

REGULAR MEETING – JULY 9, 2013

The regular meeting of the Common Council of the City of Marshall was held on July 9, 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 Robert Byrnes. In addition to Byrnes the following members were in attendance: Jennie Hulsizer, Larry Doom, Glenn Bayerkohler, John DeCramer, Mike Boedigheimer and Ellayne Conyers. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Sheila Dubs, Human Resource Coordinator; 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:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to approve the Agenda with the additions of #19, which is a Summer Legislative Update Presentation by Coalition of Greater Minnesota Cities; and #20, which is to consider approval of proposal for Geotechnical services for proposed ball fields and proposed ice arena'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF THE MINUTES OF THE SPECIAL MEETING HELD ON JUNE 19, 2013, THE MINUTES OF THE SPECIAL MEETING HELD ON JUNE 25, 2013 AND THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 25, 2013:**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the special meeting held on June 19, 2013, the minutes of the special meeting held on June 25, 2013 and the minutes of the regular meeting held on June 25, 2013 be approved as corrected and 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 RESOLUTION AWARDING THE SALE OF \$3,645,000 GENERAL OBLIGATION BONDS, SERIES 2013A, FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT:**

Terri Heaton, Springsted, reviewed the following bids that were received for the \$3,645,000 General Obligation Bonds, Series 2013A.

Bidder	Price	Net Interest Cost	True Interest Rate
Piper Jaffray & Co.	\$3,703,006.50	\$541,918.50	2.2794%
Robert W. Baird & Co., Inc. C. L. King & Associates Kildare Capital Samco Capital Markets, Inc. Cronin & Company, Inc. Edward D. Jones & Company Loop Capital Markets, LLC Crews & Associates	\$3,718,283.55	\$579,616.45	2.4300%

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Davenport & Company LLC  
Castleoak Securities, L.P.  
Wedbush Morgan Securities  
Dougherty & Company LLC  
Country Club Bank

Bosc, Inc., A Subsidiary of Bok Financial Corp.	\$3,768,079.25	\$584,014.50	2.4386%
UMB Bank, N.A.	\$3,651,164.70	\$578,029.05	2.4536%
United Bankers' Bank	\$3,617,662.50	\$588,056.25	2.5018%
FTN Financial Capital Markets	\$3,745,879.55	\$644,782.95	2.6975%

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3904, SECOND SERIES Awarding the Sale of \$3,645,000 General Obligation Bonds, Series 2013A, Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing for their Payment'. The bonds were sold to Piper Jaffray & Co. at a price of \$3,703,006.50; net interest cost of \$541,918.50 and a true interest rate of 2.2794%. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER AUTHORIZATION TO EXECUTE AMENDMENT TO ADDENDUM A OF AGREEMENT FOR CONTINUING DISCLOSURE SERVICES AND AMENDMENT TO ADDENDUM B OF AGREEMENT FOR ARBITRAGE AND REBATE MONITORING:**

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the approval of the Amendment to Addendum A of Agreement for Continuing Disclosure Services and Addendum B of Agreement for Arbitrage and Rebate Monitoring with Springsted Incorporated for the \$3,645,000 General Obligation Bonds, Series 2013A'. These addendums authorize Springsted to complete the continuing disclosure and arbitrage and rebate monitoring for the City of Marshall Bond Issue. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z14: AIRPORT SANITARY SEWER & WATERMAIN IMPROVEMENT PROJECT -- CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS AND CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):**

Bids were received, opened and read on July 2, 2013 for the Airport Sanitary Sewer & Watermain Improvement Project Z14. The bids received, opened and read were from:

States Borders Construction, Inc.  
Graceville, Minnesota  
\$339,957.50

Kuechle Underground, Inc.  
Kimball, Minnesota  
\$347,449.40

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D & G Excavating, Inc.  
Marshall, Minnesota  
\$409,433.25

