

REGULAR MEETING – JUNE 11, 2013

The regular meeting of the Common Council of the City of Marshall was held on June 11, 2013 in the Professional Development 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: Jennie Hulsizer, Glenn Bayerkohler, Mike Boedigheimer and Ellayne Conyers. Absent: John DeCramer and Larry Doom. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Lorna Sandvik, City Assessor; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk.

The Pledge of Allegiance was recited at this time.

It was the general consensus of the council that the agenda be approved as presented.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 28, 2013 AND THE MINUTES OF THE JOINT SCHOOL BOARD / CITY COUNCIL MEETING HELD ON JUNE 3, 2013:

Member (Glenn Bayerkohler) moved, Member (Mike Boedigheimer) seconded to approve the **SUBSTITUTE** motion 'that the minutes of the regular meeting held on May 28, 2013 and the minutes of the Joint School Board / City Council meeting held on June 3, 2013 be approved with the suggested changes 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 A CITY CHARTER ORDINANCE AMENDMENT RELATED TO THE ADMINISTRATIVE CODE POLICIES AND PROCEDURES:

Ben Martig, City Administrator, is proposing a change to the City Charter to clarify that the Administrative code allow for "Administrative Policies" for council approval as is currently in place but to allow for "Administrative Procedures" to be approved by the City Administrator without Council approval. The purpose is to allow administrative procedures that are either in the Code now or in most cases completed through memos or other correspondence to be formally included in a separate section of the Administrative Code. The separation of procedures now has caused confusion on what is current processes in place and would centralize the information making it more accessible for reference. Additionally, the processes would be available for Council as informational items that enhance organizational transparency.

The City Charter Commission met on April 25th and unanimously recommended approval of the amendment to the ordinance with a revision that was added. The Council Legislative and Ordinance Committee met on May 2, 2013 and unanimously recommended introduction with some revisions as requested. The Charter Commission Chair, Sturrock indicated the revisions were technical in nature and not substantively different in nature to the intent of the Charter Commission so if Council approved they would not need to be brought back to the Charter Commission. The Charter Commission amendment requires a unanimous approval of the City Council. If not, the provision will not pass and the Charter language will remain as-is. Staff has been notified that Council Members DeCramer and Doom are intending to be absent from the meeting. Therefore, staff has prepared Recommendation #2 to postpone this discussion to the next council meeting. Please note the city adopted Robert's Rules of Order Newly Revised indicates that a motion to "postpone" is appropriate in this case versus a motion to "lie on the

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table" which has been a past practice of the Marshall City council. Page 64 of Robert's Rule of Order indicates that "If the assembly might prefer to consider the main motion later in the same meeting or at another meeting, this can be postponed by moving to postpone to a certain time..." Staff is suggesting following this procedure for clarity. If approved, the item would be placed on next regular meeting agenda and would not require a separate motion to remove from the table since the recommendation is to "postpone" versus "lie on the table."

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) 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**

Member (**Jennie Hulsizer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'to postpone the consideration of City Charter Ordinance Amendment related to the Administrative code Policies and Procedures'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

**AWARD OF BIDS - PROJECT Z20: MICRO SEALING RUNWAY 12/30 PROJECT –
CONSIDER RESOLUTION AUTHORIZING EXECUTION OF MN/DOT GRANT
AGREEMENT:**

Bids were received, opened and read on June 6, 2013 for the Micro Sealing Runway 12/30 Project Z20. The bids received, opened and read were from:

Fahrner Asphalt Sealers, LLC
Plover, Wisconsin
\$162,042.44

Asphalt Surface Technologies Corporation
St. Cloud, Minnesota
\$163,654.92

Struck & Irwin Paving, Inc.
DeForest, Wisconsin
\$179,699.52

Glenn Olson, Director of Public Works/City Engineer, indicated that the City included a statement in the Project Manual that the City prefers continuous lay down application. The low bidder was contacted concerning his method of application. He indicated they do not have a continuous lay down application. This would provide for bumps in the application at each stop and start. As the second low bidder, ASTECH, is only \$1,612.48 more than the low bid, it is the recommendation that the award be given to the second low bidder meeting the preference as indicated in the Project Manual.

