

REGULAR MEETING – JULY 23, 2013

The regular meeting of the Common Council of the City of Marshall was held on July 23, 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; Shane Waterman, Assistant City Engineer; Harry Weilage, Director of Community Services; Marc Klaith, Fire Chief; Lorna Sandvik, City Assessor; Ray Hendrickson, Fire Department; Cathy Lee, Executive Assistant; Thomas M. Meulebroeck, Finance Director/City Clerk; and Jane DeVries, Deputy City Clerk. Others in attendance included: Cal Brink, CEO Marshall Area Chamber of Commerce.

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 REGULAR MEETING HELD ON JULY 9, 2013:

Member (**Larry Doom**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on July 9, 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**

PUBLIC HEARING - AMENDMENT ORDINANCE FOR THE RURAL SERVICE DISTRICT:

This was the date and time set for a public hearing on an ordinance amending the Rural Service District. Lorna Sandvik, City Assessor, indicated that in 1966, as allowed by statute, the City was divided by the City Council into two separate property tax districts-- the "Rural Service District" (RSD) and the "Urban Service District" (USD). The RSD consists of parcels of non-platted, vacant farmland located in the city which are typically not benefited to the same degree as other city property by municipal services financed by general taxation. Due to the limited benefit these parcels gain from their city location, property taxed in the RSD pay at a discounted rate on the city portion of their property tax (currently 30% of the USD city rate, excluding bonded indebtedness). Annual review and amendment, if necessary, is required. Adjustments to the RSD Ordinance must be submitted to the County Auditor by August 1st of each year for taxes payable the following year. Amendment to the ordinance is statutorily required in order to place parcels of land meeting the criteria for inclusion into the RSD. The two parcels of land included in the amended Ordinance are eligible for inclusion in the Rural Service District beginning with taxes payable in 2014. All parcels currently taxed in the RSD remain eligible. In addition to routinely adding and/or removing parcels annually, the Ordinance provides for annual review of the Section 5 "Benefit Ratio", which has remained at the 30% level since established in 1966. The Benefit Ratio not only reflects the limited city service benefit gained by these parcels, but also serves to equalize property taxes between the farmland taxed in the city and the farmland taxed in the adjacent township. The Ways and Means Committee met with staff on June 4th to review and discuss changes to the Ordinance. The committee recommends adding the

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two parcels described in the attached amendment to the RSD, and recommends no change to the Benefit Ratio. City Attorney Simpson has reviewed and approved the Ordinance.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council adopt ORDINANCE NUMBER 677, SECOND SERIES, which is an ordinance amending Ordinance Amending Ordinance #612, Second Series, Establishing and Amending Previous Rural and Urban Service Districts for the City of Marshall, Minnesota and the related summary Ordinance'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AWARD OF BIDS FOR RURAL PUMPER FIRE TRUCK FOR THE MARSHALL FIRE DEPARTMENT:

Proposals were received, opened and read for a new rural pumper from:

Custom Fire Apparatus, Inc. Osceola, Wisconsin Proposal A – No bid Proposal B - \$468,443.00 Proposal C – No bid	General Fire Safety Apparatus Wyoming, Minnesota Proposal A – No Bid Proposal B - \$480,720.00 Proposal C – No bid
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Proposal A – New apparatus with trade-in
Proposal B – New apparatus with no trade
Proposal C – Purchase existing apparatus only.

Marc Klaith, Fire Chief, was in attendance at the meeting to review the bids. Marc indicated that they have received an interest from another City and a used truck vendor to purchase the existing rural pumper.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to award the Rural Pumper Fire Truck bid to Custom Fire Apparatus, Inc., Osceola, Wisconsin in the amount of \$468,443'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**AWARD OF BIDS - PROJECT Z15: ELM STREET / NORTH 4TH STREET AREA
SANITARY SEWER AND WATERMAIN REPLACEMENT PROJECT –
(1) CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE
REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT
BONDS. (2) CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):**

The bids that were received, opened and read on July 9, 2013 for the Elm Street / North 4th Street Area Sanitary Sewer and Watermain Replacement Project Z15 were from:

R & G Construction Company
Marshall, Minnesota
\$422,893.55

D & G Excavating, Inc.
Marshall, Minnesota
\$453,367.70

Kuechle Underground, Inc.
Kimball, Minnesota
\$460,722.59

Duininck, Inc.
Prinsburg, Minnesota
\$540,079.25

Shane Waterman, Assistant 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 that is 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.