GM Contracting, Inc.  
Lake Crystal, Minnesota  
\$419,064.19

Duininck, Inc.  
Prinsburg, Minnesota  
\$420,979.00

HW Contracting, LLC  
Sioux Falls, South Dakota  
\$460,389.15

R & G Construction Co,  
Marshall, Minnesota  
\$512,703.00

Glenn Olson, Director of Public Works/City Engineer, indicated that the apparent low bidder, States Borders Construction, Inc., provided a 5% bid bond instead of the 10% bid bond the city required. Dennis Simpson, City Attorney, indicated that he reviewed the bid bonds and indicated that according to the City's insurance consultant that there is no cost difference for a 5% or 10% bid bond. The cost is based on the amount of the bid. The bid bond allows the bidder to enter in a contract and provides for a performance bond to be issued for the full amount of the contract. Mr. Olson indicated that staff will review the amount of bid bond required by the city in the future.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3905, SECOND SERIES which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z14, Airport Sanitary Sewer and Watermain Improvement Project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council waive the irregularity and accept State Borders Construction Inc., 5% bid bond in lieu of the 10% bid bond required'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion **Passed 4 - 3** with Hulsizer, Doom and Boedigheimer voting no.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3906, SECOND SERIES which provides for the Resolution Accepting Bid (Awarding Contract) and authorizes the entering into an agreement with States Borders Construction, Inc. of Graceville, Minnesota, in the amount of \$339,957.50'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed 5 - 2** with Hulsizer and Doom voting no.

**CONSIDER APPROVAL OF CONSENT AGENDA:**

Member (**Larry Doom**) 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: 7 Nay: 0. The motion **Carried 7 - 0**

That the Marshall Police Department, be authorized to declare bicycles as surplus property.

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The approval of a Temporary On-Sale Liquor License for Holy Redeemer Church to use on September 14, 2013 at the Lyon County Fairgrounds

The approval of a Temporary 3.2 Percent Malt Liquor License for the VFW Post for the month of July and August to use at the Lyon County Fairgrounds. The VFW Post will be using this license for the Lyon County Fair from July 31, 2013 through August 3, 2013; and for the Rolle Bolle Tournament from August 9 - 10, 2013.

Approve Out of State Travel for Detective Gladis to travel to Chicago, Illinois to attend Gang Training and obtain a Gang Certification

Approve authorization to renew the commitment of the Marshall Police Department to participate in the Lyon County SMART Team.

Approve the request of the Marshall Downtown Business Association for street closure for "Thursdays on Third" to be held on Thursday evenings in the summer from July 11-August 15, 2013 from 2:00 P.M. to 7:00 P.M., with the requirement that proper MUTCD traffic control devices are in place for the events.

The approval of Change Order No. 1 with McLaughlin & Schulz, Inc. of Marshall, Minnesota for a 28-day time extension only for the 2013 Bituminous Resurfacing Project Z17. This change order extends the substantial completion from August 1, 2013 to August 29, 2013.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher no. 84851 through 85000.

**CONSIDER THE CITY CHARTER ORDINANCE AMENDMENT RELATED TO THE ADMINISTRATIVE CODE POLICIES AND PROCEDURES:**

Ben Martig, City Administrator, indicated that this item had been postponed by Council to the June 25 meeting but staff missed adding it to the agenda. This item is therefore being added as old business. It had been "postponed" rather than "tabled" so it does not require removing from a table but rather is just an Old Business item. City Administrator Martig 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 competed 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 process 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.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to adoption of ORDINANCE NUMBER 675, SECOND SERIES, which is an ordinance amending Marshall City Charter – Chapter 6 Relating to Duties of City Administrator'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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

Mary Maertens, CEO of Avera Regional Medical Center, was in attendance at the meeting to provide the bi-annual report for the Medical Center as per the transfer agreement. Ms. Maertens indicated that they are getting close to starting the new cancer unit and that no parking spaces will be lost. She also indicated that by the end of the calendar year there will be more than 30 specialists on staff.