Mr. Olson also reviewed Mn/DOT Grant Agreement No. 04167 / S.P. A4201-89 for Micro Sealing Runway 12/30 at the Airport. This agreement provides for project costs not to exceed \$167,654.92, including TKDA inspection services in the amount of \$3,500.00 per their agreement, and advertising estimated at \$500.00. The agreement will remain in effect until June 30, 2016. This is a 2012 carryover budget item as City staff has been working with Mn/DOT-Aeronautics in determining what product to use/what product is allowable.

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Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3899, SECOND SERIES, which is the Resolution of Authorization to Execute Mn/DOT Grant Agreement No. 04167 / S.P. A4201-89 for Airport Improvement Excluding Land Acquisition for Micro Sealing Runway 12/30 at the Southwest Minnesota Regional Airport'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3890, which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z20: Micro Sealing Runway 12/30 Project'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3891, which provides for the Resolution Accepting Bid (Award Contract) authorizing entering into an agreement with Asphalt Surface Technologies Corporation (ASTECH) of St. Cloud, Minnesota, in the amount of \$163,654.92 for Project Z20'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council execute the Agreement for Professional Services with TKDA for construction observation/inspection services for the above referenced project in an amount not to exceed \$3,500.00'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the City Council approve the following consent agenda items'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Authorization be granted to the Department of Public Safety to dispose of surplus City Property – two (2) vehicles. These vehicles will be auctioned on-line at the state site or will be taken to Alter for disposal.

Approval of a Temporary On-Sale Liquor License for Southwest Minnesota State University to use on August 16 - 17, 2013 at the SMSU Recreational Athletic Facility Parking Lot, 400 Mustang Trail, Marshall, Minnesota for Smokefest.

The introduction of Amendment Ordinance for the Rural Service District and Call for Public Hearing on July 23, 2013 and related summary ordinance.

That the City Council meetings for 2014 be held on the second and fourth Tuesday of the month at the Marshall Middle School Professional Development Room 401 South Saratoga Street at 5:30 p.m.

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That the following bills and project payments be authorized for payment, ACCOUNTS PAYABLE, Voucher No. 84426 through 84591.

CONSIDER APPROVAL OF A SPECIAL VEHICLE PERMIT FOR ROBERT GAALSWYK:

Robert Gaalswyk is requesting a Special Vehicle Permit to allow him to operate this vehicle on Cadillac Drive and Continental Street to County Road South 67. Council Member Boedigheimer indicated that the Legislative and Ordinance Committee has been working on a new ordinance regulating Special Vehicle Permits but have not finalized anything at this time; therefore this request cannot be approved at this time. Council Member Bayerkohler agreed that since there is no ordinance in place the Council cannot approve this request. Mayor Byrnes indicated that this application would meet what the Legislative and Ordinance Committee is proposing. This application has been reviewed and approved by the Police Department.

Boedigheimer called the question.

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **SUBSTITUTE** motion 'that the Special Vehicle Permit for Robert Gaalswyk be denied'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4-1** with Byrnes voting no.

RESOLUTION APPROVING LOCAL SALES TAXES AND AUTHORIZING ACTIONS TO BE TAKEN BY THE CITY IN CONNECTION WITH SUCH TAXES (TABLED ITEM FROM 5-28-13):

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to take from the table the resolution approving local sales taxes and authorizing actions to be taken by the City in connection with such taxes'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

Ben Martig, City Administrator, indicated that the City of Marshall has received technical correction to the food and beverage and lodging taxes from this legislative session. The council previously adopted the ordinances and are set to go into effect June 1 for the lodging tax and July 1 for the food and beverage tax. This resolution must be approved by the Council on or before July 1. This is the last requirement that must be approved and filed with the Secretary of State's office. The Department of Revenue has already recognized all of the taxes and implementation is underway locally and at the State. The City designated attorney's Kennedy and Graven drafted this resolution.