Member **(John DeCramer)** moved, Member **(Mike Boedigheimer)** seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3908, SECOND SERIES, which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds 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: 7 Nay: 0. The motion **Carried 7 - 0**

Member **(Larry Doom)** moved, Member **(Ellayne Conyers)** seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3909, SECOND SERIES, which provides for the Resolution Accepting Bid (Awarding Contract) authorizing entering into an agreement with R & G Construction Co. of Marshall, Minnesota, in the amount of \$422,893.55 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: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVAL OF CONSENT AGENDA:

Member **(Larry Doom)** moved, Member **(John DeCramer)** seconded to approve the **ORIGINAL** motion 'that the 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**

BE IT RESOLVED that the City Council hereby (1) grants local unit of government approval to the Rotary Club of Marshall, MN, to hold a raffle on September 10, 2013 at the Ramada Inn, 1500 East College Drive, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and

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directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall

The approval of a Temporary On-Sale Liquor License for the Marshall Area Shrine Club to use on August 2 - 3, 2013 at 204 Mustang Trail, Marshall, Minnesota.

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use on August 28, 2013 at Heritage Point, 207 North 4th Street, Marshall, Minnesota.

The approval of a Transient Merchant License for Dai Jianguang to sell clothing, tools, etc., in the parking lot at Traveler's Lodge Motel, 1425 East College Drive, Marshall, Minnesota.

The approval of the of ES&S Hardware and Software Maintenance Agreement for the City of Marshall's three (3) M100's in the amount of \$601.68 per year.

The approval of a Transient Merchant License for Southwestern Advantage to sell educational books in the City of Marshall contingent upon receipt of the license fee of \$315.00 and the bond in the amount of \$5,000.00.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 85001 through 85212.

CONSIDER FINAL CERTIFICATE FOR PAYMENT OF LIBRARY IN THE AMOUNT OF \$12,354.28:

Ben Martig, City Administrator, indicated that the City Council approved Change Order Number 9 proposed by TSP at their meeting of January 8, 2013. The City Council was also presented with the final payment of \$12,354.28 for the project. However, there was unanimous agreement to remove the final payable amount in order to provide security to ensure leaking of the building was resolved. The contractor had made repairs from the last leaking. There have been no other outstanding issues. TSP also presented staff will all lien waivers from sub-contractors and suppliers. Accordingly, the Contractor has satisfied the requirements of Final Completion and payment of the retainage amount is recommended.

Member (**Jennie Hulsizer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve Final Certificate for Payment of the Marshall/Lyon County Library in the amount of \$12,354.28 to Robert L. Carr'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVAL OF THE CONTRACT FOR PRIVATE DEVELOPMENTS INCLUDING LAND PURCHASES AND BUSINESS SUBSIDY AGREEMENT BETWEEN CITY/HRA AND RUNNING SUPPLY, INC.:

Ben Martig, City Administrator, indicated that since the agenda was originally posted, staff noted that a public hearing is required for a business subsidy exceeding \$100,000 and must be published in advance. Therefore, a resolution calling for the hearing is being recommended with no action on the agreements.

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Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3910, SECOND SERIES calling for a public hearing on a Proposed Business Subsidy and Sale of Real Property to Running Supply, Inc.'. The public hearing will be held at 5:30 P.M. on August 13, 2013. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVING THE CONTRACT FOR PRIVATE DEVELOPMENT AND BUSINESS SUBSIDY AGREEMENT BETWEEN THE CITY, HRA, BEVERAGE WHOLESALERS, INC. AND R&R INVESTMENTS, LLC AND THE PURCHASE AGREEMENT FOR THE SALE OF PROPERTY BETWEEN HRA AS SELLER AND R&R INVESTMENTS, LLC, AS BUYER:

Ben Martig, City Administrator, indicated that since the agenda was originally posted, staff noted that a public hearing is required for a business subsidy exceeding \$100,000 and must be published in advance. Therefore, a resolution calling for the hearing is being recommended with no action on the agreements.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3911, SECOND SERIES calling for a public hearing on a Proposed Business Subsidy and Sale of Real Property to Beverage Wholesale, Inc.'. The public hearing will be held at 5:30 P.M. on August 13, 2013. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVAL OF A TEMPORARY ON-SALE LIQUOR LICENSE FOR SMSU FOUNDATION:

Member (**Larry Doom**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License is for Southwest Minnesota State University Foundation to use on October 4 & 5, 2013 at the SMSU Regional Athletic Facility, 400 Mustang Trail, Marshall, Minnesota'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed 6 – 0** with Bayerkohler abstaining.

