

SPECIAL MEETING – JUNE 19, 2013

The special meeting of the Common Council of the City of Marshall was held on June 19, 2013 in the Community Room at the Marshall-Lyon County Library. The meeting was called to order at 5:30 P.M. by Mayor Byrnes. In addition to Byrnes the following members were present: Hulsizer, Doom, Bayerkohler, DeCramer, Boedigheimer and Conyers. 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; Harry Weilage, Director of Community Services and Thomas M. Meulebroeck, Financial Director/City Clerk. Those in attendance from the Southwest Minnesota Amateur Sports Center or MERIT Center Board were: Jeff Kruse, Stan Brewers, Roger Madison, Jeff Thompson, Jane Willett, Bruce Lamprecht and Bruce Verdoes. Others in attendance included: Deb Gau, Marshall Independent.

**CONSIDER REAL ESTATE DONATION AGREEMENT WITH THE SCHWANS SHARED SERVICES, LLC AND RESOLUTION AUTHORIZING THE PROPER CITY OFFICIAL TO EXECUTE A REAL ESTATE DONATION AGREEMENT DATED MAY 23, 2013:**

The City Council approved the Contingent Land Agreement on September 25, 2012. The agreement committed Schwans and the City to transfer property subject to approval of the voters in November of 2012. The property was planned for transfer under that agreement by the end of December 2012. However, the review of the agreements and planning of the projects delayed the action. This related Real Estate Donation Agreement that is being proposed is the formal action to complete this transaction as previously directed by the City Council and planned for the development of the Southwest Minnesota Amateur Sports facilities.

Per the request of Mayor Byrnes for City Administrator Martig to respond to the infrastructure costs, he stated that “the project will pay for all on-site infrastructures unless there are excess funds from the project which could then be used for off-site infrastructure. So, in this case the stormwater fund would cover the pending stormwater assessments.”

Doom moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3896, SECOND SERIES, which is a resolution Authorizing the Proper City Officials to Execute a Real Estate Donation Agreement Dated May 23, 2013. This resolution is for the property currently owned by Schwan’s Shared Services, LLC, which is legally described as: Lot Two (2), Block Two (2), Tiger Park Second Addition and Lot Three (3), Block One (1), Tiger Park Fifth Addition. All voted in favor of the motion.

**CONSIDER REAL ESTATE PURCHASE AGREEMENT AND CONTRACT FOR DEED WITH SCHWANS SHARED SERVICES, LLC FOR LOT FOUR (4), BLOCK ONE (1), TIGER PARK FIFTH ADDITION TO THE CITY OF MARSHALL, LYON COUNTY, MINNESOTA:**

The Southwest Minnesota Amateur Sports project has included plans for a four outdoor softball/youth baseball fields in the general location of the other facilities. Past site analysis has included this property as well as evaluating the usage of the Marshall High School Fields. A number of factors have lead to the school option to not be feasible at this time. However, this location allows for four performance fields and new partnership with the Marshall School District to have shared use of facilities including the fields, parking and potentially some maintenance.

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Marshall has benefitted from regional softball/youth baseball tournaments in the past. However, facilities are in need of improvements due to the configuration of fields and other issues such as field lighting limitations. Also, a study completed in 2007 in conjunction with the State Amateur Sports Commission identified these new/upgraded sports facilities as one of the primary draws for sports tourism to the community from outside Marshall and Lyon County. The new location will provide superior exposure in visibility as well as benefit from other complimentary businesses in the area including lodging, food and shopping opportunities that are also like to expand in this area.

The timing of ownership is also appropriate with plans to grade the site out is underway and included in proposed action at this City Council meeting. The design development phase is still underway and as previously announced the intention is to complete phased site work and ballfield construction yet still beginning in 2013. Presentations of these details will be brought forward at a future meeting as planning by the Construction Manager, Architect, designated committees and staff continues at this time.

The City of Marshall staff and the Schwan's designated officials have been negotiating the details of a land purchase of the property for use of ballfields for some time and have come to the overall purchase price as well as general discussion of financing. The price was based on a number just below appraised value that was completed in 2010. Schwan's has been cooperative of providing financing through a Contract for Deed as it relates to the City's cash flow of local sales taxes that are currently being received but not yet at the level of the purchase price. The agreement has been drafted by the City Attorney and is under review by Schwan's Shared Services, LLC. Staff is planning on a final response by Schwan's related to final terms and conditions prior to the meeting. However, if their review is not final by the meeting it may be prudent to approve but grant the City Attorney some discretion on final language not including price and other items that may be deemed substantive to the primary intent of terms and conditions.