Council Member Bayerkohler indicated that State Statute requires that the length of time the tax is in effect be included in the resolution. Bayerkohler was concerned that this resolution did not include the length of time, but he would vote to approve this resolution contingent upon attorney approval.

Member (**Glenn Bayerkohler**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 3892, SECOND SERIES, Approving Local Sales Taxes and Authorizing Actions to be taken by the City in connection with such taxes

contingent upon final approval by attorney's Kennedy and Graven'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

CONSIDER RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS SERIES 2013A:

Terri Heaton, Springsteds Inc., reviewed the information related to the issuance of the General Obligation Bonds, Series 2013A which will be used to finance the 2013 infrastructure projects.

Member (**Glenn Bayerkohler**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3893, SECOND SERIES Providing for the Issuance and Sale of General Obligation Bonds Series 2013A'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

PROJECT Z15: ELM STREET / NORTH 4TH STREET AREA SANITARY SEWER AND WATERMAIN REPLACEMENT PROJECT – CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATION AND ORDERING ADVERTISEMENT FOR BIDS:

Glenn Olson, Director of Public Works/City Engineer, indicated that this project involves the replacement of the watermain on Elm Street from North 3rd Street to North 4th Street, the watermain on North 4th Street from Elm Street to Whitney Street, the sanitary sewer in the rear yards within the block surrounded by Elm Street, North 4th Street and Whitney Street, and the reconstruction of Elm Street from North 3rd Street to North 4th Street. The plans and specifications have been prepared by the City staff.

Member (**Jennie Hulsizer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 3894, SECOND SERIES Approving Plans and Specifications and Ordering Advertisement for Bids for Project Z15: Elm Street / North 4th Street Area Sanitary Sewer and Watermain Replacement Project'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

CONSIDER APPROVAL OF RESOLUTION REGARDING EXTENSION OF THE CABLE TELEVISION FRANCHISE ORDINANCES FOR CHARTER COMMUNICATIONS AND WOW! CABLE TELEVISION FRANCHISES:

The City of Marshall has previously entered into cable franchise agreements with WOW! and Charter. The current agreements are 10 years old and the WOW! agreement terminates June 18, 2013 and the Charter agreement terminates August 14, 2013. City staff has had several conversations with attorney Brian Grogan, the franchise expert for the Moss & Barnett law firm from Minneapolis. Mr. Grogan was involved in the prior negotiation and drafting of the existing franchise agreements. The existing contracts allow the City unilaterally to extend the existing contracts for a period of time up to five years. The existing 10 year agreements have served the City well. Quarterly payments have been received from both the WOW! (previously Knology) Cable TV Company and monthly payments are received from the Charter Cable TV Company for the past 10 years. There are, however, several changes recommended to the agreement. Some terms of the agreement will most likely be acceptable to the cable companies. However, there may need to be some negotiation of other terms. It has also been recommended that the City undertake financial due diligence to confirm that the quarterly and monthly payments from cable

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companies are accurate. This is not to suggest that there are any improprieties, but it is recommended business practice to verify. It is hereby recommended that the City of Marshall extend the existing agreement for a period of time terminating December 31, 2014. That time period will allow for negotiations regarding proposed changes to a long term agreement. Dennis Simpson, City Attorney, has spoken to a representative from WOW! and that company has agreed to the voluntary extension of time through December 31, 2014 and he has several calls into a representative from Charter Communications but has not yet been able to speak directly to a Charter representative.