CONSIDERATION OF ARTIST AGREEMENT WITH TERRENCE FOGARTY:

Harry Weilage, Director of Community Services, indicated that with the goals of developing downtown Marshall as a vibrant, active center and celebrating its long and successful history through art, the Marshall Mural Project, led by Marshall Area Fine Arts Council (MAFAC), is in the process of completing the third of three public arts murals in collaboration with the City of Marshall and local businesses, organizations and community residents. The first mural, depicting Marshall's music by artist Greg Wimmer, is on the west wall of Johnson's Paint and Wallpaper (316 West Main Street). The second mural, depicting Marshall's history by artist Josh Sarantitis, is on the west wall of Blue Green (256 West Main Street). The third mural, a Sports/Recreation Mural commissioned by Terry Fogarty, renowned Minnesota sports artist will be installed in 2014. It will be located on the parking lot side of the Varsity Pub, across the street from Memorial Park in Marshall. The agreement provides for the original piece of art that will be oil on canvass (20"x60"). This original piece of art would be owned by the City and intended to be on display at the new sports center lobby. The art would then later be reproduced using an appropriate material such as vinyl and attached to the building at 128 West Main Street (Varsity Pub). This would be owned by MAFAC with their responsibility as described in the agreement.

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The artist will be paid \$38,000 for his work on this project. \$20,000 will be funded from the 1.5% City sales tax as the original piece of art is intended to be included in the sports facility lobby area. The Southwest Minnesota Amateur Sports Commission has supported this and has been included in the joint financing meeting discussions when planning the facility. There are five corporate sponsors (\$2,500 each for total of \$12,500); the remaining dollars will be funded from print sales and private donations.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to approve Artist Agreement with the Marshall Area Fine Arts Council and Terrance Fogarty'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

CONSIDER APPROVING THE A RESOLUTION APPROVING TERMINATION OF THE EXISTING CAPACITY PURCHASE AGREEMENT BETWEEN THE CITY OF MARSHALL AND MRES, AND REPLACE SAID AGREEMENT WITH THE NEW RESERVED CAPACITY AGREEMENT:

Dennis Simpson, City Attorney, indicated that the City of Marshall and MRES have executed a series of documents related to the purchase of electric capacity of the Marshall Municipal Utilities (MMU) diesel power turbine facilities located at MMU operations in the City of Marshall. The MMU turbine is presently under contract with MRES until December 31, 2018. MRES wishes to enter into a new contract with MMU/ City of Marshall that would keep capacity of electrical generating facility committed to MRES until May 31, 2029.

MMU believes that said extension of time and the new Reserved Capacity Agreement is in the best interest of the City of Marshall. The Reserved Capacity Agreement brings in significant sums of money per year and assists MMU in keeping local rates reasonably priced.

Marshall City Charter Section 13.04 requires that the Marshall City Council approve all MMU contracts in excess of ten years in length. Therefore, MMU is requesting that the Reserved Capacity Agreement between City of Marshall and MRES be approved.

MRES pays \$332,000 per year to MMU for the purchase of the energy producing capacity of said unit. This payment keeps MMU's electrical rates reasonably priced.

Steve Johnson, MMU Operations Manager, was in attendance at the meeting to answer any questions. Council Member Bayerkohler was concerned with entering into a new agreement before the current agreement terminates. Mr. Johnson indicated that MRES has requested the new agreement

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 3912, SECOND SERIES, which is a resolution Approving a Reserved Capacity Agreement (RCA) with Missouri Basin Municipal Power Agency dba Missouri River Energy Services (MRES). This resolution also provides for the termination of the existing Capacity Purchase Agreement between the City of Marshall and MRES'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Y67 / A4201-86: MARSHALL AIRPARK EAST PHASE II-- (1) CONSIDER CHANGE ORDER NO. 1 WITH R&G CONSTRUCTION FOR ADDITIONAL AIRFIELD SIGN. (2) CONSIDER CHANGE ORDER NO. 2 WITH R&G CONSTRUCTION FOR SCHEDULE 2. (3) SUPPLEMENTAL AGREEMENT TO PROFESSIONAL SERVICES AGREEMENT FOR AIRSIDE FINAL DESIGN AND CONSTRUCTION AND CONSTRUCTION PHASE SERVICES WITH TKDA. (4) SUBMITTAL OF REQUEST FOR MN/DOT-AERONAUTICS GRANT AGREEMENT. (5) CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS MARSHALL AIRPARK EAST-PHASE 2: APRON AND TAXIWAY CONSTRUCTION (SCHEDULE 2):

Shane Waterman, Assistant City Engineer, indicated that the City Council and Airport Commission have previously committed to the development of the Marshall Airpark East including the Madrid Street bridge, roadway and utility improvements, and the development of aprons and taxiway to connect to the existing runways. This project is the last phase of the surface work necessary for aircraft usage in the airpark east development area. Water and sanitary sewer mains are still necessary to be constructed under separate contract in the future in order to enable the area to be “shovel ready”. At the City Council meeting of May 8, 2012, the City Council received a State FY2013 Funding Offer for “Ramp Area and Signage to Marshall Airpark East”. The offer for the Ramp Area and Signage to Marshall Airpark East is included in State FY2013, which begins July 1, 2012. The project priority list by Mn/DOT-Aeronautics has included this project for funding. According to the current Airport Capital Improvement Program (CIP) at the time, it was the intent of the City to fund this project in City FY2013. However, in order to accept the grant offer the City needed to commit to the project funding earlier than anticipated. As authorized by the Council at the May 8, 2012 meeting, the City submitted a letter of intent for a grant request for the apron and taxiway extension. On August 13, 2012, the City Council approved the plans and specifications and ordered the advertisement for bids for Project Y67: Marshall Airpark East – Phase 2. On September 6, 2012, bids were received for the project. The project was bid in two schedules-Schedule 1 and Schedule 2. The total bid for the construction of Schedule 1 was \$2,048,693.91. The total bid for the construction of Schedule 2 was \$564,419.40. The additional amount for engineering design and construction inspection with TKDA was \$232,300.00. On September 19, 2012, City staff received notification Mn/DOT-Aeronautics had reviewed the Statewide budget for State funded projects and had further discussion about the Marshall Airpark East Ramp Project. Mn/DOT-Aeronautics Director Chris Roy confirmed that Mn/DOT can commit to fund Schedule 1 of the project, for a total cost of approximately \$2,283,000, resulting in a State 70% share of approximately \$1,598,000.00 and local share of approximately \$684,900. On September 25, 2012, the City Council awarded Schedule 1 to R & G Construction in the amount of \$2,048,693.91 and authorized entering into agreement with TKDA for \$232,300.00. At that time Mn/DOT-Aeronautics staff advised the City to include the Schedule 2 costs in the amount of \$564,419.40 in the City’s CIP for State FY2014.

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 1 with R & G Construction Co. for a contract increase in the amount of \$3,796.10 for additional airfield signage, resulting in a revised contract amount of \$2,052,490.01, contingent upon receipt of Mn/DOT-Aeronautics

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grant agreement'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council approve Change Order No. 2 with R & G Construction Co. for a contract increase in the amount of \$564,419.40 for Schedule 2, resulting in a revised contract amount of \$2,616,909.41, and a time extension for the project to be completed within 90 days of issuance of Notice to Proceed for Schedule 2 (estimated August 14, 2013 Notice to Proceed issue date and estimated project completion date of November 12, 2013), contingent upon receipt of Mn/DOT-Aeronautics grant agreement'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that the Council approve Supplemental Agreement No. 1 to Professional Services Agreement for Airside Final Design and Construction and Construction Phase Services with TKDA for a not-to-exceed amount of \$41,800.00, contingent upon receipt of Mn/DOT-Aeronautics grant agreement'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council authorize City staff to submit request for preparation of Mn/DOT-Aeronautics Grant Agreement for Schedule 2 of Marshall Airpark East Project Y67 / A4201-86'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'the adoption of RESOLUTION NUMBER 3913, SECOND SERIES, which is the Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds Marshall Airpark East-Phase 2: Apron and Taxiway Construction (Schedule 2)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER THE REQUEST BY WELSH DEVELOPMENT (BURGER KING) FOR A VARIANCE ADJUSTMENT PERMIT TO HAVE BUSINESS SIGNAGE OF 16 SF IN EXCESS OF THE SIGNAGE AREA PERMITTED BY THE CITY CODE:

Shane Waterman, Assistant City Engineer, reviewed the request from Welsh Development (Burger King) for a Variance Adjustment Permit to have business signage of 16 SF in excess of the signage area permitted by the City Code. The total sign area permitted by the City Code in a B-3 General Business district for this property is 101 SF; it is based on the frontage of the property along East College Drive. The requested sign area that exceeds the total allowed area by about 15%, is located on the east side of the building and is visible mostly from the parking lot. Therefore, the request may be considered positively.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council grant a Variance Adjustment Permit to Welsh Development (Burger King) to have business signage of 16 SF in excess of the signage area

permitted by the City Code at 1229 East College Drive'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER THE REQUEST OF THE CITY OF MARSHALL FOR A CONDITIONAL USE PERMIT TO HAVE A RECREATIONAL AREA (BASEBALL FIELDS) IN B-3 GENERAL BUSINESS DISTRICT:

Shane Waterman, Assistant City Engineer, reviewed the request by the City of Marshall to have baseball fields in B-3 General Business District. Parks owned by the government are listed as a conditional use in General Business District. General Business District regulations are located in Section 86-104.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council approve the conditional use permit for the City of Marshall to have baseball fields in a B-3 General Business District at 200 & 300 Tiger 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. 2) That the owner maintain the structure to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT – CONSIDER CHANGE ORDER NO. 3 WITH R&G CONSTRUCTION CO:

Shane Waterman, Assistant City Engineer, indicated that 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 east of T.H. 23. The change order involves the elimination of all work items related to the restoration of Tiger Drive. This work will be completed under a separate contract to be completed Fall 2013.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 3 with R & G Construction Co. resulting in a contract decrease in the amount of \$35,370.00 for Tiger Park Stormwater Detention Pond Project Z05'. 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 (TH 68): WEST MAIN SANITARY SEWER IMPROVEMENT PROJECT – CONSIDER CHANGE ORDER NO. 2 WITH R&G CONSTRUCTION CO:

Shane Waterman, Assistant City Engineer, reviewed Change Order No. 2 with R & G Construction Co., for the West Main Sanitary Sewer Improvement Project Y87 / S.P. 4210-50 (TH 68). This project involves the replacement of sanitary sewer and storm sewer utilities, partial street reconstruction, and partial resurfacing. The proposed project impacts West Main Street from North T.H. 59 to the bridge over the Redwood River Diversion Channel. Change Order No. 2 involves work related to the following: - Additional sewer service line installed on the project by request of the property owner. - Lower watermain under 65" arch storm sewer pipe. - Lower watermain under 24" storm sewer pipe. - Install pipe liner near catch basin #4. -

Modify storm manholes #2 & #3 to lower storm sewer below utilities. - Remove unknown foundation/retaining wall buried on Kruse Motors property. - Time extension for additional concrete work on the project related to driveways and sewer service line installation.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 2 with R & G Construction Co. resulting in a time extension of 13 calendar days and a contract increase in the amount of \$18,565.00 for a total contract amount of \$810,993.05 for the West Main Sanitary Sewer Improvement Project Y87 / S.P. 4210-50 (TH 68)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Z04/S.P. 139-090-004: 2013 BIKE TRAIL PROJECT (CLARICE AVENUE TO T.H. 19) – CONSIDER RESOLUTION APPROVING PROJECT AND ALLOWING AUTHORIZATION TO EXECUTE AND APPROVE LIMITED USE PERMIT FOR NON-MOTORIZED RECREATIONAL TRAIL:

