee item acted on earlier in the meeting.
- Bayerkohler    Legislative and Ordinance Committee met; Housing Commission is meeting on January 17<sup>th</sup>.

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DeCramer EDA and Utilities Commission meets on Wednesday, January 16<sup>th</sup>.

Boedigheimer Ways and Means Committee meets on January 16<sup>th</sup>; Legislative and Ordinance Committee will meet on January 28<sup>th</sup> – they need to discuss golf carts on City streets; MERIT Center Commission will meet on January 17<sup>th</sup>.

Conyers No report.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

It was requested that there be a tour of City facilities for Council Members.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that the pending list of agenda items needs to be prioritized; work is continuing on the new Building Permit System; discussion is continuing on merging the City and County Assessing departments; work is continuing on 2 bonding requests for the Legislature; special legislation is being requested for sales tax to be exempt on the materials for the MERIT Center and Amateur Sports Facility; RFP's are being requested for Construction Management services.

Glenn Olson, Director of Public Works/City Engineer, indicated that a hearing has been scheduled for Judicial Ditch No. 6 in February,

**PENDING ITEMS:**

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

**INFORMATION ONLY:**

There were no questions on the information items.

**CONSIDERATION TO MOVE TO CLOSED SESSION TO DISCUSS ATTORNEY CLIENT PRIVILEGE ON PENDING LITIGATION:**

Doom moved, Boedigheimer seconded, to go into closed meeting to discuss Attorney Client Privilege on pending litigation. All voted in favor of the motion.


Mayor Byrnes called for a 5-minute recess at 7:07 P.M.

The Council went into closed session at 7:15 P.M. Those present at the closed session included: Byrnes, Hulsizer, Doom, Bayerkohler, DeCramer, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; and Thomas M. Meulebroeck, Finance Director/City Clerk.

The Council came out of closed session at 7:33 P.M.

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Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) 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:

  
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Finance Director/City Clerk