The agreed upon purchase price is \$448,696 which would be repaid with semiannual payments on February 1<sup>st</sup> and August 1<sup>st</sup> of each year beginning February 1, 2014 and concludes on August 1, 2018. Per IRS Regulations a provision will need to be included in the Deed for an interest calculation. If the City were to receive bond proceeds that include this project, the Deed was to be amended to include a provision that Schwan's would be paid in full when these proceeds are received. Other issues of concern that were addressed included: a confirmation that the current softball fields along Channel Parkway are not included in the Southwest Amateur Sports Center project; concerns with section 4.B.i of the Real Estate Purchase Agreement that addressed "Naming Rights"; that the potential donations included in the Project of \$1,500,000 includes that land donated by Schwan's and other donations to be pursued; the use of the dirt from the ponds being constructed in the area being used for the potential ball fields; the potential of the costs associated with development of the softball fields for the concession stand, fences and etc. reducing the available funds for the Southwest Amateur Sports Center Complex; and the potential of waiting to approve the Real Estate Purchase Agreement.

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DeCramer moved, Boedigheimer seconded, the proper city personnel be authorized to enter into a Real Estate Purchase Agreement with Schwan's Shared Services, LLC, for the property located at Lot Four (4), Block One (1), Tiger Park Fifth Addition contingent upon a complete review of the Contract for Deed by the City Attorney. All voted in favor of the motion, except Bayerkohler and Hulsizer who voted no.

**CONSIDER CONDITIONAL USE PERMIT FOR LAND USE FOR THE MERIT CENTER:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the proposed Conditional Use Permit for the City of Marshall to have an automobile track in an A Agricultural District. The City of Marshall is planning to develop an emergency response training facility for law enforcement and the public located on and adjacent to the MERIT Center at 1001 West Erie Road. This project will part of a MERIT complex used for firefighter and police training. No racing will take place there.

In response to the placement of trees in the area of this track, it was indicated that there would be proper landscaping.

DeCramer moved, Doom seconded, to approve the request of the City of Marshall for a Conditional Use Permit for an Automobile Track in an "A" Agricultural District at 1000 West Erie Road 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 structure is located therein shall be conformed with.
2. That the owner maintain the structure to conform with the Zoning Ordinance, Building Code and not cause or create negative impact to existing properties adjacent thereto.

All voted in favor of the motion.

**CONSIDER CONDITIONAL USE PERMIT FOR LAND USE SPORTS CENTER PROJECTS:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City is proposing to construct an Amateur Sports Facility located in a B-3 General Business District just south of the Marshall High School. Included in the Facility is a sports arena and an ice arena in this B-3 General Business District. Sports arenas and indoor skating rinks are listed as a conditional use in the General Business District.

In response to a concern with ball fields being included under the conditional use permit, it was indicted that they would be considered at a later date.

Doom moved, Boedigheimer seconded, to approve the request of the City of Marshall for a Conditional Use Permit for an Ice Arena in a B-3, General Business District, at 1651 Victory Drive 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 structure is located therein shall be conformed with.

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2. That the owner maintains the structure to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
3. That vegetation and landscaping appropriate for the area is incorporated into site design.

All voted in favor of the motion.

**CONSIDER RESOLUTIONS OF SUPPORT FOR GOVERNOR STATE BONDING FOR THE MERIT CENTER AND SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS FACILITIES:**

State law (*Minnesota Statutes*, section 16A.86) provides a process through which local governments are able to get capital projects considered as part of the state bonding bill. That process is now underway, as the governor starts to gather and review projects that may be included in the administration's capital budget recommendations to the 2014 Legislature. The deadline for submissions of local government project requests for bonding is June 21, 2013, as the statutory deadline for the administration to make their initial published report of projects requesting state bond financing is July 15, 2013.

Minnesota Management and Budget (MMB) has posted that all proposals submitted by June 21 will be included in their July report. The agency will attempt to get projects into the publication that are submitted after that deadline and prior to July 11, but cannot guarantee they will be included. Local government bonding requests not included in the July 15 publication, including those received after July 11, will be incorporated into the governor's review and recommendation process, but will not be published or presented to the Legislature until the final submission of the governor's capital budget recommendation on January 15, 2014.

The League of Minnesota Cities contacted MMB to ask about the issue of cities that have submitted a bonding request for this biennium prior to May 22, 2013 and what, if any, actions they need to take. The response was that cities should re-submit their proposal to make sure it is up to date, in the right format, and included in the July published list of projects. If re-submitting the application would pose a hardship for a community, MMB should be contacted at the email address provided below.

Projects must also include a 50 percent or higher non-state cost share, unless the project relates to disaster relief or prevention. Projects are also reviewed as to whether they are of regional or state-wide significance and whether they could be funded through other existing state programs.

The priority funding #2 was designated as it was the smaller amount compared to the Amateur Sports facilities.

Staff is working on completing the required application materials and will include the resolution of support with the final application sent to Minnesota Management and Budget.

Roger Madison, a member of the Southwest Amateur Sports Center Committee, did address the information that was presented at the public meeting held prior to the November, 2012 General Election, that identified the funding for the Sports Center and the MERIT Center.

Doom moved, Boedigheimer seconded, the adoption of RESOLUTION NUMBER 3897, SECOND SERIES, which is a Resolution in Support of the State Bond Funding Application for the Minnesota Emergency Response and Industrial Training (MERIT) Center Expansion. This resolution provides for the City of Marshall support for the State Bonding Request application in the amount of \$2.5 million as the #2 Priority for the MERIT Center. All voted in favor of the motion, except Bayerkohler who voted no.

Doom moved, DeCramer seconded, the adoption of RESOLUTION NUMBER 3898, SECOND SERIES, which is a Resolution in Support of the State Bond Funding Application for the Southwest Minnesota Regional Amateur Sports Facilities. This resolution provides for the City of Marshall support for the State Bonding Request application in the amount of \$4.298 million as the #1 Priority for the Southwest Minnesota Regional Amateur Sports Facility. All voted in favor of the motion, except Bayerkohler who voted no.

**CONSIDER EXCAVATION MATERIAL DISPERSAL AGREEMENT WITH THE MARSHALL SCHOOL DISTRICT #413:**

The Excavation Material Dispersal Agreement with the Marshall School District #413 outlines the commitments of the City of Marshall related to the project and Marshall School District #413. The District is scheduled to review and take action on this item at their regular meeting scheduled for Monday June 18<sup>th</sup>.

The actual dirt needed for the project has reduced significantly since the last presentation. Upon further review, the revised fence lengths necessary for these fields allows for substantially less fill on the ballfield outfields. They are now looking at just a few inches of topsoil to be applied in those areas to level the grades.

There will be future agreements brought forward with the school district related to shared use of facilities. The timing of this project is critical with the stormwater pond work underway and dirt needed to be moved at this time.

Doom moved, Boedigheimer seconded, that the proper city personnel be authorized to enter into an Excavation Material Dispersal Agreement with Marshall School District #413. This agreement outlines the commitments of the City of Marshall related to the project and Marshall School District #413. All voted in favor of the motion.

**CONSIDER CHANGE ORDER NO. 2 FOR PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT:**

The City of Marshall has contracted with R & G Construction Co., for the construction of three stormwater detention and treatment ponds for the runoff area located north of T.H. 19 and T.H. 23. The City is developing a Southwest Minnesota Amateur Sports Commission (SMASC) Facility located on property being utilized as a disposal site for excavation material coming from the stormwater pond construction. In the conceptual design and development, the location of the SMASC proposed Performance Softball and Youth Baseball Fields have been located just south of and adjacent to Pond #3. As the storm sewer project included this area for disposal of material, it is recommended that the excavation for the ball fields be included as a change order to the current stormwater pond contract. This would reduce the cost of additional contracts, mobilization, and any material and wage increases since the stormwater pond project was bid.

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Doom moved, Hulsizer seconded, the approval of Change Order No. 2 with R & G Construction resulting in a contract increase in the amount of \$143,525.00 and an increase in contract time of 21 calendar days for a total contract amount of \$1,282,391.31 for Tiger Park Stormwater Detention Pond Project Z05. This change order will be funded through the Surface Water Management Utility Fund (#630-90661-5570) as a project change order with the ability of future reimbursement of proceeds from local sales tax for the funding of Project 804: Southwest Regional Amateur Sports Center. All voted in favor of the motion.


On behalf of the Southwest Minnesota Amateur Sports Center Committee and the MERIT Center Committee, Roger Madison expressed an appreciation to the City Council and Schwans for the partnering efforts and the approval of the agreements and Deeds which will assist with the moving forward on the projects. Mr. Madison also expressed an appreciation to Senator Gary Dahms and Representative Chris Swedzinski for their leadership on the projects.

Mayor Byrnes on behalf of the City Council expressed appreciation to all members of the Southwest Minnesota Amateur Sports Center Committee and the MERIT Center Committee for their contribution of time and expertise on these projects.

Doom moved, DeCramer seconded, the meeting be adjourned. All voted aye.

  
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Mayor of the City of Marshall

Attest:

  
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Finance Director/City Clerk