

## REGULAR MEETING – JULY 22, 2014

The regular meeting of the Common Council of the City of Marshall was held on July 22, 2014 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:30 P.M. by Mayor Byrnes. In addition to Byrnes the following members were in attendance: Jennie Hulsizer, Larry Doom, Glenn Bayerkohler, Mike Boedigheimer and Ellayne Conyers. Absent: John DeCramer. Staff present included: Ben Martig, City Administrator; Matt Gross, Assistant City Attorney; Kim Jergenson, Engineer Technician; Ilya, Gutman, Building Official; Nate Ellis, Intern; Jane DeVries, Deputy City Clerk; and Thomas M. Meulebroeck, Finance Director/City Clerk.

The Pledge of Allegiance was recited at this time.

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

### **CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 8, 2014:**

Member (Larry Doom) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion 'that the minutes of the regular meeting held on July 8, 2014 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 THE REQUEST OF THE CALVARY CEMETERY FOR A CONDITIONAL USE PERMIT FOR A CREMATORIUM IN AN A-AGRICULTURAL DISTRICT AT 905 EAST MAIN STREET -- PUBLIC HEARING AND CONSIDER APPROVAL OF CONDITIONAL USE PERMIT:**

Ilya Gutman, Building Official, reviewed the request by the owner to build a crematorium at the Catholic cemetery located in an A Agricultural District. Crematorium is a conditional use in an A district. The cemetery itself is a conditional use in an agricultural district and the conditional use permit was approved for the cemetery in 1998. The crematorium is proposed to be built at the eastern tip of the property, away from Hy-Vee and Perkins restaurant. Agricultural District regulations are located in Section 86-96. The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49. At the Planning Commission meeting on June 11, 2014, they recommend approval to City Council the Conditional Use Permit as recommended by staff. At the City Council meeting on June 24, 2014, residents of areas adjacent to the cemetery expressed strong opposition to the crematorium construction as proposed. After some discussion, the City Council tabled the issue and called for new public hearing to discuss this application. Since then, Quinn Horvath, the Owner's representative, has met with concerned residents and provided more information to them. He also agreed to change the location of the crematorium by relocating it farther away from the residential area, i.e., moving it 180 feet east from the originally proposed location. It now appears that the residents' concerns have been mostly answered.

Roger and Shirley Przybys, 811 Nuese Lane, indicated the area residents are in agreement with the proposed conditional use permit.

REGULAR MEETING – JULY 22, 2014

Member (**Larry Doom**) 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: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council approve the conditional use permit 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 City reserves the right to revoke the Conditional Use Permit in the event that the applicant has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default. 3. 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. 4. That the building be placed at the location as approved by the City Council'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0** Abstain: **1**. The motion **Passed 5 – 0 – 1**, with Doom abstaining.

**CONDUCT A PUBLIC HEARING FOR A NEW ON-SALE INTOXICATING LIQUOR LICENSE FOR BELLO CUCINA OF MARSHALL INC., DBA BELLO CUCINA OF MARSHALL AND TO APPROVE THE SUNDAY LIQUOR LICENSE FOR BELLO CUCINA OF MARHALL:**

This was the date and time set for a public hearing to consider a new On-Sale Intoxicating Liquor License for Bello Cucina of Marshall Inc., dba Bello Cucina of Marshall, 100 West College Drive to be effective August 1, 2014. Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that they have requested that the fee be pro-rated.

Council Member Boedigheimer asked if this has been pro-rated in the past. Mr. Meulebroeck indicated that the City Code allows for this license fee to be pro-rated and that it has been done in the past.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing for the new On Sale Intoxicating Liquor License for Bello Cucina of Marshall Inc., dba Bello Cucina of Marshall'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'the approval of a new On-Sale Intoxicating Liquor License for Bello Cucina of Marshall Inc., dba Bello Cucina of Marshall, 100 West College Drive at a pro-rated fee of \$1,750 for August through December, 2014'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'the approval of a Sunday Liquor License for Bello Cucina of Marshall Inc., dba Bello Cucina of Marshall, 100 West College Drive at a fee of \$200.00 for August through December, 2014'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 - 1** with Bayerkohler voting no.

