

REGULAR MEETING – AUGUST 27, 2013

The regular meeting of the Common Council of the City of Marshall was held on August 27, 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, Glenn Bayerkohler, John DeCramer, Mike Boedigheimer, and Ellayne Conyers. Absent: Larry Doom. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Shane Waterman, Assistant City Engineer; Kim Jergenson, Engineer Technician; Ilya Gutman, Building Official, 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 (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to approve the agenda with the addition of #18, which is the Introduction of an Ordinance to consider an amendment to Chapter 6 to allow growlers sales in taprooms'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 13, 2013, AND THE MINUTES OF THE COUNCIL WORK SESSION HELD ON AUGUST 20, 2013:

Member (**Mike Boedigheimer**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on August 13, 2013, and the minutes of the Council work session held on August 20, 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: 6 Nay: 0. The motion **Carried 6 - 0**

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the council approve the following consent agenda items'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

The adoption of RESOLUTION NUMBER 3924, SECOND SERIES, which is a resolution to allow City of Marshall employees to utilize the Roth Contribution option with VALIC'.

APPROVAL OF ITEMS REMOVED FROM CONSENT:

CONSIDER APPROVAL OF THE BILLS/PROJECT PAYMENTS:

Council Member Boedigheimer wanted to verify that the payment to the Law Enforcement Center for the 1st and 2nd quarter cleaning was included in the list of bills for approval.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the following bills and project payments be authorized for payment ACCOUNTS PAYABLE, Voucher No. 85466 through 85680'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

CONSIDER THE REQUEST OF DANIEL RITTER, MARSHALL, MN, FOR A VARIANCE ADJUSTMENT PERMIT ALLOWING HIM TO NOT HAVE A PAVED PARKING ACCESS DRIVE AS REQUIRED BY CITY ORDINANCE:

Shane Waterman, Assistant City Engineer reviewed the request from Daniel Ritter for a Variance Adjustment Permit to omit paved surface on the access drive from the driveway at the right of way on the street to the parking spaces. Mr. Ritter has built a new recycling facility and provided 8 paved parking spaces as required by the City Ordinance. The Ordinance requires that access drives be paved with concrete, asphalt, or pavers. However, this operation requires a lot of heavy truck traffic, only one employee is employed and there are no visitors. This justifies the City's recommendation.

Member (**Glenn Bayerkohler**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council grant a Variance Adjustment Permit to omit paved surface as required by City Code and provide nine inch thick crushed gravel on the access drive from the right of way on the street to the parking spaces 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 in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default.
3. That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant.
4. That the Variance Adjustment Permit is attached to the current use of the property and will expire if the use changes from the recycling facility.

for Daniel Ritter at 1606 Halbur Road'. Upon a roll call vote being taken, the vote was: Aye: 6
Nay: 0. The motion **Carried 6 - 0**

CONSIDER THE REQUEST OF CARR FAMILY LTD PARTNERSHIP, MARSHALL, MN, FOR A VARIANCE ADJUSTMENT PERMIT TO PROVIDE FEWER PARKING SPACES THEN REQUIRED BY CITY ORDINANCE:

Shane Waterman, Assistant City Engineer, reviewed the request from Robert Carr for a Variance Adjustment Permit to provide a reduced number of parking spaces for the second hand building materials store. For parking calculations, the Ordinance treats all retail facilities in the same manner requiring one parking space for every 300 SF of the building area. However, retail stores vary in how many customers they serve. The owner has converted a vacant warehouse into a store and provided 22 parking spaces in front of the building as required by the Ordinance. Now 5,000 S.F. is added to retail space and the total number of required spaces increased to 40. The Owner is asking to provide only 22 parking spaces for the entire store which is the existing number. However, it seems reasonable that some additional parking should be provided due to increased retail area. Therefore, the City Staff recommendation was to provide 30 parking spaces.

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Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that per the recommendation of the Planning Commission that the Council grant a Variance Adjustment Permit variance for 22 paved parking spaces in lieu of 40 as required by City Code 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 in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default.
3. That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant.
4. That the Variance Adjustment Permit expires when the current tenant, Restore, leaves this location.

for Restore, 300 North Highway 59'. Upon a roll call vote being taken, the vote was: Aye: 6
Nay: 0. The motion **Carried 6 - 0**

PRELIMINARY PLAT OF TIGER PARK SIXTH ADDITION - INTRODUCE PLAT AND CALL FOR PUBLIC HEARING:

Shane Waterman, Assistant City Engineer, reviewed the preliminary plat of Tiger Park Sixth Addition in Marshall, Minnesota. Tiger Park Sixth Addition is proposed to reconfigure Lots 1 and 2, Block Two of Tiger Park Second Addition, include the adjacent Outlot C of Tiger Park Fifth Addition as a dedicated city street, previously owned by the School District, and redistribute a portion of Outlot C south of the proposed street right-of-way to the adjacent properties. The purpose is to divide the properties in accordance with proposed development layouts retaining the original acreages of the parcels as much as possible.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the City Council introduce the preliminary plat of Tiger Park Sixth Addition and call for a public hearing to be held at the September 10, 2013 City Council meeting'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

RECEIPT OF PETITION TO VACATE UTILITY EASEMENTS IN TIGER PARK SECOND ADDITION, BLOCK 2, LOTS 1-2 AND CALL FOR PUBLIC HEARING:

Shane Waterman, Assistant City Engineer, reviewed the request for a petition from Schwan's and the City of Marshall for the vacation of utility easements between Lot 1 and Lot 2, Block Two in Tiger Park Second Addition. The purpose of the vacation is for the reconfiguration of Lot 1 and Lot 2, Block Two of Tiger Park Second Addition. No existing utilities are located within the easements to be vacated.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council receive the petition for the vacation of a utility easements between Lot 1 and Lot 2, Block Two in Tiger Park Second Addition, order the petition to be filed

for record with the City Administrator, order hearing on such petition, and set the hearing date for September 10, 2013'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

RECEIPT OF PETITION TO VACATE UTILITY EASEMENTS IN NWAKAMA ADDITION, BLOCK ONE, LOTS 1-2 AND CALL FOR PUBLIC HEARING:

Shane Waterman, Assistant City Engineer, reviewed the request for a petition from Dr. Nwakama for the vacation of utility easements between Lot 1 and Lot 2, Block One in Nwakama Addition. The purpose of the vacation is to allow building construction over the vacated easement area. No utilities are currently installed in the existing easement area.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the ORIGINAL motion 'that the Council receive the petition for the vacation of a utility easement between Lot 1 and Lot 2, Block One in Nwakama Addition, order the petition to be filed for record with the City Administrator, order hearing on such petition, and set the hearing date for September 10, 2013'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

PROJECT Z00: WEST LYON STREET / NORTH 7TH STREET RECONSTRUCTION PROJECT – CONSIDER CHANGE ORDER NO. 2:

Shane Waterman, Assistant City Engineer, reviewed Change Order No. 2 for West Lyon Street / North 7th Street Reconstruction Project Z00 with Kuechle Underground, Inc. This project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The project reconstructs the street and the described utilities on West Lyon Street from North 6th Street to the Burlington Northern Railroad property and North 7th Street from West Main Street to West Marshall Street. During the televised inspection of the storm sewer pipe, after installation, it was found there were extensive fine cracks in certain sections of the pipe. Alternatives for a fix were discussed with staff and the contractor including paying plan quantity, requiring removal, or negotiating something in between. After review, it is recommended to accept the installation with no payment for any of the cost of the cracked pipe. Staff believes the pipe will last for the life of the project. Change Order No. 2 is a deduct for the entire cost of 18" RCP Storm Sewer Pipe, including sales tax, for inferior pipe, not including installation.

Council Member Boedigheimer indicated he was not convinced the cracked pipes would last as long and thinks it should be replaced.

Council Member Bayerkohler was also concerned with the cracks and wanted more information on the condition of the pipes.

Mr. Waterman indicated that there have been similar hairline cracks in previous storm sewer projects, and those pipelines are still in use.

Member (**John DeCramer**) moved, Member (**Glenn Bayerkohler**) seconded to approve the SUBSTITUTE motion 'that Change Order No. 2 for West Lyon Street / North 7th Street Reconstruction Project Z00 with Kuechle Underground, Inc., be tabled to allow a third party to

review the pipe and bring back to the city council a recommendation at a future meeting'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

PROJECT Y61 / S.A.P. 139-130-001: KOSSUTH AVENUE RECONSTRUCTION

PROJECT – CONSIDER CHANGE ORDER NO. 3:

Shane Waterman, Assistant City Engineer, reviewed Change Order No. 3 for Kossuth Avenue Reconstruction Project Y61 with Kuechle Underground, Inc. This project involves the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The project reconstructs the street and described utilities on Kossuth Avenue from North 4th Street to North 7th Street and North 5th Street from Mason Street to Hudson Avenue. The project includes a change in alignment of Kossuth Avenue from North 4th Street to North 7th Street and includes the demolition of the old rendering building and small storage building adjacent to the animal impound center. Change Order No. 3 involves additional well abandonment costs per Minnesota Department of Health Grant Agreement No. 57927 accepted by the City Council at the February 12, 2013 meeting. This well is a free-flowing well discharging approximately 50 gpm through an existing storm sewer discharging into the Redwood River. The sealing of the well was included in the Kossuth Avenue Reconstruction Project, but the specifics of the requirements in the condition of the existing well were not well known at the time of receipt of bids. Subsequently, during the process of investigation, the sealing of the well was determined to be much more difficult than anticipated by the contractor. At the time of grant application, City staff provided as much information as possible at the time and requested inclusion in the 2013 Minnesota Department of Health grant program for the sealing of this well in the amount of up to the \$50,000 maximum. The City has received \$17,215.00 under the Grant Agreement and the balance of this change order will be paid from the Surface Water Management Utility Fund.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the Council approves Change Order No. 3 for Kossuth Avenue Reconstruction Project Y61 with Kuechle Underground, Inc., resulting in a contract increase in the amount of \$34,581.21 and a total contract amount of \$1,735,327.99'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

PROJECT Y87 / S.P. 4210-50 (TH 68): WEST MAIN SANITARY SEWER IMPROVEMENT PROJECT 1. CONSIDER RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING THE PREPARATION OF THE PROPOSED ASSESSMENT. 2. CONSIDER RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT:

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3925, SECOND SERIES, which provides for the "Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment" for Project Y87 / S.P. 4210-50 (TH 68): West Main Sanitary Sewer Improvement Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**John DeCramer**) moved, Member (**Glenn Bayerkohler**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3926, SECOND SERIES,

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which provides for the “Resolution Calling for the Hearing on Proposed Assessment” for Project Y87 / S.P. 4210-50 (TH 68): West Main Sanitary Sewer Improvement Project setting the hearing date on the proposed assessments for September 24, 2013'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

PROJECT Z01: WEST REDWOOD STREET / NORTH 3RD STREET / WEST MARSHALL STREET RECONSTRUCTION PROJECT 1. CONSIDER RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING THE PREPARATION OF THE PROPOSED ASSESSMENT. 2. CONSIDER RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT:

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 3927, SECOND SERIES, which provides for the “Resolution Declaring Cost to be Assessed and Ordering the Preparation of the Proposed Assessment” for Project Z01: West Redwood Street / North 3rd Street / West Marshall Street Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 3928, SECOND SERIES, which provides for the “Resolution for the Hearing on Proposed Assessment” for Project Z01: West Redwood Street / North 3rd Street / West Marshall Street Reconstruction Project setting the hearing date on the proposed assessments for September 24, 2013'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

APPROVAL OF CONFERENCE ROOMS CHAIRS PURCHASE FOR THE MUNICIPAL BUILDING:

Ben Martig, City Administrator, indicated that the chairs in the Minnesota Room and Meeting Room 6 conference rooms are breaking and are no longer repairable. The chairs in each of these conference rooms are approximately 20 years old. There are not enough chairs left in the Minnesota Room to fill the table space; though many of these have needed repair as well. The City's Maintenance Staff has repaired all they can with the current stock of chairs; others have been removed from the conference rooms as they are beyond repair.

Staff received quotes for conference room chairs:

	Office Elements	Davis Office Supply
Minnesota Room – 15 Chairs	\$224.46 per chair	\$265.00 per chair
Hon Whisper Vinyl Charcoal Chair	\$3,366.90	\$3,975.00
Room 6 – 10 Chairs	No bid	\$245.00 per chair
Hon Folding Chair with Upholstered back		\$2,450.00

Council member Hulsizer thought this purchase should wait until the budget process.

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Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'approve the purchase of 15 Hon Whisper Vinyl Charcoal Chairs for the Minnesota Room from Office Elements in the amount of \$3,366.90'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Hulsizer voting no.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'approve the purchase of 10 Hon Folding Chairs with Upholstered backs for Room 6 from Davis Office Supply in the amount of \$2,450.00'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 - 1** with Hulsizer voting no.

CONSIDER COLLABORATION AGREEMENT FOR THE COORDINATION OF AN INFORMATION TECHNOLOGY (IT) SUPPORT SYSTEM WITH MARSHALL MUNICIPAL UTILITIES AND MARSHALL PUBLIC SCHOOLS:

Ben Martig, City Administrator, indicated that Marshall Municipal Utilities (MMU) had previously terminated the partnership agreement for IT Services effective January 1, 2014. The new agreement outlines the revised partnership that will relate to server hardware, software and support. The City is working with Computer Man to transition duties of Information Technology support related to everything except the network services outlined in the attached agreement. The City will likely be working toward establishing a formal base fee contract with hourly additional fees for 2014. The coming months will allow staff time to determine the time needed for work. MMU has proposed not to charge any support fees - including network services - for the last quarter of 2013 to allow the City some time to evaluate needs in working with Computer Man.

Council Member DeCramer indicated that Marshall Municipal Utilities will be a transmission provider which is why this change is being recommended.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve the Collaboration Agreement for the Coordination of an Information Technology (IT) Support System with Marshall Municipal Utilities, Marshall Public Schools, and the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

CONSIDER INTRODUCTION OF ORDINANCE AMENDING CHAPTER 6 OF THE CITY CODE OF ORDINANCES THAT WOULD ALLOW THE SALE OF GROWLERS IN TAPROOMS:

Ben Martig, City Administrator, reviewed the proposed ordinance amending chapter 6 of the Code of Ordinances that would allow the sale of growlers in taprooms. The Brau Brothers have applied for a Taproom license and have indicated that they would like to have a Growlers License.

Member (**Mike Boedigheimer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'Introduction of an Ordinance Amending Chapter 6 of the City Code of Ordinances that would allow the sale of growlers in taprooms'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Mayor Byrnes called for a 5-minute recess at 7:00 P.M.

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COMMISSION/BOARD LIAISON REPORTS:

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

Byrnes No report.

Hulsizer Marshall Area Transit Committee met on August 15th

Bayerkohler No report.

DeCramer EDA approved the 2014 Partnership Agreement and reviewed the 2014 budget; MERIT Center Commission discussed operating contract with Minnesota West Community College; Utilities Commission discussed rate increases; the fiber work contracts are complete; and discussion was held on Bonds for the water line and aquifer.

Boedigheimer No report.

Conyers Legislative and Ordinance Committee met on August 19th; there was an article in the Minneapolis Star Tribune on the Whitney Statute.

Mayor Byrnes called for a 5-minute recess at 7:00 P.M.

COUNCILMEMBER INDIVIDUAL ITEMS:

The Whitney Statute dedication was held during the Sounds of Summer Weekend and Council Member Ellayne Conyers provided the history of the statute.

STAFF REPORTS:

Ben Martig, City Administrator, indicated that MMU's water project will be bonded with bank qualified bonds; staff is working with Springsted on the Liquor Store project; the MERIT Center and Sports Center Project will hold a meeting to discuss the activities of the committee; and there will be a budget meeting on September 3rd.

Shane Waterman, Assistant City Engineer, provided an update on the current projects and indicated that four new projects would begin soon.

Dennis Simpson, City Attorney, provided updates on the status of the Beverage Wholesale project; Running's project and the purchase of the Kimpe property for the new liquor store. The MMU Raw Water Line Easements are completed and Turkey Valley Farms paid off their loans.

PENDING ITEMS:

Ben Martig, City Administrator, indicated that he will be updating this list.

INFORMATION ONLY:

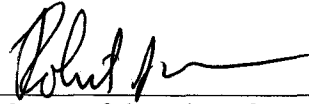
There were no questions on the information items.

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UPCOMING MEETINGS:

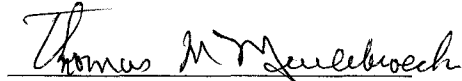
There were no questions on the upcoming meeting list.

Member (**Jennie Hulsizer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Adjourn meeting'. Upon a roll call vote being taken, the vote was: Aye: 6
Nay: 0. The motion **Carried 6 - 0**



Mayor of the City of Marshall

ATTEST:



Finance Director/City Clerk