Member (**Jennie Hulsizer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3895, SECOND SERIES, Approving the Extension of Cable Television Franchise Agreements with WOW! and Charter through December 31, 2014'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

MMU REQUEST RAW WATER LINE EASEMENT PROCESS:

An agreement has been prepared to develop a process by which City Council, HRA and MMU work together and cooperate for the granting of public utility easement for the establishment of a raw water line to traverse City and HRA property. MMU has identified an additional water source to provide additional municipal water to the City of Marshall. The identified water source is located in Sandness Township, Yellow Medicine County. A raw water line of approximately 24 miles needs to be constructed to deliver water to the City of Marshall. A portion of that "raw water line" will traverse city property on the north and west side of Marshall. MMU has hired an engineering firm to design and locate the raw water line facilities. It is anticipated that a majority of that line will be located in the State, County or township roadways and that the appropriate permits or easements will be obtained from the additional public entities. The route through the City and HRA owned property has been identified, but the exact route may vary location by location depending upon spoiled banks, land elevation, underground drainage tiles and the like. As such, a letter of agreement procedure has been established wherein the City and MMU will cooperate with the location of the raw water line and after the fact 100 ft. easement will be clarified regarding the exact location of the water line. The yet to be developed formal easements will be temporary in nature and will allow access and maintenance to the line. Ultimately, the agreement indicates that the final permanent raw water line easement will be 30 ft. in width (15 ft. on each side of water line.).

Jeff Larson, Water Superintendent Marshall Municipal Utilities, was in attendance at the meeting to review the new water line. He indicated that the study started in 1996 and indicated that MMU has hired an engineering firm to design and locate a water main connecting the well field to municipal facilities.

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the City and HRA enter into letter agreement with Marshall Municipal Utilities granting preliminary approval of utility easement document that will provide for the placing of a raw water main to serve the needs of the water utilities'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

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Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **NEW** motion 'that the Council authorizes the proper City officials to sign a Grant of Utility Easement regarding raw water line to be installed on city-owned property'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

COMMISSION/BOARD LIAISON REPORTS:

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

- Byrnes Regional Development Commission will meet on June 13th and their annual meeting will be held in July; SW MN Amateur Sports Center met earlier today and discussed designs for the new facility.
- Hulsizer Library Board approved the wage increase for their employees to be paid from their reserves; Police Advisory Board met last week to begin the process for hiring a new sergeant.
- Bayerkohler Housing Commission discussed the parking policy for their property on West Main and they approved a 2% cost of living raise for their employees before freezing their wages.
- Boedigheimer MERIT Center Commission held focus group meetings and discussed track design.
- Conyers No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

The LMC Annual Conference and Marketplace will be held on June 19 – 21 in St. Paul. Mayor Byrnes, Administrator Martig, and Council Member Boedigheimer indicated that they would be attending.

STAFF REPORTS:

Ben Martig, City Administrator, reminded everyone of the special Council meeting to be held on June 19, 2013 to discuss issues related to the Amateur Sports Facility and the MERIT Center; the annual audit report will be presented at a special City Council meeting on June 25, 2013 at 4:30 P.M.; and the 2014 budget process will begin soon.

Glenn Olson, Director of Public Works/City Engineer, provided an update on the construction projects; there is a Pedestrian Safety Program scheduled for Tuesday, June 18, 2013 at 7: P.M. at the YMCA.

Dennis Simpson, City Attorney, indicated that the appraisal for the Bud Rose property has been provided to the property owners and he is working on acquiring title to this property.

PENDING ITEMS:

There were no questions on pending items.

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INFORMATION ONLY:

There were no questions on the information items.

UPCOMING MEETINGS:

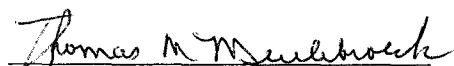
Council Member Hulsizer indicated that the special meeting scheduled for June 19th is not on the list of meetings and the at-will committee meetings are also not included in the upcoming meetings list.

Member (**Jennie Hulsizer**) 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: **5** Nay: **0**. The motion **Carried 5 - 0**



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk