

## REGULAR MEETING – AUGUST 26, 2014

The regular meeting of the Common Council of the City of Marshall was held on August 26, 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: John DeCramer, Larry Doom, Glenn Bayerkohler, Mike Boedigheimer and Ellayne Conyers, absent was Jennie Hulsizer. Staff present included: Ben Martig, City Administrator; Matt Gross, Assistant City Attorney; Director of Public Works/City Engineer, Glenn Olson; Director of Community Services, Harry Weilage; Human Resource Coordinator, Sheila Dubs; CEO Marshall Area Chamber of Commerce, Cal Brink; Jane DeVries, Deputy City Clerk; Executive Assistant, Cathy Lee; 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.

### **PRESENTATION NAMING MARSHALL A LEGACY DESTINATION CITY**

Jacklyn Urness, Public Engagement Director for Conservation Minnesota presented an award to the City of Marshall for its effective use of Legacy funds. The City received a plaque to highlight Marshall's enthusiastic embrace of the goals of Legacy funds. This year's legacy destination are: Marshall, Austin, Duluth, Edina, Ely, Grand Rapids, Manktaot, Minneapolis, Minnetonka, Saint Paul and Rochester.

### **CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 11, 2014 AND THE MINUTES OF THE WORK SESSION HELD ON AUGUST 19, 2014**

Member (John DeCramer) moved, Member (Larry Doom) seconded to approve the ORIGINAL motion that the minutes of the regular meeting held on August 11, 2014 and the minutes of the work session held on August 19, 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

### **PUBLIC HEARING ON PROPOSED AMENDMENT TO THE CITY CODE OF ORDINANCES, CHAPTER 2, ARTICLE VI, DIVISION 7, SECS. 2-266 TO 2-285 RELATED TO THE LIBRARY BOARD.**

City Attorney, Dennis Simpson and City Administrator, Ben Martig have been working with the Department of Education to clarify the legal issues around the proposed ordinance section 2-272 regarding membership in regional library systems. The relevant section of statute 134.20 reads "Cities having public libraries may join in the regional public library system by being parties to the agreement which establishes the regional public library system through action of their library boards and their city councils..." The alternate recommendation is to amend the proposed Section. 2-272. Membership. To read "The Library may join in the regional public library system by being parties to the agreement which establishes the regional public library system through action of the Library Board and City County. Staff is recommending to close the public hearing and wait on this ordinance until next meeting which will give City Attorney Simpson and Martig time to review this section. Councilmember Bayerkohler asked what the next steps were. He asked if the city waits for the county to act and then the city reacts or would it be worthwhile that the county and city hold a joint meeting. Martig stated that he is ready to move forward. Mayor

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Byrnes commented that the city did not make a motion regarding this issue but the county and library did. Loren Stomberg, County Administrator indicated that the county will be meeting on the funding as early as next Tuesday, but he can't predict if the funding will be resolved at that meeting. If more decisions need to happen then a joint meeting could be scheduled.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** that the public hearing on the proposed amendment on the Library Board be at the next regular city council meeting on September 9, 2014. 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 (**Ellayne Conyers**) seconded to approve the **ORIGINAL** to 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 approval to declare vehicles as surplus property from the Marshall Police Department.

That the following bills and project payments be authorized for payment, ACCOUNTS PAYABLE, Vouchers 90210 to Vouchers 90424

**BI-ANNUAL AVERA MARSHALL REGIONAL MEDICAL CENTER REPORT (CEO MARY MAERTENS).**

Mary Maertens, CEO of Avera Regional Medical Center presented the Avera Regional Medical Center biannual report. Ms. Maertens did an update on the Avera Cancer Institute. The construction is on schedule and they are on budget. The Avera Medical Group has a team of 45 providers in 12 specialties with nine new providers in the past six months. Avera has added an eye clinic in Worthington and they have added family medicine outreach at the Wabasso Public School and now have a nurse contract with Ivanhoe School. Avera Morningside Heights will be celebrating their 50<sup>th</sup> year anniversary. The obstetrics report showed that Avera surpassed 500 deliveries in FY14. Ms. Maertens discussed the Health & Health Promotion Grants. Part of the sale process there was a \$10 million gift to the medial \$1.5 to support the surgery project and \$7 million to support the cancer and the final gift was \$1.5 million to support the health and health promotion needs of the city of Marshall and the surrounding community through grants to the medical center, or other qualifying organizations. That gift is overseen by a special committee that consists of five members. Two are appointed by the Mayor, two are appointed by Avera and one is appointed by a majority of the four. The dollars are invested through Bremer Bank. The policy that the committee has developed is to use the fund as an interest only for grants and if that isn't granted then it is available to be used for additional grant request. The committee has a rolling cycle for grant applications. Ms. Maertens identified the various programs that the money was used for. Doom asked about the expiration date – what happens when that date ends? Ms. Maertens stated that the agreement right now indicates that the fund rolls over to the foundation and the Avera Foundation Board would oversee that gift. Mayor Byrnes stated that just as the sale of the medical center to Avera was intended to make a difference, which it has with the cancer center, he suggested that the funds be used to make a difference in the community and the health of the community rather than the entire fund, short of interest, be deferred to the Avera Foundation. The intent of the gift was not to have the funds go to the

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Avera Foundation but rather as a gift to the community. The five members do have the control of this policy and these needs to be reviewed. Ms. Maertens has discussed this with the committee and the City Council feedback will be shared with the committee. The committee has asked to analyze what can be done with the funds when it rolls over to the Avera Foundation. Ms. Maertens gave an update on the parking. There is a variance in place. An informational meeting was held with the neighbors to discuss parking. Avera purchased the house on 102 South Bruce Street which could also be used for potential parking.

### **CONSIDER MERIT CENTER ETHANOL TRAINING EQUIPMENT DESIGN BUILD.**

City Administrator, Ben Martig, stated that the City of Marshall has been working on a project that includes a new wind tower training facility and ethanol burn prop at the MERIT Center. The wind tower portion is complete. The proposed design-build proposal will complete the project and allow for submission of reimbursement from the State of Minnesota. The City received a \$300,000 grant from the State of Minnesota to build the wind tower training facility and ethanol burn prop at the MERIT Center but the city can't submit for a reimbursement until that project is completed. The ethanol design has gone through a couple of different processes. Marc Klaith has taken the lead on this project. The approval of these projects took place in 2011.

Member (John DeCramer) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion to approve MERIT Center Ethanol training equipment scope of work with PAR not to exceed \$85,000. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried. 6 - 0

### **CONSIDER RENEWAL OF TRANSPORTATION AGREEMENT FOR 2015 WITH WESTERN COMMUNITY ACTION**

Tom Meulebroeck, Finance Director/City Clerk and liaison to the Transportation Committee addressed the agreement between Western Community Action, Inc., and the City of Marshall for transit operations within the City of Marshall for the period January 1, 2015 through December 31, 2015. The local share requested in 2015 is \$14,400 to replace a bus, contingent upon receiving 80% funding from MN/DOT. The estimated cost for the vehicle is \$72,000.

Member (Larry Doom) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion the approval of the Transportation Agreement with Western Community Action for January 1, 2015 through December 31, 2015. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0 The motion Carried. 5 - 0 with John DeCramer abstaining.

### **CONSIDER APPROVAL OF PERSONNEL POLICY MANUAL AMENDMENTS**

Sheila Dubs, Human Resource Coordinator, stated that the Council Personnel Committee and City Staff are recommending amendments to the City of Marshall Policy Manual. The majority of revisions are related to the Women's Economic Security Act (WESA) signed by Governor Dayton on May 11, 2014. Several of the provisions in WESA were effective immediately and others became effective July 1, 2014 or August 1, 2014. The law contains several employment and policy related bills aimed at increasing economic security and advancement for women. Staff provided the summary information to supervisors and employees when the law became effective. Dubs has ensured compliance to the legal provisions on an individual employee basis.

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Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion approval of the amendments including cover page, table of contents, equal employment opportunity (1.6), reasonable accommodation (1.7), meal breaks and rest periods (5.5), wage protection disclosure notice (5.10), severance pay (6.4), sick leave (7.1), and pregnancy and parenting leave (7.6) to the Personnel Policy Manual. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried. 6 – 0

**CONSIDER SPONSORSHIP AGREEMENT: NAMING, SPONSORSHIP AND FOOD SERVICE RIGHTS FOR THE “THE SCHWAN REGIONAL AMATEUR SPORTS CENTER” WITH THE SCHWAN’S SHARED SERVICES, LLC.**

City Administrator Ben Martig, stated that The Schwan Food Company has been an invaluable partner with the City of Marshall and with Marshall Independent School District #413, for the development of the Tiger Park Addition property on the easterly boundary of the City of Marshall. The new Marshall Senior High School was developed on property donated to the School District by The Schwan Food Company. The City has had ongoing discussions for a number of years with The Schwan Food Company regarding donation or sale of additional property for the location of new ball park complex and for the location of the Regional Amateur Sports Center. The City and Schwan’s had previously entered into donation agreements and real estate purchase agreements for the donation and purchase of various parcels of property for the location of the various sports complexes. Those prior discussions and agreements as approved June 19, 2013, did contain provisions related to the development of a Sponsorship Agreement granting to Schwan’s the right to name the Regional Amateur Sports Center and also to have certain naming rights of facilities within that structure. At the ground breaking ceremony on Thursday, August 14, 2014, it was announced that the facility would be known as The Schwan Regional Amateur Sports Center. The Sponsorship Agreement delineating the additional naming rights and conditions related to those naming rights has been prepared. Martig noted that the naming rights to the exposition center are reserved and shall be named by Schwan’s. However, the two sheets of ice and other rooms and other facilities within the Amateur Sports Center can be named by others and are not strictly reserved in the name of Schwan’s. Schwan’s does have 20 year naming rights for the exposition center within the facility. The Sponsorship Agreement also addresses limitations on sale and display of competing products within the facility.

Ben Martig, City Administrator stated that the intent is that The Schwan Food Company was not to run the concession; all these details have not been worked out. Doom was concerned with the wording in 4-3 which relates to the products that are sold in the concession stand at the complex. Michael Samuelon addressed his concern with the specific products to be sold in the concession stand at the complex.

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion to approve Resolution #4046, Second Series, authorizing the proper City Official to execute the Sponsorship Agreement: Naming, Sponsorship and Food Service Rights for the “The Schwan Regional Amateur Sports Center” with the Schwan’s Shared Services, LLC with the additional language in section 4, addressing the non-exclusive of local vendors and suppliers. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion PASSED 5 – 1 with Bayerkohler voting no.

Mayor Byrnes called for a five minute recess at 7:16 p.m.

**AUTHORIZATION TO PURCHASE SOIL CONDITIONER AND SEEDER FOR SMASC AND MERIT CENTER.**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall is currently developing three major projects – the SMASC ball fields, the SMASC sports center, and the MERIT driver and training facility. All of these developments require a considerable investment in landscaping for the ball fields and green space construction. Bids were received for landscaping on the ball fields and subsequently rejected as staff is reviewing more cost-effective methods of construction. One of the cost saving measures was for the city to provide equipment for the projects to do the seeding and soil preparation. Both pieces of equipment were estimated at under \$5,000. Quotations were received by local distributors. The City has received bids from \$1,500 to \$2,500 per acre on the projects for seeding disturbed areas. The equipment will be used annually on the ball fields and for over seeding at the MERIT center as well. It will also be used on the expansion project at the MERIT Center. Olson indicated that the intent is to get the seeding done yet this fall.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion that the Council authorize the purchase of a Soil Conditioner with hydraulic angling package from Kesteloot Enterprises Inc. of Marshall, Minnesota, in the amount of \$6,250.00. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 2 Abstain: 1. The motion **PASSED**. 3 - 2 with Bayerkohler and Boedigheimer voting no and Doom abstaining.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion that the Council authorize the purchase of a Seeder from Titan Machinery of Marshall, Minnesota, in the amount of \$4,750.00. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 2 Abstain: 1. The motion **PASSED** 3 - 2 with Bayerkohler and Boedigheimer voting no and Doom abstaining.

**CONSIDER RESOLUTION AUTHORIZING EXECUTION OF GRANT OF EASEMENT - 1. SOUTH 4TH STREET - FREEDOM PARK; 2. 900 STATE HIGHWAY 23 - SOUTH SARATOGA STREET; 3. 1200 EAST LYON STREET - INDEPENDENCE PARK**

Glenn Olson, Director of Public Works/City Engineer, stated that the easements have been requested by MMU, Charter Communication, Century Link and WOW for public use for public utility purposes.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion that the Council adopt Resolution Number 4043, Second Series, which is the Resolution Authorizing execution of Grant of Easement to MMU, Charter Communications, CenturyLink and WOW for a project in the South 4th Street-Freedom Park area as legally described on the Grant of Easement. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried**. 6 - 0

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Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the motion that the Council adopt Resolution Number 4044, Second Series, which is the Resolution Authorizing Execution of Grant of Easement to MMU, Charter Communications, CenturyLink and WOW for a project in the 900 State Highway 23-South Saratoga Street area as legally described on the attached Grant of Easement. 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 motion that the Council adopt Resolution Number 4045, Second Series, which is the Resolution Authorizing Execution of Grant of Easement to MMU, Charter Communications, CenturyLink and WOW for a project in the 1200 East Lyon Street-Independence Park area as legally described on the Grant of Easement. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

**TO CONSIDER A RESOLUTION APPROVING PIPELINE LICENSES RELATED TO PROJECT Z29 DIVERSION CHANNEL-MAIN LIFT SANITARY SEWER INTERCEPTOR PROJECT.**

Glen Olson, Director of Public Works/City Engineer indicated that the City Engineering department is preparing documents for re-bidding of City Project Z29. A component of the documents to be prepared involves the acquisition of pipeline licenses from the BNSF Railway Company. A portion of the construction project involves the replacement of existing 18 inch sanitary sewer line and 16 inch water main line under the BNSF railroad right of way. The existing lines will be removed and new lines will be placed in the existing 30 inch sleeves presently used by current sanitary sewer line and water main. BNSF Railway Company does require execution of a new license for each of those two lines. Cost for each pipeline license is \$1,500. Additionally, the City must provide insurance verification to the BNSF Railway Company verifying that appropriate levels of liability insurance are in place. The insurance liability limits are quite high and it is anticipated that the coverage's will be re-negotiated and will be in line with coverage limits as offered through the League of MN Cities Insurance Trust Fund.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion Approve Resolution 4048 , Second Series, approving pipeline licenses related to Project Z29 Diversion Channel-Main Lift Sanitary Sewer Interceptor Project with the City Attorney amending the insurance provisions as per his discussion with BNSF. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

**CONSIDER FINANCIAL WORK PLAN WITH SPRINGSTED FOR LIQUOR STORE OPERATIONS CASH FLOW PROJECTIONS.**

The City is continuing to work on development plans for the new liquor store. Staff is working on cash flow estimates and is recommending a contract with Springsted to conduct some additional analysis to confirm the project operating projections for revenue and expenses.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion to approve financial work plan with Springsted for Liquor Store

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operations cash flow projections for the new Liquor Store. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **PASSED 5 - 1** with Bayerkohler voting no.

**CONSIDER RESOLUTION DECLARING A VACANCY IN THE COMMON COUNCIL.**

Tom Meulebroeck, Finance Director/City Clerk stated that Jennie Hulsizer, City Councilmember submitted her written resignation as a member of the Common City Council from the Third Ward effective August 25, 2014 at the City Council meeting on Tuesday, August 11, 2014. Meulebroeck reviewed the resolution Declaring a Vacancy in the Common Council. This resolution accepts Ms. Hulsizer resignation and provides for the City Council to appoint a person eligible for election from the Third Ward to serve the unexpired term of Jennie Hulsizer. In accordance with the City Charter, the Council shall appoint an eligible member to serve out the term as soon as possible. The suggestions made by to fill the vacancy were: 1) Contact Mr. Craig Schafer, who has filed for the position, to be voted at the November 4, 2014 General Election, if there is interest to serve the current post through the election and if he is elected to continue to serve the remainder of the term through December 31, 2014 until the new appointment in January; or 2) Wait and appoint the person elected on November 4, 2014 at the council meeting on November 10, 2014 or 3) Discuss with the former council members to see if there was any interest to serve until December 31, 2014. Martig suggested that the council discuss this at the next city council meeting on September 9, 2014.

Member **(Larry Doom)** moved, Member **(Mike Boedigheimer)** seconded to approve the **ORIGINAL** motion to adopt RESOLUTION NUMBER 4047, SECOND SERIES Declaring a Vacancy in Ward 3 of the Common Council. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

**CONSIDER GRANTING AUTHORITY TO INVEST BOND PROCEEDS IN A GUARANTEED INVESTMENT CONTRACT**

Tom Meulebroeck, Director of Finance/City Clerk stated that City of Marshall is in receipt of approximately \$17,000,000 in bond proceeds for the construction of the Amateur Sports Center and MERIT Center. The construction of these facilities is scheduled to begin in April, 2015. With the assistance of Terri Heaton from Springsted, Terry Kraser from Springsted Investment Advisors has provided investment alternatives for these bond proceeds that will help generate additional interest by utilizing a Guaranteed Investment Contract or Repurchase Agreement. Conversations have been held with John Utley, Kennedy & Graven, and Terri Heaton and they are in support of the City investing the funds in a Guaranteed Investment Contract (GIC).

Member **(Larry Doom)** moved, Member **(John DeCramer)** seconded to approve the **ORIGINAL** motion that the proper city personnel be authorized to invest the bond proceeds for the Amateur Sports Center and MERIT Center in a Guaranteed Investment Contract. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

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**COMMISSION/BOARD LIAISON REPORTS**

Byrnes: No Report

Hulsizer: No Report

Doom Personnel Committee met to review amendments to the Policy Manual that was presented to council earlier in the evening.

Bayerkohler: Housing Commission met this week to approve the 2015 Capital Expense and the 2015 Fiscal Budget. They are working with a security company to provide security on week-ends and late evenings for the apartments.

DeCramer: Marshall Municipal Utilities – discussion on the water lines coming into Marshall. They will start testing very soon.

Boedigheimer: No Report

Conyers: No Report

**COUNCILMEMBERS INDIVIDUAL ITEMS:**

Bayerkohler - after doing some research on the provisions in the proposed agreement regarding the library leasing vs. the library purchasing land, the library board has the power to lease but if they are going to purchase they need to have the city council approval. If the library purchases the property then it is owned by the city.

DeCramer received a request from the Yellow Ribbon Committee that they would like to present to the City Council in September an update on their activities.

Mayor Byrnes stated that Thursday, the Commission of Health will be in Marshall. He will be meeting with them at 1:00 p.m. and then at 3:00 p.m. a bicycle ride is scheduled for the bike trails. Mayor congratulated Ellyane Conyers on her recognition as Outstanding Senior Citizen of the Year for Lyon County which will happen at the State Fair on Thursday.

**CITY ADMINISTRATOR:**

No Report

**DIRECTOR OF PUBLIC WORKS:**

Glenn Olson, Director of Public Works gave an update on projects.

**CITY ATTORNEY:**

No Report

**PENDING ITEMS:**

There were no questions on the pending items.



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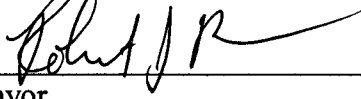
**INFORMATION ONLY:**

There were no questions on the information items.

**UPCOMING MEETINGS:**

There were no questions on the upcoming meeting list.

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

  
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Mayor

ATTEST:

  
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Finance Director/City Clerk