**CONDUCT A PUBLIC HEARING ADOPTING ORDINANCE AMENDING WAGES FOR MAYOR AND COUNCIL MEMBERS:**

This was the date and time set for a public hearing to amend wages for the Mayor and Council Members. Ben Martig, City Administrator, indicated that in accordance with the City of Marshall Charter, Section 2.53, the Mayor and City Councilmember's should discuss salary wage rate increase at the first council meeting in July. Section 2.53. Salaries read as follows: "Salaries of the Councilmember's and Mayor shall be discussed as an agenda item at the first council meeting in July of each year. After said discussion, the council shall set and determine said salaries in accordance with the applicable state law. In accordance with Minnesota Statute 415.11 Subdivision 2, no change in salary shall take effect until after the next succeeding municipal election. Therefore, if the Council is proposing an increase either in 2015 or 2016 it should hold an ordinance hearing and adopt prior to the election in November. Minnesota Statute 415.11 Subd. 3. does provide temporary reduction authority to the Mayor and Council prior to an election to enact an ordinance that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted. The recommendation is to bring forward an ordinance that would be consistent with non-union employees. This would require a lag of one year as the 2015 rate was adopted with a 2% wage rate increase from January 1, 2015 to July 1, 2015 and 1% increase from July 1, 2015 to December 31, 2015 and the 2016 rate was adopted with a 2% wage rate increase from January 1, 2016 to July 1, 2016 and a 1% increase from July 1, 2016 to December 31, 2016. Staff and the City Attorney's office agrees the ordinance should have fixed dollar amounts to be in compliance with state statutes.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing amending wages for Mayor and Council Members'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) Moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'to adopt **ORDINANCE NUMBER 688, SECOND SERIES**, amending wages for the Mayor and Council Members effective January 1, 2015'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

**PROJECT Z29: DIVERSION CHANNEL/MAIN LIFT SANITARY SEWER INTERCEPTOR PROJECT – REJECT ALL BIDS:**

Bids for Project Z29: Diversion Channel/Main Lift Sanitary Sewer Interceptor Project were received on July 15, 2014 from:

States Borders Construction, Inc. Graceville, Minnesota \$979,852.50	Duininck, Inc. Prinsburg, MN \$1,177,651.00	H & W Contracting LLC Sioux Falls, SD \$1,215,222.15
--	---	--

REGULAR MEETING – JULY 22, 2014

Kim Jergenson, Engineer Technician, indicated that the engineer's estimate was \$876,777.50 and that the low bid from States Borders Construction, Inc. of Graceville, Minnesota was in the amount of \$979,852.50, which is 11.76% above the engineer's estimate. After an analysis of the bids and discussions with Marshall Municipal Utilities, staff recommends the rejection of all bids. Staff will call for bids later in 2014 with proposed construction in 2015.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council reject all bids for Project Z29: Diversion Channel/Main Lift Sanitary Sewer Interceptor Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**PROJECT Z23: SERVICE DRIVE RECONSTRUCTION PROJECT – 1. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS; 2. RESOLUTION ACCEPTING BID (AWARDING CONTRACT)**

Bids for the Service Drive Reconstruction Project Z23 were received, on July 17, 2014 from:

R & G Construction Co. Marshall, Minnesota \$485,583.10	Sherbrooke Turf Pelican Rapids, Minnesota \$523,211.20	D & G Excavating Inc. Marshall, Minnesota \$594,099.50
---	--	--

Kim Jergenson, Engineer Technician, indicated that this project consists of street reconstruction of Service Drive from Jewett Street to O'Connell Street. Included in this project is bituminous surfacing, aggregate base grading, minor curb and gutter replacement, and miscellaneous work.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4039, SECOND SERIES, which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z23: Service Drive Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Jennie Hulsizer**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4040, SECOND SERIES, which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with R&G Construction Co. of Marshall, MN, in the amount of \$485,583.10 for Project Z23: Service Drive Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**PROJECT BP1: SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER BALLPARK SANITARY SEWER AND WATERMAIN CONSTRUCTION PROJECT – CONSIDER AWARD OF PROPOSAL.**

Bids for the Southwest Minnesota Regional Amateur Sports Center Ballpark Sanitary Sewer and Watermain Construction Project BP1 were received from July 15, 2014 from:

R & G Construction Co. Marshall, Minnesota \$43,938.00	D & G Excavating, Inc. Marshall, Minnesota \$44,045.00	Thompson Excavating Taunton, Minnesota \$49,538.00
--	--	--