**ADOPT ORDINANCE TO REZONE 101 – 115 LONDON ROAD FROM R 1 (ONE FAMILY RESIDENCE DISTRICT) TO I-2 (GENERAL INDUSTRIAL DISTRICT).**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall is requesting to rezone the properties located at 101 – 115 London Road from R-1 (One Family Residence District) to I-2 (General Industrial District). The City owns the property and EDA Director Cal Brink is negotiating a purchase agreement for a development for the site to come before the City Council and HRA. The re-zoning is necessary prior to this. The Council and EDA has also discussed changing the zoning of city owned properties commonly referred to as Parkway IV between London and Channel Parkway from a residential zoning to a commercial/light industrial zoning. Staff intends to bring that forward at another time along with some proposed changes with the airport. The City of Marshall 1996 Comprehensive Plan (including 2004 Updates and Amendments) shows this area as Commercial / Industrial District. All surrounding area is currently zoned General Industrial District. Requirements for the I-2 Zoning District can be found in Section 86-107. Rezoning procedures are described in Section 86-30 Amendments.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that per the recommendation of the Planning Commission the adoption of **ORDINANCE NUMBER 676, SECOND SERIES**, which is an ordinance to rezone the property located at 101 – 115 London Road from R-1 (One Family Residence District) to I-2 (General Industrial District)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**SUMMER LEGISLATIVE UPDATE PRESENTATION BY COALITION OF GREATER MINNESOTA CITIES:**

Brandon Fitzsimmons from Flaherty & Hood, P.A. provided a Summer Legislative Power Point Update from the coalition of Greater Minnesota Cities. CGMC cities are dedicated to a strong Greater Minnesota. Their mission is to develop viable, progressive communities for businesses and families through strong economic growth and good local government. They support fair property taxes, good land use planning, sensible environmental regulation, a balanced transportation system, and effective economic development tools to meet that goal. For more than 30 years, the CGMC has united Greater Minnesota cities with similar concerns. It brings city officials and legislators together to discuss the issues confronting greater Minnesota. Through effective lobbying, thorough research, timely communications, and active involvement in the legislative process, the CGMC gives cities an effective voice at the Capitol.

**CONSIDER APPROVAL OF PROPOSAL FOR GEOTECHNICAL SERVICES FOR PROPOSED BALL FIELDS AND PROPOSED ICE ARENA:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall is in the process of designing the Southwest Minnesota Amateur Sports Commission (SMASC) facilities located near Tiger Drive just south of the Marshall High School. In order to properly design the facilities, the design firm, ATS&R, has requested Geotechnical subsurface exploration and review services for structural capacity and adequate compaction. Staff has requested proposals for ball fields and ice arena from the local firm of American Engineering Testing, Inc. to provide those services. The locations of the soil borings have been reviewed by the construction management firm Bossardt Corporation and reduced to reflect necessary locations. The contractor has completed the storm sewer pond work in the area and has brought the sites to initial grading plan of both the ball fields and the ice arena. The soil borings will be beneficial and maintain relevance even if project phasing is necessary. Olson also noted that he has requested approval for similar services for the MERIT Center and would request the Council's motion to include the ability to enter into agreement with American Engineering and Testing with the MERIT Center tests if the prices were reasonable and similar.

Proposals received were as follows:

- Ball Field proposal cost not to exceed \$9,017.00
- Ice Arena proposal cost not to exceed \$8,780.00

Member (**Larry Doom**) roved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'approve staff recommendation proposals for Geotechnical Services for proposed ball fields and ice arena be awarded to American Engineering Testing, Inc., not to exceed \$9,017 for the ball fields and not to exceed \$8,780 for the ice arena including MERIT Center proposal. 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 quarterly meeting on July 9<sup>th</sup> and presented their audit; Regional Development Commission will meet on July 11<sup>th</sup>.
- Hulsizer Library Board and Police Advisory Board met but Hulsizer was unable to attend.
- Doom Personnel Committee – Ben's evaluation forms were due on July 8<sup>th</sup>; SW MN Amateur Sports Center continues to meet on a regular basis; Public Improvement / Transportation Committee met last week.
- Bayerkohler Housing Commission meets next week; Planning Commission will meet on July 10<sup>th</sup>.
- DeCramer EDA no report; MERIT Center Commission will meet on July 15<sup>th</sup>; Utilities Commission did not meet.
- Boedigheimer Airport Commission met last week; Jt. Law Enforcement Center Committee will meet on July 10<sup>th</sup>.

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Conyers No report.

Mayor Byrnes called for a 5-minute recess at 6:57 P.M.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

Council Member Hulsizer requested additional information on how much debt the city retires each year; Council Member Boedigheimer indicated that the council members should be participating in organizations such as the Coalition of Greater Minnesota Cities and encouraged members to attend or express interest.. He suggested that each member attend at least one of these meetings. The Community Services and the Parks and Recreation employees along with the volunteers for the Independence Day Celebration at Independence Park were commended.

**STAFF REPORTS**

Ben Martig, City Administrator reminded everyone that the employee summer picnic is on July 10<sup>th</sup>.

Glenn Olson, Director of Public Works/City Engineer, indicated that discussion needs to begin for the Saratoga Street / Highway 23 intersection overpass.

Dennis Simpson, City Attorney, indicated that the purchase of the Bud Rose property is finalized; he is continuing to work on contract reviews; and he will provide an update on criminal prosecution at the next meeting.

**PENDING ITEMS:**

There were no questions on pending items.

**INFORMATION ONLY:**

There were no questions on the information items.

**CONSIDER DETERMINATION TO GO INTO CLOSED SESSION PURSUANT TO THE FOLLOWING: (A) MINNESOTA STATUTE 13D.05, SUBD.3 (B) FOR ATTORNEY CLIENT PRIVILEGE; AND (B) MINNESOTA STATUTE 13D.03 RELATED TO UNION CONTRACTS FOR LELS#190:**

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'to close the meeting per (A) Minnesota Statute 13D.05, Subd.3(b) for Attorney Client Privilege; and (B) Minnesota Statute 13D.03 Related to Union Contracts for LELS#190'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

The Council went into the first closed session at 7:25 P.M. pursuant to Minnesota Statute 13D.05, Subd. 3(b) for Attorney Client Privilege. 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; Sheila Dubs, Human Resource Coordinator; and Thomas M. Meulebroeck, Finance Director/City Clerk. Others in attendance included: Brandon Fitzsimmons from Flaherty & Hood, P.A.

The Council went into the second closed session at 7:30 P.M. pursuant to Minnesota Statute 13D.03 Related to Union Contracts for LELS #190. Those present at the closed session included: Byrnes,

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Hulsizer, Doom, Bayerkohler, DeCramer, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Sheila Dubs, Human Resource Coordinator; and Thomas M. Meulebroeck, Finance Director/City Clerk. Others in attendance included: Brandon Fitzsimmons from Flaherty & Hood, P.A.

The council came out of closed session at 8:38 P.M.

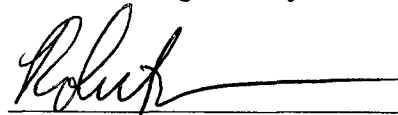
**CONSIDER RESOLUTION AUTHORIZING EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN LELS LOCAL 190 AND THE CITY OF MARSHALL:**

Doom moved, Conyers seconded, the adoption of RESOLUTION NUMBER 3907, SECOND SERIES, which is a Resolution Authorizing the Mayor and City Clerk to Execute a Collective Bargaining Agreement by and between the Law Enforcement Labor Services, Inc. Local No. 190 and the City of Marshall to be effective January 1, 2013 through December 31, 2015 and a Memorandum of Understanding (MOU) Between the City of Marshall and Law Enforcement Labor Services, Inc. Local No. 190. Voting in favor of the motion were: Byrnes, Doom, DeCramer and Conyers. Voting no were: Bayerkohler, Boedigheimer and Hulsizer.

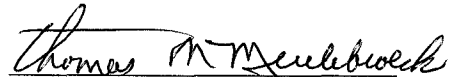
**UPCOMING MEETINGS:**

There were not comments on the upcoming meeting list.

Upon motion made by DeCramer, seconded by Doom. the meeting was adjourned. All voted in favor of the motion.

  
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Mayor of the City of Marshall

ATTEST:

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