

REGULAR MEETING – SEPTEMBER 9, 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. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Director of Public Works/City Engineer, Glenn Olson; Director of Community Services, Harry Weilage; Building Inspector, Ilya Gutman; CEO Marshall Area Chamber of Commerce, Cal Brink; 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.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 26, 2014, THE WORK SESSION HELD ON AUGUST 26, 2014 AND THE WORK SESSION HELD ON SEPTEMBER 2, 2014

Member (Mike Boedigheimer) moved, Member (Larry Doom) seconded to approve the ORIGINAL motion that the minutes of the regular meeting held on August 26, 2014, the work session held on August 26, 2014 and the work session held on September 2, 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 Administrator Ben Martig provided an amendment to Section 2-272 related to the membership in a regional library system to be consistent with Minnesota Statutes Section 134.20 Subdivision 3. City Attorney Simpson has reviewed and concurs with the language.

Joe Amato stated that the City needed to give the answer rather than try and find the answer.

Martig indicated that on an email that he received from the Department of Education as it relates to the termination of membership with Plum Creek, it indicates that questions about current membership participation in the current Plum Creek Library System does not fall under State Statute. Their direction was to contact the Plum Creek Library System directly and that the Executive Directors position is that it is the Library and the City's approval to rejoin the Plum Creek system.

City Attorney Simpson stated that the Department of Education stated that cities join Regional Library Systems and counties join Regional Library Systems but individual Libraries do not join Regional Library Systems so the city is clearly receiving mixed messages from the Department of Education.

Will Thomas, a member of the Library Board indicated that it directly limits the independence of the Library Board. It would be a step backwards.

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DeCramer asked why the Library needs to be a member of the Regional Library System. Concerned that the real reason we are doing this is for the funding,

Simpson stated that if Lyon County were not to participate and provide 1/3 of the funding, it could be problematic. Bayerkohler agreed that the funding is a major factor, over \$200,000 is an issue. The State Statute state that the county has to be a member of a Regional Library System.

Bayerkohler stated that he favored amending the language of Sec. 2-272 Membership to read as follows: "It is the responsibility of the Library Board to make recommendations to the City Council regarding membership in a regional library system. After considering the Library Board's recommendations, it is the responsibility of the City Council to make final decisions regarding such membership." Bayerkohler indicated that he knew he would not have enough support for his amended language and that he would vote for the changes to the ordinance as proposed.

Member (**Glenn Bayerkohler**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion to close the public hearing. 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 Administrator Ben Martig provided an amendment to Section 2-272 related to the membership in a regional library system to be consistent with Minnesota Statutes Section 134.20 Subdivision 3. The City Attorney has reviewed and concurs with the language.

Member (**Larry Doom**) moved, Member (**Glenn Bayerkohler**) seconded to approve the motion to approve the 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. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 2. The motion **PASSED 4 – 2** with Conyers and DeCramer voting no.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the motion to approve the summary ordinance to the City Code of Ordinances, Chapter 2, Article VI, Division 7, Secs. 2-266 to 2-285 related to the Library Board. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **PASSED 5-1** with Conyers voting no.

MUNICIPAL BUILDING REROOF PROJECT - 1. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS; 2. CONSIDER RESOLUTION ACCEPTING PROPOSAL (AWARDING PROPOSAL) TO BUY SSE ROOFING.

Director of Public Works/City Engineer Glenn Olson indicated that this project consists of the replacement of the existing roof of the Municipal Building, including removal of the rock ballast, rubber membrane, replacement of any deteriorated insulation or leakage areas, additional

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insulation and installation of a fully-adhered rubberized roof system. On September 3, 2014, proposals were received for the project.

Three proposals were received.

<i>Bidder</i>	<i>Unit Price per Board Foot</i>	<i>Bid Amount</i>
Buyse Roofing Marshall, MN	\$1.75	\$88,400.00
Schwicker's Mankato, MN	\$1.17	\$95,640.00
Laraway Roofing, Inc. New Ulm, MN	\$1.00	\$116,530.00

Staff is recommending awarding the contract to Buyse Roofing of Marshall, Minnesota in the amount of \$88,400.00, plus any spot repairs necessary. The engineer's estimate was \$100,000.00. It is expected that there will be some spot repairs necessary after the existing ballasted roof is removed. Boedigheimer asked why Buyse Roofing bid amount was lower but the unit price per board foot was higher than the rest of the bids? Olson explained that the bid amount is for the replacement of the roof. The unit price per board foot is spot repairs when the roof is taken off and there is mold or deterioration. DeCramer asked how much installation would be added and Olson stated that it would be another inch of installation. Ron Halgerson from TSP commented that there is currently 90,000 pounds of rock ballast on the roof.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion that the Council adopt RESOLUTION NUMBER 4056, which provides for Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for the Municipal Building Reroof 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 (**John DeCramer**) seconded to approve the motion that the Council adopt RESOLUTION NUMBER 4057, which provides for the Resolution Accepting Proposal (Awarding Proposal) and authorizing entering into an agreement for the Municipal Building Reroof Project with Buyse Roofing of Marshall, Minnesota in the amount of \$88,400.00, plus any spot repairs necessary. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

CONSIDER AWARD OF PROPOSAL FOR PROFESSIONAL SERVICES FOR ARCHITECTURAL SERVICES STREET DEPARTMENT SALT/SAND STORAGE FACILITY TO TSP, INC.

Director of Public Works/City Engineer Glenn Olson reviewed the proposal for Professional Services for Architectural Services for Street Department Salt/Sand Storage Facility with TSP, Inc. This proposal involves professional services for architectural, structural and engineering services for the construction documents, bidding and construction phase. At their meeting on June 25, 2013, the City Council approved preliminary design services with TSP, Inc. for a 5,200 SF Salt/Sand Storage Facility replacing the existing wood structure at the Street Department.

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The Salt/Sand Storage Facility replaces the existing storage area with a new 65 ft. wide x 80 ft. long salt/sand storage facility with three reinforced concrete walls, an open front, and a clear span fabric roof structure. After review of the original design and proposed expenses, the concrete floor has been replaced with an asphalt floor, and the unsuitable base material has been replaced reducing the amount replaced from approximately 9.5 feet to 2 feet below the bottom of the footings and 2 feet below the bituminous floor. These changes should help reduce the costs significantly, while keeping the integrity of the use of the building intact.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion that the Council award the proposal for Professional Services for Architectural Services for Street Department Salt/Sand Storage Facility to TSP, Inc. of Marshall, Minnesota, not to exceed \$21,550.00. 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.

CONSIDER APPROVAL OF CONSENT AGENDA

Bayerkohler asked that item # 11 “Apply to Minnesota Pollution Control Agency to host a Minnesota GreenCorps member for an 11-month position beginning in September 2014 and accept Minnesota GreenCorps Host Site Agreement” be removed from the 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 the MMUA Safety Management Program in the amount of \$17,600 which will be funded from the general fund (76%), wastewater (14%), library (6%) and the liquor store (4%).

Approval of the introduction of the Preliminary Plat of Tall Grass Addition and call for Public Hearing on vacation of easements in Outlot C and Outlot D of J-C Boyer addition to be held at the September 23, 2014 City Council meeting.

Approve the introduction of the Preliminary Plat and call for a Public Hearing on vacation of easements in the Marshall Industrial Park Third Addition on Sonstegard Subdivision I.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 90425 to Vouchers 90593

APPROVAL OF ITEMS PULLED FROM CONSENT:

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to accept RESOLUTION 4058, SECOND SERIES which is an application to approve the Minnesota GreenCorps Host Site Agreement. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Carried. 5 – 1** with Bayerkohler voting no.

CONSIDER APPROVAL OF LIBRARY MEMORANDUM OF UNDERSTANDING.

City Administrator Ben Martig reviewed the proposed Memo of Understanding for the Library that the joint committee of the County Board, City Council, and Marshall Lyon County Library

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has reviewed. The agreement is proposed to come forward to the Marshall Lyon County Library Board and Board of Commissioners following City Council action. There will need to be formal actions to join Plum Creek through Library Board action. The MLCL Board would need to make the request. The PCLS Board would then review and provide any additional membership requirements, if any, to join in accordance with their bylaws. At that time, the board would need to take action to join or not.

Will Thomas stated that there would not be a significant gain if MLCL Board rejoined the Regional Library System. Mr. Thomas addressed two concerns; 1) interlibrary loan and 2) automation system. In terms of interlibrary loan there could be an arrangement with the Rochester Library, and once this is settled MLCL would be able to loan books through this Library. There will be some cost to this but less than what MLCL would have with Plum Creek. MLCL's automation today operates more efficiency than it did with Plum Creek which cost approximately \$20,000. With one of the conditions that is to participate in cooperative efforts within the region, it is interpreted that some of the library control would be given to the Regional Library System.

Gwen Sturrock, Chairperson for the Marshall-Lyon County Library, stated that if Plum Creek was willing to work with the MLCL they would work with them, currently they have not been willing to work with the Marshall-Lyon County Library Board.

Al Kruse, President of the Marshall-Lyon County Library Foundation added that Minneota and Tracy are members of the Plum Creek Library System because Marshall petitioned the governing board to allow them to become members. The leadership at Plum Creek has been difficult to work with. Marshall-Lyon County Library was paid 100% on overdrive through February 2015 and the library is not receiving the service.

Tom Runholt, a county representative to the MLCL Board expressed a concern with the funding from Lyon County and the MLCL ability to provide the necessary services.

Carole Martin, Library patron is concerned with staying with Plum Creek. Ms. Martin stated that she has tried to get e-books at the Library and was unable to get this service, even though the services have been paid for.

Dr. Paul Martin stated that the leadership has changed at Plum Creek. Plum Creek use to be a consultant; it is not that way today. Mr. Martin was concerned that if the Library stays with Plum Creek, the city, county, and the library will have no say on how the Library is run – it will be managed by Plum Creek.

Mayor Byrnes commented that the city, county and the library could approve the memorandum of understanding but is skeptical on the outcome. After the mediation agreement was rejected by Plum Creek the Memorandum of Understanding tool was drafted to move forward to resolve the working relationship. One of the concerns is on the rejoining language. There is not a lot of disagreement on the remainder of the agreement.

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Member (**Glenn Bayerkohler**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion to approve Library Memorandum of Understanding. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **2**. The motion **PASSED. 4 - 2** with Conyers and DeCramer voting no.

Mayor Byrnes called for a five minute recess at 7:30 p.m.

REVIEW OF PROPOSED MARSHALL LYON COUNTY LIBRARY AGREEMENT.

City Administrator Ben Martig stated that the County Commissioners met last Tuesday and clarified their position that they would participate in the Marshall Lyon County Library at a minimum of 90% of the maintenance of effort and the remaining 10% would be provided to the Minneota and Tracy Public Libraries, assuming they all are members of the regional library system as defined under state statutes. The board did not respond directly to the draft Marshall Lyon County Library Agreement. Also, the commissioners did not specifically discuss how they may fund above and beyond minimum maintenance of effort levels. Their preliminary levy did include funding above their total funding levies of 2014. The City Attorney amended the minimum funding level portion of the agreement in response to their actions. Additionally, the County Administrator had raised concerns over the 12-month termination provision. The City Attorney Dennis Simpson and City Administrator Ben Martig suggested a compromise termination notice of a minimum of the July for the upcoming year. This would provide at least 6-month notice to prepare for the next budget year in this situation and enough time to prepare for the preliminary levy that needs to be set by the end of September. There has been some indication that some commissioners may be proposing an amendment to the section that references the 2:1 funding participation. This has been a well-established funding level for a substantial period of time and also has been codified in the funding participation agreement on the original new library expansion of which Lyon County participated in funding. Staff has not made an amended as there has been no formal request to do so by the County nor the City Council. This agreement is proposed for informational review only. Staff would propose sending on to Lyon County and the Marshall Lyon County Library Board for another review. Lyon County has said they would consider the agreement once the Library acts to become members. It would be advantageous to get all of the details agreed upon in advance of a decision for the Library to agree to membership in Plum Creek.

CONSIDER THE REQUEST OF STEVE RITTER AND DAN SUSSNER, OWNERS OF MARSHALL MINI-STORAGE, FOR A VARIANCE ADJUSTMENT PERMIT TO OMIT PARKING AS REQUIRED BY THE CITY ORDINANCE AT 1410 SOUTH SARATOGA STREET.

Director of Public Works/City Engineer Glenn Olson reviewed the request by Steve Ritter and Dan Sussner, owners of Marshall Mini-storage, for a Variance Adjustment Permit to omit parking as required by the City Ordinance. Marshall Mini-storage is a complex of 14 self-serving storage buildings located south of Highway 23. It was started in 1999, before that area was annexed into the City in 2003. In 2003, the owners applied for and were granted a Conditional Use Permit to build a self-storage warehouse in a B-3 General Business District as required by the Ordinance. One of the conditions attached to the Conditional Use Permit was that the facility complies with all City Ordinance regulations. The owner wants to construct a new storage building. The Ordinance requires that all additional buildings constructed on existing site be

provided with compliant parking. Self-storage warehouses shall have one parking space per four storage units plus one additional parking space and the Ordinance also requires that all required parking spaces be paved. In case of self-storage warehouses parking spaces are usually located in front of the storage units in which case they do not need to be marked. All buildings including the new one are located in such a manner that there is enough distance between them for unit renters' cars to park. But the owner wants the entire facility to be grandfathered in since it was started outside of the City limits and avoid providing any paved surfaces. The State Statute declares that economic considerations alone shall not be the basis for granting a variance. However, considering that this facility is located on the outskirts of town and was started outside of it, there seem to be a reason to make an exception. The original City's recommendation to the Planning Commission was to approve the request with condition of planting 8 trees along South Saratoga Street to mitigate an impact on nearby residential properties. However, it was later discovered that a utility easement full of actual utilities exists along the street making it impossible to plant anything there. There are no good alternative locations for trees elsewhere along the property lines.

Member (**Mike Boedigheimer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion that the Council approve the Variance Adjustment 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 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.'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

CONSIDER ADOPTION OF RESOLUTION 4060, SECOND SERIES REGARDING APPROVAL OF THE PROPOSED TRANSFER OF THE CABLE FRANCHISE CURRENTLY HELD BY KNOLOGY/WOW! TO CLARITY TELECOM, LLC.

City Attorney Simpson stated that Knology/WOW is one of two cable TV telecommunication franchise holders within the City of Marshall. On June 24, 2014, the City of Marshall received an extensive packet of documents from Knology/WOW! regarding the proposed sale of telecommunication assets to a new entity known as Clarity Telecom, LLC. Mr. Rex Buettgenbach, Systems Manager for WOW! And James Gleason, President & CEO from Clarity were present to answer questions.

The proposed sale includes cable TV franchises assets for communities located in South Dakota, Iowa and Minnesota. All of the documents were then forwarded to attorney Brian Grogan, telecommunication attorney specialist with the law firm of Moss & Barnett in Minneapolis. Mr. Grogan was retained by the City to review the financial documents and advise the City as to whether or not the City should approve the proposed transfer of assets. Mr. Grogan also received the same information from the City of Storm Lake, IA, Watertown, SD, and Luverne, Pipestone, Slayton, Tracy, and Worthington MN. Extensive review of documents and financial information has been conducted by attorney Grogan. Attorney Grogan has provided a summary report recommending approval of the asset sale so that the existing cable TV franchise with the City of

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Marshall would be transferred to Clarity Telecom, LLC. A copy of attorney Grogan's 8 page summary report is attached. A resolution approving of the sale and transfer of assets is also attached for your review. An additional component of the attached resolution indicates that the current franchise would be continued through December 31, 2015 and the parties would then negotiate the terms of a cable TV franchise extension for a period of time beyond 12/31/2015. In accordance with State and federal law, all costs incurred by the City of Marshall for the review of financial information will be paid by Clarity Telecom, LLC. City staff recommends that the City Council accept the recommendation from attorney Brian Grogan and approve the resolution regarding transfer of assets to Clarity Telecom, LLC.

Member **(Mike Boedigheimer)** Moved, Member **(Larry Doom)** seconded to approve the **ORIGINAL** motion to approve and adopt Resolution #4060, Second Series regarding approval of the proposed transfer of the cable franchise currently held by Knology/WOW! to Clarity Telecom, LLC. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

CONDITIONAL USE PERMIT RENEWAL FOR ARNOLD ZIMMERMAN AT 1307 WESTWOOD DRIVE.

Director of Public Works/City Engineer Glenn Olson indicated that Arnold S. Zimmerman is requesting a two year renewal of a Conditional Use Permit for home occupation to conduct a gun sales business at 1307 Westwood Drive in an R-1 One Family Residence District. The original Permit was granted in 1996 and renewed in 1997, 2002, 2007, 2009, and 2011. There are no comments on file.

Member **(Larry Doom)** moved, Member **(John DeCramer)** seconded to approve the **ORIGINAL** motion that the Council approve the request of Arnold S. Zimmerman for a two year renewal of a Conditional Use Permit for a gun sales business at 1307 Westwood 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 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 with the Housing Code, Zoning Code, Building Code, and not cause or create negative impacts to adjacent existing or future properties. 4. This permit expires two years from its date of adoption. 5. Business hours shall been between 6:00 a.m. and 10:00 p.m. only. 6. The business is limited to a "special order" business. 7. The business will have no signs or exterior displays relating to guns. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried. 6 - 0**

CONSIDER AGREEMENT AND RESOLUTION BETWEEN THREE LEGGED DOG, INC. (VARSITY PUB), HRA AND CITY OF MARSHALL REGARDING DEVELOPMENT OF PROPERTY AT THE VARSITY PUB.

City Administrator Ben Martig stated that staff has been working with owners of the Varsity Pub business property concerning a property enhancement development agreement. The discussions have been on and off for the project throughout this year. Discussions are back on the table and

staff is bringing forward to HRA and City Council a Development Agreement. City staff believes that the Development Agreement will serve as a catalyst for downtown development enhancements. The property owner is working with landscape architect to tie in the proposed Varsity Pub enhancements with other downtown Memorial Park developments. The Development Agreement indicates that the existing graveled parking lots adjacent to the Varsity Pub would be resurfaced with either bituminous or concrete surfacing. The property would then be transferred to the Varsity Pub and Varsity Pub would agree to pay for all costs related to the parking lot resurfacing. Varsity Pub property owners would also pay for sidewalk and curb and gutter enhancement on the property adjacent to East Main Street. The property owners would also have phased in development projects for their own property. It is believed that future enhancements to that property would include additional outdoor seating and outdoor stage for concerts.

Boedigheimer was concerned with the city subsidies for a private business and not others. Bayerkohler was concerned with a provision that indicates that for a 20-year period, if Varsity Pub sells its property, the transferred property will revert back to the City. He was wondering if that was the intent of the City. Simpson indicated that he will review that provision and make any necessary changes.

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the **ORIGINAL** motion consider and adopt Resolution #4059, Second Series approving Development Agreement, Petition for Local Improvement, Agreement of Assessment and Waiver of Irregularity and Appeal between Three Legged Dog, Inc. (Varsity Pub), HRA and City of Marshall. 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 Z14: AIRPORT SANITARY SEWER & WATERMAIN IMPROVEMENT
PROJECT - 1. CONSIDER CHANGE ORDER NO. 1; 2. CONSIDER CHANGE ORDER
NO. 2 (FINAL); 3. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 4.

Director of Public Works/City Engineer Glenn Olson stated that this project involves the installation of watermain and sewer main for Marshall Airpark East. A 12-inch watermain was installed from Madrid Street just east of Channel Parkway to the west side of the City's storm water diversion channel in order to provide adequate water flows for the current developed area, as well as future airpark development areas to the north. An 8-inch watermain was also extended westerly to the newly developing airpark area providing water service and necessary fire flow requirements. A sanitary sewer main was extended from the southeast corner of the existing airpark area north to the developing airpark providing sanitary sewer service for this area. The installation of the water and sewer mains now provides a "shovel-ready" area for airpark growth and airport related industrial and commercial businesses. This project was included in the Airport Capital Improvement Program for 2013. Water and sewer infrastructure are not eligible for participation from the FAA or Mn/DOT Aeronautics. The major items on Change Order No. 1 are the result of additional insurance coverage as required in the Magellan Pipeline Permit but not in the bid requirements, salvage and reinstall an existing culvert that was not on the plans, extra depth of pipe excavation due to additional fill placed on site from another contract, and watermain repair. The items on the Change Order No. 2 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during

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construction. Each individual line item is shown on the spreadsheet attached to the change order. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion that Council approve Change Order No. 1 with States Borders Construction, Inc. of Graceville, Minnesota, resulting in a contract increase in the amount of \$38,041.54'. 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. 2 (Final) with States Borders Construction, Inc. of Graceville, Minnesota, resulting in a contract increase in the amount of \$9,966.50 and acknowledgement of Final Pay Request (No. 4) in the amount of \$58,687.74. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried**. 6 - 0

AUTHORIZATION OF ACCEPTANCE OF \$10,000 FROM THE MINNESOTA BOARD OF FIREFIGHTER TRAINING AND EDUCATION (MBFTE) TO SOUTHWEST MINNESOTA CHEMICAL ASSESSMENT TEAM (SWMN CAT).

City Administrator Ben Martig stated that the \$10,000 award to the SWMN CAT is for MBFTE approved training conducted between July 1, 2014 and June 30, 2015. Each Minnesota Chemical Assessment Team (CAT) was given this award. This is to help supplement funding since many grants have gone away.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion authorization of acceptance of a Minnesota Board of Firefighter Training and Education (MBFTE) funds for the Southwest Minnesota Chemical Assessment Team (SWMN CAT). Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried**. 6 - 0

CONSIDER RESOLUTION ADOPTING THE 2015 PRELIMINARY LEVY FOR THE MARSHALL ECONOMIC DEVELOPMENT AUTHORITY.

City Administrator, Ben Martig, stated that the State statutes had been amended this legislative session to change the preliminary levy adoption from September 15 to September 30. However, the Legislature did not clarify that this change also would occur for special taxing jurisdictions of the HRA and EDA. The League of Minnesota Cities has contact the Department of Revenue and they are being advised that they will not be enforcing the September 15 deadline for EDAs and HRAs. However, staff is suggesting to have them adopted regardless. Typically, if a certification is not made by the deadline the previous year's certification applies. Again, staff is still recommending this resolution.

Member (**Mike Boedigheimer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion to approve RESOLUTION 4061, SECOND SERIES which is a Resolution Approving Preliminary 2014 Tax Levy Collectable in 2015 for the Marshall Economic Development Authority. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried**. 6 - 0

DISCUSSION OF APPOINTING COUNCILMEMBER TO WARD 3.

There was discussion at the City Council meeting on August 26, 2014 regarding the replacement for council member Jennie Hulsizer. Ms. Hulsizer resignation was effective on August 25, 2014. 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 the City Council 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 13, 2015 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 January 13, 2015. There appeared to be an interest to appoint Craig Schaefer at the last meeting. If approved, it would be recommended that Mr. Schaefer be formally appointed and sworn in at the September 23 meeting.

Boedigheimer suggested that a discussion be made after the election. After the votes are canvased an appointment can be made to fill the vacant position. Appointing someone to that position is a stamp of endorsement by this council and there may be a write-in campaign.

Doom stated that being only Mr. Schafer has filed, he should be appointed to fill the position until the election.

Bayerkohler suggested that a former council member be considered to fill out the term. His first choice is to appoint a former council and second choice would be to wait until after the election.

DeCramer was in favor of filling it immediately.

Conyers asked if the appointed is a former council member would they be from Ward 3.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion that staff is recommending the appointment of Craig Schafer to fill the vacancy in Ward 3 through January 13, 2015. 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.

COMMISSION/BOARD LIAISON REPORTS

Byrnes: SW MN Amateur Sports Center met on Tuesday, September 9, 2014 and continues to work on details of the Amateur Sports Center.

Doom No Report

Bayerkohler: Housing Commission met this week and discussed the security issues. They have purchased two cameras and a night security for Thursday, Friday and Saturdays. Planning Commission met and the council acted on four of their actions tonight.

DeCramer: MERIT Center Commission met. The one tank used for confined space training has been cleaned.

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Boedigheimer: No Report

Conyers: No Report

COUNCILMEMBERS INDIVIDUAL ITEMS:

Bayerkohler had received complaints, from residents, on the Brau Brothers noise. Martig stated that the Chief of Police received some complaints but not substantial.

Conyers added that several people stated that Brau Brothers was like a huge block party and have heard no complaints.

CITY ADMINISTRATOR:

No Report

DIRECTOR OF PUBLIC WORKS:

No Report

CITY ATTORNEY:

At the last council meeting there was a request that the Sponsorship Agreement regarding the Amateur Sports that there be a provision added allowing for local business to participate in the fund raising. This request has gone to The Schwan Food Company but he has not received it back.

PENDING ITEMS:

There were no questions on the pending items.

INFORMATION ONLY:

There were no questions on the information items.

UPCOMING MEETINGS:

There were no questions on the upcoming meeting list.


**CONSIDER DETERMINATION TO GO INTO CLOSED SESSION PURSUANT
MINNESOTA STATUTE 13D.05, SUBD.3(B) FOR ATTORNEY CLIENT PRIVILEGE**

Member (Larry Doom) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion to close the meeting at 8:32 p.m. for Attorney Client Privilege. 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 8:32 p.m. pursuant to Minnesota Statute 13D.05 Subd. 3(b) for Attorney Client Privilege. Those present at the closed session included: Byrnes, Doom, DeCramer, Bayerkohler, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Thomas M. Meulebroeck, Finance Director/City Clerk; and Glenn Olson, Director of Public Works/Engineer. The council came out of closed session at 8:43 p.m.

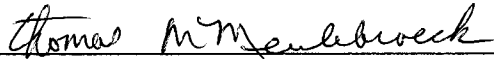
Doom moved, DeCramer seconded, that the meeting be adjourned. All voted aye.

REGULAR MEETING – SEPTEMBER 9, 2014



Mayor

ATTEST:



Finance Director/City Clerk