Kim Jergenson, Engineer Technician, indicated that this project includes the construction of sanitary sewer and watermain serving the Southwest Minnesota Regional Amateur Sports Center Ballpark. Proposals for the project

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council award the proposal for Project BP1: Southwest Minnesota Regional Amateur Sports Center Ballpark Sanitary Sewer and Watermain Construction Project to R&G Construction Co. of Marshall, Minnesota in the amount of \$43,938.00'. 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 (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'that the following consent agenda items be approved as presented'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

The approval of Change Order No. 1 with Caldwell Asphalt Co., Inc., of Hawick, Minnesota for a 30 day time extension only extending the substantial completion date from August 1, 2014 to August 31, 2014 for the Bituminous Chip Seal Project Z23.

Call for a public hearing to be held at 5:30 P.M. on August 11, 2014 on the vacation of the gravel road (290<sup>th</sup> Street) between CSAH 33 and TH 59.

The approval of a Temporary On-Sale Liquor License for Holy Redeemer Church to use on September 13, 2014 at Lyon County Fairgrounds.

The approval of a Temporary 3.2 Percent Malt Liquor License for the VFW Post 742 for the month of July and August at the Lyon County Fairground.

Be it resolved that the City Council hereby (1) grants local unit of government approval to the Marshall Volunteer Firefighters Relief Association for a raffle on August 15, 2015, at the Marshall Fire Department, 201 East Saratoga Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall.

REGULAR MEETING – JULY 22, 2014

Be it resolved that the City Council hereby (1) grants local unit of government approval to Holy Redeemer Church to hold a raffle on September 13, 2014, at the Lyon County Fairgrounds, 504 Fairgrounds Road, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall.

That the following bills and project payments be authorized for payment, ACCOUNTS PAYBLE, Voucher No. 89797 through 90027.

**CONSIDER APPROVAL OF THE WAGE SCHEDULE FOR TEMPORARY /SEASONAL EMPLOYEES TO BE IN COMPLIANCE WITH THE NEW MINNESOTA MINIMUM WAGE LAW:**

On April 14, 2014, Governor Dayton signed a minimum wage bill into law. The new law phases in a minimum wage increase over three years, beginning August 1, 2014. The minimum wage increases will follow this schedule: August 1, 2014 from \$7.25 to \$8.00 per hour August 1, 2015 from \$8.00 to \$9.00 per hour August 1, 2016 from \$9.00 to \$9.50 per hour. The increase effective August 1, 2014 has an impact on the City's wage schedule for 10 temporary/seasonal position titles. No other City wage schedules are impacted for 2014. Step 1 wage rates, currently compensated below minimum wage, have been increased to \$8.00 and Steps 2-7 of the corresponding ranges have been adjusted accordingly. These changes would be effective by law, no later than 8/1/14. Staff is recommending the changes be effective 7/28/14, the first day of the pay period that includes August 1st in order to efficiently administer wage adjustments. A total of 50 temporary/seasonal employees will be impacted by the adjustments. The wage impact will be most heavily felt by the Marshall Aquatic Center. As of 7/28/14 there will be 18 days left of the aquatic center pool season. The original recommendation brought forward to the Personnel Committee was to also amend the pay ranges for all other positions at the Marshall Aquatic Center by \$0.50 per hour to offset the mandated increase. Whereas the Attendant position is an entry level position, all other lifeguard, learn-to-swim, and maintenance positions at the pool require certifications (lifeguard, water safety instructor, 1st aid, CPR) and/or specialized training. The fiscal impact, with an adjustment to all pool employees, for the remaining 18 days of the pool season is approximately \$976.50. Making the adjustment to only those positions required by law (increasing those titles up to the minimum wage rate) will have a fiscal impact of \$105.88 for the remaining 18 days of the pool season. The Council Personnel Committee met on June 24th and unanimously recommended approval of the amended wage schedule, increasing only the wage ranges for positions being compensated under the minimum wage rate, to be effective July 28, 2014.

Council Member Bayerkohler was concerned that all the steps in the temporary/seasonal wage scale were being adjusted.

Council Member Hulsizer indicated that the Personnel Commission is recommending to only do the minimum required and any additional change be considered during the budget process.

Member (**Larry Doom**) moved, Member (**Jennie Hulsizer**) seconded to approve the **ORIGINAL** motion 'approve the amended temporary/seasonal wage schedule, increasing only the wage ranges for positions being compensated under the minimum rate, to be effective July 28, 2014'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDER APPROVAL OF A WINE LICENSE, SUNDAY LIQUOR LICENSE AND ON-SALE 3.2 PERCENT MALT LIQUOR LICENSE FOR HY-VEE MARKET CAFÉ; AND THE INTRODUCTION OF AN ORDINANCE GRANTING HY-VEE MARKET CAFÉ AN INTOXICATING MALT LIQUOR ON-SALE LICENSE**

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the application from Hy-Vee Market Café for a Wine License and an application for a Sunday Liquor License and an On-Sale 3.2 Percent Malt Liquor License. He also reviewed the memo from Hy-Vee requesting that they be allowed to sell intoxicating malt liquors at on-sale as per State Statute 340A, Subd 5. This has previously been approved for the Hunan Lion and Dickey's Barbecue Pit.

Council Member Boedigheimer asked why the Wine License fee is not being pro-rated. Mr. Meulebroeck indicated that the City Code only allows for the On-Sale Intoxicating Liquor License to be pro-rated.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the approval of a Wine License for Hy-Vee Market Café, 900 East Main Street at a fee of \$800.00 to expire on December 31, 2014'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'the approval of a Sunday Liquor License at a fee of \$200.00 and an On-Sale 3.2 Percent Malt Liquor License at a fee of \$250.00 for Hy-Vee Market Café, 900 East Main Street to expire on December 31, 2014'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 - 1**, with Bayerkohler voting no.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'the introduction of an ordinance granting Hy-Vee Market Cafe' an intoxicating malt liquor on-sale license'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDERATION OF TEMPORARY EXTENSION OF ALCOHOL LICENSE AREA FOR BRAU BROTHERS BREWING COMPANY AT 910 WEST MAIN STREET ON SEPTEMBER 5, 6, AND 7:**

Ben Martig, City Administrator, indicated that the Brau Brothers Brewing Company is planning their first annual "Hopfest" celebration on September 5, 6 and 7. The current alcohol license approved by the City and State is for a taproom and identifies the area to include the inside of the brewery and the exterior areas under the overhangs. The State does allow for the City to allow for a temporary extension of the designated area if they are contiguous with the other areas of the license holder. The City has complete discretion of any approval or conditions that may be applied as determined necessary. There is no additional state notifications or approval. This

REGULAR MEETING – JULY 22, 2014

event is intended to be the first annual Hopfest celebration to unveil an annual beer made with locally grown hops to our region. Brau Brothers Brewing Company will also be providing various events and food over the weekend as outlined in the application. The event is intended to be a community event but also will be a destination event from visitors from outside our region, particularly craft beer enthusiasts who appreciate the quality Brau grown to be recognized for within the industry. This event fits within the goals of the community to grow as a destination in arts and entertainment for Southwest Minnesota. Brau intends for this to become an annual event so would like to work to resolve issues and create established practices and expectations to build off of every year similar to what Sounds of Summer has done with the community festival just on a much smaller scale. Parking was the only concern raised internally by staff. There is some shared parking in the area and other private parking with neighboring properties. The CEO Dustin Brau indicated he intended to talk to neighbors in advance regarding the event and parking. He did not believe the event would draw a significant enough crowd to warrant pursuing alternative parking such as a remote location with busing in to the site.

Dustin Brau indicated that the event will be at the end of the hop harvest and they will be making a special beer that will be released during the event.

Comments from the Council included:

Bayerkohler was concerned if the band would be an issue for the businesses in the area;  
Conyers was concerned with the parking lot being used by all of the business in the area;  
Boedigheimer was not in favor of approving this event when it involves other people's property;

Bayerkohler was concerned with parking for Perkins; and

Mayor Byrnes indicated that when this business moved to Marshall, staff was aware that they would be bringing in festivals.

Member (Larry Doom) moved, Member (Ellayne Conyers) seconded to approve the ORIGINAL motion 'to approve the temporary extension of alcohol license area for Brau Brothers Brewing Company at 910 West Main Street on September 5, 6, and 7, 2014'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 2. The motion Passed 4 – 2, with Bayerkohler and Boedigheimer voting no.

**PROJECT Y87 / S.P. 4210-50 (TH 68): WEST MAIN SANITARY SEWER IMPROVEMENT PROJECT – 1. CONSIDER CHANGE ORDER NO. 3; 2. CONSIDER CHANGE ORDER NO. 4 (FINAL); 3. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 4:**

Kim Jergenson, Engineer Technician, indicated that the West Main Sanitary Sewer Improvement Project Y87 involved the replacement of sanitary sewer and storm sewer utilities, partial street reconstruction, and partial resurfacing. The project impacted West Main Street from North T.H. 59 to the bridge over the Redwood River Diversion Channel. Change Order No. 3 addresses an increase in asphalt oil due to a change in air voids from 4% to 3% on the non-wear bituminous pavement as required by Mn/DOT. Change Order No. 4 (Final) is the final reconciling change order for the above project. The items are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. The major items adjusted in the final change order include paving, curb and



gutter, and driveway construction items. The quantity variances reflect field adjustments necessary to react to individual property needs on the project. A portion of the additional costs will be accessed to the benefited properties accordingly. All work has been completed in accordance with the specifications.

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 increase in the amount of \$2,435.70 for West Main Sanitary Sewer Improvement Project Y87'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **NEW** motion 'that Council approve Change Order No. 4 (Final) with R&G Construction Co. resulting in a contract increase in the amount of \$35,929.55 and acknowledgement of Final Pay Request (No. 4) in the amount of \$51,494.96 for West Main Sanitary Sewer Improvement Project Y87 '. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDER RESOLUTION REQUESTING SPEED STUDY ALONG T.H. 23:**

The City of Marshall continues to have safety issues along T.H. 23 through Marshall at various locations, including the intersections of T.H. 19, T.H. 59, Saratoga Street and CSAH 7. There have been continued accidents at these intersections, and there is concern that the posted speed limit of 55 mph may be too fast for safe conditions along this route. It has been some time since a speed study has been conducted along that segment of T.H. 23. The last speed study that staff found was done in 2005 but only for the portion from T.H. 19 north between SMSU and the new Marshall High School. Also in 2002, there was a study done and an agreement to post the speed limit at 60 mph. Subsequent to that agreement, Mn/DOT reduced the posted speed limit to 55 mph along T.H. 23 within the city limits, but there are no records as to how that reduction occurred. On July 9, 2014, the Mayor submitted a letter of request for a speed study along T.H. 23 from city limits to city limits in Marshall, Minnesota. On July 10, 2014, a reply email was received from District Traffic Engineer Ryan Barney recommending City Council resolution be adopted and submitted to Mn/DOT formally requesting said Speed Study. The reply also indicated that with Mn/DOT's current work load, the completion of the study is estimated late summer to early fall 2014.

Council Member Boedigheimer indicated that the council never asked for a speed study. He felt that the council should have discussed this before Mayor Byrnes made the request for a speed study.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4041, SECOND SERIES, which is the Resolution Requesting a Speed Study along T.H. 23 in Marshall, Minnesota'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 - 1**, with Boedigheimer voting no.

**CONSIDER THE REQUEST OF THE SUSAN BROMEN FOR A 5-YEAR RENEWAL OF A CONDITIONAL USE PERMIT FOR A BEAUTY SHOP BUSINESS AT 202 EAST REDWOOD STREET IN AN R-1 ONE-FAMILY RESIDENCE DISTRICT:**

Ilya Gutman, Building Official, indicated that Susan Bromen is requesting a five-year renewal of a Conditional Use Permit for home occupation to conduct a beauty shop business at 202 East Redwood Street in an R-1 One Family Residence District. The original Permit was granted in 1998 and renewed for five years in 1999, 2004 and 2009. There are no comments on file. In 2013, Ms. Bromen applied for a Variance to build an addition to her house. The variance permit was granted and construction began in the fall with the proper building permit. However, the contractor had altered the approved design during construction and did not request the required inspections which resulted in multiple Building Code violations. This spring, the construction has been stopped until all violations are corrected in an approved manner. Despite multiple contacts with the contractor, no progress has been made. Therefore, this property is in violation of the Condition #3 of the current Conditional Use Permit. At the Planning Commission meeting on July 9, 2014, they recommended approval to the City Council as recommended by staff with the additional condition #6 being added to the original 5 conditions recommended by staff. The City staff agrees with this recommendation.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve a request of Susan Bromen for a five-year renewal of a Conditional Use Permit for a home beauty shop business at 202 East Redwood Street 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 Conditional Use 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 repair such default. 3. That the property is maintained to conform to the Housing Code, Zoning Code, Building Code, and not cause or create negative impacts to adjacent existing or future properties 4. This permit expires five years from its date of adoption. 5. Business hours shall be between 8:00 a.m. and 8:00 p.m. only on weekdays and 10:00 a.m. and 5:00 p.m. on weekends. 6. Any current construction be completed within 120 days of adoption'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**CONSIDER AGREEMENT BETWEEN THE CITY OF MARSHALL AND INDEPENDENT SCHOOL DISTRICT #413 RELATING TO THE TRANSFER OF LAND AND THE COOPERATIVE MANAGEMENT OF LAND AND FACILITIES RELATED TO CITY AND SCHOOL ACTIVITIES:**

Ben Martig, City Administrator, reviewed the agreement between the City of Marshall and Independent School District #413 relating to the transfer of land and the cooperative management of land and facilities related to city and school activities. Ben indicated that the private road will become a public roadway. This will serve the Amateur Sports site and the individual lot is intended for the future irrigation pump system and possible parking area to be shared with the school district.

REGULAR MEETING – JULY 22, 2014

Council Member Bayerkohler was concerned if the city puts in a new road, who would be paying for it. He was also not sure if the transfer between the two entities was equal in value.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'Agreement between the City of Marshall and Independent School District #413 Relating to the Transfer of Land and the Cooperative Management of Land and Facilities Related to City and School Activities'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 – 1** with Bayerkohler voting no.

**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 discussed the grant application for the by-pass of the railroad around Willmar.

Hulsizer Marshall Area Transit Committee met on July 17<sup>th</sup>, but Jennie was unable to attend.

Doom Equipment Review Committee reviewed specs for a Police vehicle; Convention and Visitors Bureau met but Larry was unable to attend.

Bayerkohler Housing Commission – not at the meeting; Planning Commission items were acted on earlier in the meeting. The Planning Commission members are concerned that the City Council held a public hearing after the Planning Commission already held the public hearing.

Boedigheimer EDA meeting was cancelled; MERIT Center Commission met on July 21<sup>st</sup>.

Conyers Senior Citizen Center Commission will hold their annual meeting on July 23<sup>rd</sup>.

Mayor Byrnes called for a 5-minute recess at 7:23 P.M.

**COUNCILMEMBERS INDIVIDUAL ITEMS:**

Mayor Byrnes will not be at the meeting on July 23, 2014.

**STAFF REPORTS:**

Ben Martig, City Administrator, indicated that there will be a Special City/County Informational meeting on July 23<sup>rd</sup>. This meeting was posted as an open meeting and Tom will take minutes. The Council does need to call this meeting to order. The purpose of this meeting is to receive input on the Marshall/Lyon County Library / Plum Creek Regional System. Council Member Bayerkohler indicated that a joint committee should be established to work on a solution. Council Member Hulsizer indicated that the City should have more control over the Library. There will be a budget meeting on July 29<sup>th</sup>. Members from the Amateur Sports Commission visited Rochester.

REGULAR MEETING – JULY 22, 2014

Kim Jergenson, Engineer Technician, provided an update on the construction projects.

Matt Gross, Assistant City Attorney, indicated that Dennis would be back in the office later this week.

**PENDING ITEMS:**

Council Member Hulsizer asked about the status of the quite whistle.

**INFORMATION ONLY:**

There were no questions on the information items.

**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:**

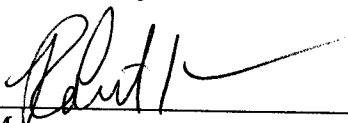
Member (Larry Doom) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion 'to close the meeting for purposes of discussion of property acquisition'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

The Council went into closed session at 7:55 P.M. pursuant to Minnesota Statute 13D.5 Subd. 3(C)(1) to establish pricing related to discussion of real property acquisition. Those present at the closed session included: Byrnes, Hulsizer, Doom, Bayerkohler, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Matt Gross, Assistant City Attorney; Nate Ellis, Intern; and Thomas M. Meulebroeck, Finance Director/City Clerk. The council came out of closed session at 8:08 P.M.

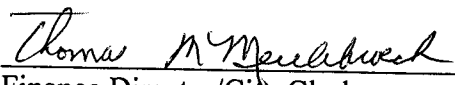
**UPCOMING MEETINGS:**

There were no questions on the upcoming meeting list.

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

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Finance Director/City Clerk