Shane Waterman, Assistant City Engineer, indicated that this project involves the construction of a 0.92 mile segment of a multi use trail. The improvements shall consist of a bituminous pavement constructed over a granular base. The majority of the trail shall be constructed 10 feet wide with a minimum of a 2 foot safety shoulder on both sides. There are minor areas where the route requires a reduction in the trail width to 8 feet. This project was placed in the Mn/DOT Safety Transportation Improvement Projects (STIP) in 2008 with a placeholder estimated construction cost of \$261,000. A Limited Use Permit for Non-motorized Recreational Trail has been provided by Mn/DOT for execution by the City of Marshall. The City is required to approve said Trail Project and allow authorization to execute the Limited Use Permit for Non-motorized Recreational Trail. The use of the area is limited to only the constructing, maintaining and operation a Non-motorized recreational trail and the use thereof may be further limited by Federal Code.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3914, SECOND SERIES, which provides for approving project and allowing authorization to execute and approve Limited Use Permit for Non-Motorized Recreational Trail (LUP# 4203-0004) relating to the above-referenced project'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

STATEMENT OF ANNUAL PERFORMANCE REVIEW FOR THE CITY ADMINISTRATOR:

In accordance with the personnel policy on Employee Performance Reviews (Policy 4.6), all employees should receive annual evaluations upon his/her anniversary date and annually thereafter. The policy further states that an employee may be eligible for a step increase upon receipt of a satisfactory job performance evaluation, retroactive to the employee's date of eligibility. In accordance with the policy, step adjustments for the City Administrator must be approved by the City Council. Individual Council member ratings and comments have been compiled into a summary performance evaluation for the City Administrator.

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Member (**Ellayne Conyers**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'approval of a step increase for City Administrator Ben Martig from step 5 (\$55.35) to step 6 (\$58.26) on the 2013 City Wage Schedule retroactive to the employee's anniversary date'. 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 Regional Development Commission held their annual meeting and elected officers; Jt. City/County met to discuss the Marshall/Lyon County Library – their budget request will be presented at the July 30, 2013 special council meeting.
- Hulsizer Public Improvement/Transportation Committee meeting was cancelled.
- Doom SW MN Amateur Sports Center Committee discussed viewing building designs and costs for the new facility.
- Bayerkohler Housing Commission met but Bayerkohler was unable to attend; Planning Commission items were discussed earlier in the meeting.
- DeCramer Utilities Commission met but DeCramer was unable to attend. DeCramer did indicate that Kevin Lee has accepted the Finance Manager Position at MMU to fill Roxy Moon's position when she retires.
- Boedigheimer EDA met.
- Conyers No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member DeCramer indicated that the 10-minute parking on 3rd Street has been very positive.

Mayor Byrnes called for a 5-minute recess at 6:59 P.M.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that the first budget meeting will be held at 5:30 P.M. on July 30th and that there will be a special City Council meeting at 5:00 P.M. on July 30th.

Shane Waterman, Assistant City Engineer, provided an update on Glenn Olson as a result of his accident and he provided an update on the quotes for the next pedestrian walk bridge.

Dennis Simpson, City Attorney, indicated that he is continuing to work on the projects that were discussed earlier and that the admin brief will provide an update on criminal records.

REGULAR MEETING – JULY 23, 2013

PENDING ITEMS:

There were no questions on pending items.

INFORMATION ONLY:

There were no questions on the information items. The Council Members were provided the Annual Financial Report for the Marshall Fire Department Relief Association for the year ended December 31, 2012 and the worksheet calculating the required contribution of the City to the Fire Relief Association of \$74,507 for 2014. The contribution for 2013 is \$100,397. The 2013 Maximum Benefit Worksheet is also attached, which reflects the Maximum Lump Sum Benefit Level under Minnesota Statute 424A.03, Subd. 3 to be \$7,300 per year of service.

**DETERMINATION BY THE CITY COUNCIL TO GO INTO CLOSED SESSION
PURSUANT TO MINNESOTA STATUTE 13D.05 SUBD. 3 (C)(1) TO ESTABLISH
PRICING RELATED TO DISCUSSION OF REAL PROPERTY ACQUISITION:**

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to close the meeting for purposes of discussion acquisition for Outlot C, JC Boyer Addition'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

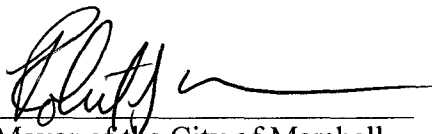
The council went into closed session at 7:15 P.M. Those present at the closed session included: Byrnes, Hulsizer, Doom, Bayerkohler, DeCramer, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney, and Thomas M. Meulebroeck, Finance Director/City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

The council came out of closed session at 7:37 P.M.

UPCOMING MEETINGS:

There were no questions on the upcoming meeting list.

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



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk