

REGULAR MEETING – NOVEMBER 25, 2014

The regular meeting of the Common Council of the City of Marshall was held on November 25, 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: Ellayne Conyers, Larry Doom, Craig Schafer, Glenn Bayerkohler, John DeCramer and Mike Boedigheimer. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Marc Klaith, Fire Chief; Preston Stensrud, Parks Supervisor; Scott VanMoer, Liquor Store Manager; Ray Henrickson; Building Inspector; Mike Simmons, Building Inspector; Jane DeVries, Deputy City Clerk and Thomas M. Meulebroeck, Finance Director/City Clerk. Harry Weilage, Director of Community Services, arrived late.

The Pledge of Allegiance was recited at this time.

It was the general consensus of the Council that the agenda be approved, with the addition of item number 23, which is to consider a Resolution adopting a corrected assessment for Park Avenue Reconstruction/East College Drive Watermain Replacement Project Z19.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 10, 2014, THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 10, 2014, AND THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 18, 2014:

Member (Larry Doom) moved, Member (Mike Boedigheimer) seconded to approve the ORIGINAL motion 'that the minutes of the regular meeting held on November 10, 2014, the minutes of the work session held on November 10, 2014 and the minutes of the work session held on November 18, 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: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPROVAL OF CONSENT AGENDA:

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'that the following consent agenda items be approved as presented'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Authorization be granted to the Department of Public Safety to dispose of surplus City Property – six (6) vehicle. These vehicles will be auctioned on-line at the state site or will be taken to Alter Metal Recycling for disposal.

The adoption of RESOLUTION NUMBER 4095, SECOND SERIES, approving the contract between PATROL (Police Accredited Training On-line) and the City of Marshall for January 1, 2015 through December 31, 2015. With this training agreement each officer may earn up to 17 credits per year. The cost for 20 officers is \$17,000.

The approval of a Temporary On-Sale Liquor License for the Marshall Amateur Hockey Association to use in the grandstand area of the Lyon County Fairgrounds, 400 Fairgrounds Road, Marshall, Minnesota on January 3, 2015. The fee for this license is \$30.00.

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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 22, 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. This action replaces a previous City Council action to grant the same approval for a raffle on August 15, 2015.

The proper City personnel be authorized to enter into the Service Contract and License Agreement with Vanguard Appraisals, Inc., for a Remote Edit Module for the Assessor's office Computer Assisted Mass Appraisal System. The license and the first year services fee totaling \$4,275 is included in the Assessor's 2015 budget.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 91370 through 91624.

REVIEW CONSTRUCTION DOCUMENTS FOR THE MARSHALL LIQUOR STORE AND AUTHORIZATION FOR BIDS:

Ron Halgerson, TSP, provided a power point presentation on the construction documents for the new Marshall Liquor Store. Mr. Halgerson indicated that the site work is substantially completed.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve the construction documents for the new Marshall Liquor Store and authorize advertisement for bids. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1**, with Bayerkohler voting no.

CONSIDER APPROVAL OF THE 2015 PARTNERSHIP AGREEMENT WITH MMU:

Ben Martig, City Administrator, reviewed the 2015 Partnership agreement with MMU. The joint committee has met and reviewed the document in detail are recommending approval.

Member (**John DeCramer**) moved, Member (**Mike Boedigheimer**) seconded to approve the **ORIGINAL** motion 'to approve the 2015 Partnership agreement with MMU'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER THE REQUEST OF GREG TAYLOR, J.F. TAYLOR & SONS, INC., FOR A VARIANCE ADJUSTMENT PERMIT TO REDUCE A FRONT YARD FROM 25 FEET AS REQUIRED BY THE ORDINANCE TO 22 FEET AT 400 DOGWOOD AVENUE:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Greg Taylor, J.F. Taylor & Sons, Inc. for a Variance Adjustment Permit to reduce a front yard from 25 feet as required by the Ordinance to 22 feet. The owner is contemplating adding two stalls to an existing six-stall garage building to match the number of units in the apartment building. Based on the proposed 10 foot stall width, the addition will project two and a half feet into Saratoga Street front yard. The garage cannot be extended on the other side due to the required front yard regulations. Considering minimal reduction and the reasonableness of matching the number of garage stalls to the number of apartments, the City staff considers this request reasonable.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that as recommended by the Planning Commission and City staff the Council approves a variance for a 22 foot front yard in lieu of required 25 foot front yard 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: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER PLACEMENT OF ADDITIONAL SAFETY DEVICES AT INTERSECTION OF SOUTH 4TH STREET AND SOUTHVIEW DRIVE:

Glenn Olson, Director of Public Works/City Engineer, indicated that Ms. Helen Koch contacted him in September of this year to discuss safety concerns at the intersection of South 4th Street and Southview Drive. Her concerns were multiple ones, including vehicles running the stop signs, vehicles not yielding to pedestrian traffic, and general improper traffic procedures. Mr. Olson indicated that this intersection is a 4-way stop, which in his opinion is the safest type of vehicle control, which stops traffic in all directions and utilizes the yield to traffic entering the intersection first, as well as providing a vehicle stop condition for any pedestrian traffic that may want to cross. Ms. Koch would like the Council to address her safety concerns and she did provide a petition with multiple signatures. Options for improvement addressed in her petition include: larger stop signs; flashing lights; cameras; stop ahead written in bold, bright letters on the road approaching the intersection; signs reading 4-way stop ahead or pedestrian or children x-crossing signs. Mr. Olson indicated that he visited the site and monitored traffic during both inactive times and busy times and, at those specific times, did not observe any traffic issues (not that there are none). At their meeting on November 19, 2014, the Public Improvement/Transportation Committee discussed placement of additional traffic control devices at the intersection of South 4th Street and Southview Drive, but have no recommendation for the Council. Staff recommends no changes to the existing traffic control devices at the intersection of South 4th Street and Southview Drive. There would be no action required if Council supports to leave the intersection signed as-is.

Helen Koch stated that she has observed drivers running the stop signs at the South 4th Street/Southview Drive intersection almost every day. Ms. Koch also indicated that when she took the petition around she received a lot of feedback from the residents.

Rob Yant, Director of Public Safety, indicated that officers have been sent out to observe this intersection. He also indicated that there has only been one recorded crash at this intersection during the past 3 years.

Mr. Olson indicated that a solar-powered LED light that flashes when pedestrians are present would cost \$7,000. Other alternatives included: speed bumps, rumble strips, different signage and education and awareness efforts for residents in the area.

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Ben Martig, City Administrator, indicated that if the city does anything at this intersection, other residents could request the same for intersections in their area.

CONSIDER "RESOLUTION PROVIDING FOR SIGNAGE IN THE CITY OF MARSHALL" - "NO PARKING" DESIGNATION ON PARK AVENUE:

Glenn Olson, Director of Public Works/City Engineer, indicated that Park Avenue was reconstructed in 2014 and a discussion was held at the Public Informational Meeting and the Improvement Hearing concerning the existing and proposed widths of Park Avenue. In order to provide two driving lanes and two parking lanes, the avenue would have to be widened to a minimum of 40 feet. After discussion, the neighborhood decided to keep the narrower street and prohibit parking on one side allowing two lanes of traffic and parking on one side. As there are fewer driveways on the west side of Park Avenue and a significant portion of Park Avenue is adjacent to Liberty Park, staff is recommending designation of a "No Parking" restriction on the east side of Park Avenue from East College Drive to East Marshall Street.

Following discussion by the Council the consensus was to hold a public hearing on the No Parking Designation on Park Avenue from East College Drive to East Marshall Street.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **SUBSTITUTE** motion 'that the adoption of a resolution restricting parking on Park Avenue be tabled and that a public hearing be held at the next regular council meeting to be held on December 9, 2014 to consider "No Parking Designation on Park Avenue from East College Drive to East Marshall Street'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Z01: WEST REDWOOD STREET / NORTH 3RD STREET / WEST MARSHALL STREET RECONSTRUCTION PROJECT (LOWELL J. MATTHYS - PARCEL 27-677195-0 - 1. RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING THE PREPARATION OF THE PROPOSED ASSESSMENT; 2. RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT:

Glenn Olson, Director of Public Works/City Engineer, indicated that West Redwood Street/North 3rd Street/West Marshall Street Reconstruction Project Z01 involved the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The proposed project reconstructed the street and described utilities on West Marshall Street from East College Drive to North 3rd Street, North 3rd Street from West Marshall Street to West Redwood Street, and West Redwood Street from North 3rd Street to East College Drive. The assessment roll was originally adopted via Resolution Number 3937, Second Series on September 24, 2013. Subsequent to the adoption of the assessment, one property owner, (Lowell J. Matthys, Parcel #27-677195-0, 308 3rd Street North) appealed and perfected the appeal of his proposed assessment. The Lyon County District Court issued an order dated July 16, 2014, wherein the special assessment as levied was "set aside" and the City of Marshall was ordered to conduct an assessment of benefits to the above described property. Mr. Olson indicated that the proposed assessment addresses the property as if it were a residential property rather than a commercial property, reducing his proposed assessment from \$14,138.83 to \$7,087.56. The new proposed assessment includes a \$6,275.63 street assessment reduced to the \$5,500 maximum

residential street assessment, plus a sanitary sewer wye connection, and a private sanitary sewer service line.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4097, SECOND SERIES, which provides for the "Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment for Property Located at 308 3rd Street N., Marshall, MN, Property Owner Lowell J. Matthys, Regarding Project Z01: West Redwood Street / North 3rd Street / West Marshall Street Reconstruction Project". Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4098, SECOND SERIES which provides for the "Resolution for Hearing on Proposed Assessment for Property Located at 308 3rd Street N., Marshall, MN, Property Owner Lowell J. Matthys, Regarding Project Z01: West Redwood Street / North 3rd Street / West Marshall Street Reconstruction Project" setting the hearing date on the proposed assessment for December 23, 2014'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AMENDMENT TO FIRE DEPARTMENT RELIEF ASSOCIATION BENEFITS:

Ben Martig, City Administrator, indicated that the Personnel Committee had met to discuss the Fire Relief Association request for a \$250 increase in their pension contribution. The City Council had suggested last year a two year phase in of their request that included \$250 last year and \$250 this year. The personnel committee had discussed setting an expectation of an inflationary adjustment that may follow city employee wage adjustments. They indicated there could be requests outside this amount but would establish a general expectation year to year.

Council Member Schafer stated that this is the most important tool to retain members on the Fire Department.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **AMENDED** motion 'the adoption of RESOLUTION NUMBER 4096, SECOND SERIES, which will approve the amended bylaws related to an increase in the fire pension from \$5,250 to \$5,500 paid per year of service effective January 1, 2015 with the understanding that the City looks at the annual baseline adjustment in considering any future adjustment but not committing to them'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Mayor Byrnes called for a 5-minute recess at 7:05 P.M.

CONSIDERATION AND APPROVE COMMERCIAL LEASE BETWEEN CITY OF MARSHALL AND ROGER WARTNER CONCERNING BUILDING FOR STORAGE OF CONFISCATED AND ABANDONED VEHICLES FOR A ONE YEAR PERIOD OF TIME:

Rob Yant, Director of Public Safety, indicated that 2015 is viewed as a transition year for the need of buildings for the storage of confiscated and abandoned vehicles, as needed by Marshall

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Police Department. The City Council has previously authorized and approved the purchase of a storage facility from Ralco Nutrition. That property, however, will not be available until June 1, 2015 at the earliest. The City of Marshall will need storage facilities for confiscated and abandoned vehicles starting January 1, 2015. The City of Marshall is presently leasing the property located at 111-C South 10th Street for three year lease for the years 2012, 2013 and 2014. The current owner of the property is proposing to lease this property on the same terms for a one year period of time. Staff believes that one year lease is appropriate so as to make certain that the City police department has adequate storage space.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to Approve the commercial lease between the City of Marshall and Roger Wartner regarding lease of the building located at 111-C South 10th Street for storage of confiscated and abandoned vehicles for a one year period of time ending December 31, 2015'. The rent for this facility is \$5,800 per year with \$2,900 due on or before January 1, 2015 and \$2,900 due on or before July 1, 2015. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AND APPROVE LAND TRANSFER AGREEMENT BETWEEN CITY OF MARSHALL AND SBM HOSPITALITY, LLC, DEVELOPER OF PROPERTY LOCATED IN TIGER PARK SECOND ADDITION:

Dennis Simpson, City Attorney, indicated that Schwan's Shared Services, as property owner, recently sold property described as Lot 1, Block 2, Tiger Park Second Addition, City of Marshall to a development company known as SBM Hospitality, LLC, a South Dakota limited liability company. That development company intends to construct a hotel on the property acquired. The City of Marshall owns the adjoining property Lot 2, Block 2, Tiger Park Second Addition. The approved Regional Amateur Sports Center is to be constructed on a portion of the City owned property. Throughout the discussions and negotiations involving the purchase of the property by the Hotel, it was intended that the City would transfer property to SBM Hospitality, and SBM Hospitality would transfer property to the City of Marshall. The property transfers would allow for the construction of the hotel on property immediately adjacent to the Regional Amateur Sports Center. City staff is presently working with the developer and banker to verify title to the SBM Hospitality property. The City is also providing title information to SBM Hospitality and its lender to verify clear title in favor of the City so that the transaction can be concluded as anticipated.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'Approve Land Transfer Agreement between the City of Marshall and SBM Hospitality, LLC, developer of property located in Tiger Park Second Addition'. The City of Marshall will transfer Lot 2, Block 2, Tiger Park Second Addition to SBM Hospitality, LLC a South Dakota Limited Liability Company (SBM) and SBM will transfer Lot 1, Block 2, Tiger Park Second Addition to the City of Marshall. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AND CALL FOR A PUBLIC HEARING REGARDING CONDEMNATION OF THE MARSHALL HOTEL PROPERTY LOCATED AT 326 W. MAIN STREET, MARSHALL. HEARING TO BE HELD ON TUESDAY, JANUARY 13, 2015:

Dennis Simpson, City Attorney, indicated that there have been ongoing discussions and negotiations regarding the Marshall Hotel property located at 326 W. Main Street. The City Council has previously issued its order to repair or raze the building. Certain repairs have been made to the building but there are still numerous deficiencies to the building. Marshall Fire Chief and State Fire Marshal have previously issued orders determining that the building is uninhabitable. There are no utility services to the building at the present time. The building is presently unoccupied and is in need of significant repairs. The City Council has previously authorized City Attorney Simpson to proceed with condemnation actions for the City to acquire property. A formal appraisal has been concluded which has determined that the appraised fair market value of the property equals \$75,000. The City is prepared to acquire property for the appraised value with payment to property owner of \$75,000. Condemnation actions are imminent. There is a public hearing required, however, when the City desires to acquire property for mitigation of blighted area, or remediation of an environmentally contaminated area, reducing abandoned property or removing a public nuisance. The City intends to acquire property for the purpose of removing a public nuisance and/or mitigation of blighted property. City staff is requesting that Council set public hearing for the first Council meeting in 2015, Tuesday, January 13, 2015. That timeframe meets the timely requirements for public hearing as required by Minnesota Statutes §117.0412

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Call for a public hearing regarding condemnation of the Marshall Hotel property located at 326 W. Main Street, Marshall. Hearing to be held on Tuesday, January 13, 2015'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER ACKNOWLEDGMENT OF A LG220 APPLICATION FOR EXEMPT PERMIT FOR PRAIRIE HOME HOSPICE INC:

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'BE IT RESOLVED that the City Council hereby (1) grants local unit of government approval to Prairie Home Hospice Inc., for a raffle on April 18, 2015 at SMSU Event Center, 1501 State 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'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed 6 – 0 – 1** with Bayerkohler abstaining.

CONSIDER RESOLUTION AMENDING BUDGET AMOUNTS FOR FISCAL YEAR ENDING DECEMBER 31, 2014:

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the proposed budget amounts for fiscal year December 31, 2014. This resolution provides for the items identified in the General Fund - Fund Balance as of 12-31-13 in the amount of \$65,000.00 and in the Capital Equipment Fund - Fund Balance as of 12-31-13 in the amount of \$328,500.00 to be included in the 2014 General Fund Budget and Capital Equipment Fund Budget as carryovers from 2013.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4099, SECOND SERIES, which is a resolution Amending Budget Amounts for Fiscal Year Ending December 31, 2014'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**.

PROJECT Z19: PARK AVENUE RECONSTRUCTION / EAST COLLEGE DRIVE WATERMAIN REPLACEMENT PROJECT - CONSIDER RESOLUTION ADOPTING CORRECTED ASSESSMENT:

Glenn Olson, Director of Public Works/City Engineer, indicated that the Park Avenue Reconstruction/East College Drive Watermain Replacement Project Z19 provided for the replacement of sanitary sewer, the replacement of watermain on Park Avenue from Marshall Street to East College Drive, the replacement of watermain on East College drive from Walnut Street to approximately 150 feet east of Park Avenue, and the reconstruction of Park Avenue from Marshall Street to East College Drive, as well as some sidewalk replacement work in Liberty Park. Glenn provided a brief description of the City special assessment procedures:

1. Water main and water service line replacements are paid for by MMU.
2. Sanitary sewer main replacements are paid for by Wastewater fund.
3. Street replacement costs associated with the replacement of the water and sewer mains are paid for by the utilities.
4. ADA required sidewalk ramps at the intersections are paid for by the City.
5. The remaining street costs are split 50/50 between the property owners and the City.
6. The private sanitary sewer connections including the wye and the service line to the property line are the responsibility of each property owner attached to the sewer main.
7. The removal and replacement of the individual driveways are the responsibility of the property owner as each driveway is different in size and serves only the property involved. The project included several properties that had individual sidewalks leading from the curb to the house. Because of that, the sidewalk items were separated from the street costs. Normally, the sidewalk costs would be included in the street costs and split 50/50 between City Ad Valorem/Owner. In addition, the residential street assessments are limited to a maximum of \$5,500, plus sanitary sewer connections and pipe, plus any private sidewalk walk up costs. With that said, property owners that met the maximum assessment for the public improvements should a have been given credit for half of the sidewalk removal and the properties that did not meet the maximum would increase slightly. As the special assessment process is complete, Mr. Olson is recommending the assessments for those who received the maximum assessment to be reduced by this amount and those that would have received an increase remain as originally assessed

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4100, SECOND SERIES, which is the "Resolution Adopting Corrected Assessment" for Park Avenue Reconstruction/East College Drive Watermain Replacement Project Z19'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

COMMISSION/BOARD LIAISON REPORTS:

Byrnes No report.

Schafer No report.

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Doom Personnel Committee item was acted on earlier.

Bayerkohler No report.

DeCramer EDA discussed a Business Subsidy and they are going to request proposals on a housing study; Utilities Commission discussed painting all of the water towers within the next 4 years.

Boedigheimer MERIT Center Commission met.

Conyers No report.

COUNCILMEMBERS INDIVIDUAL ITEMS:

Mayor Byrnes indicated that Home Federal Bank held their groundbreaking on November 21st, and he indicated there were 321 building permits issued for a total of 31 million dollars.

CITY ADMINISTRATOR:

Ben Martig, City Administrator, indicated that staff is continuing to work on the budget and capital projects.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, indicated that all of the construction projects have be suspended for the winter; staff is working on the 2015 projects and bids were opened earlier for the MERIT Center and they were all slightly above estimates.

CITY ATTORNEY:

No report.

CONSIDERATION TO MOVE TO CLOSED SESSION TO DISCUSS ATTORNEY

CLIENT PRIVILEGE:

Member (Mike Boedigheimer) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'to approve entering into a closed session to discuss Attorney Client Privilege'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion Carried 7 - 0

The Council went into closed session at 7:37 P.M. pursuant to Attorney Client Privilege to discuss the request for satisfaction of Small Cities Development Program mortgage against property located at 404 North 6th Street. Those present at the closed session included: Byrnes, Schafer, Doom, Bayerkohler, DeCramer, Boedigheimer and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney and Thomas M. Meulebroeck, Finance Director. The council came out of closed session at 7:48 P.M.

RECONVENE TO REGULAR MEETING - CONSIDERATION ACTION FROM CLOSED SESSION:

Dennis Simpson, City Attorney, indicated that in June 2010, City of Marshall was recipient of Small Cities Development Program grant to rehabilitate residential owner-occupied property in

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the City of Marshall. Grant exceeded \$500,000 and the objective was to provide rehabilitation funds to 25 owner-occupied residents in a targeted area in the City of Marshall. The City has entered into an agreement for the dispersal of funds, and a contract with the Southwest Minnesota Housing Partnership, for the administration of the grant funds.

One of the recipients of the grant funds is the owner Anna A. Bantarri, owner-occupant of 404 N. 6th Street. The original grant for that property was in the amount of \$15,320. A copy of the Combination Security Agreement, Note, Repayment Agreement and Lien as filed in the office of the Lyon County Recorder on May 16, 2011 and recorded Document No. 190837 were provided to the City Council. The terms of the agreement are part of the document as paragraph 3 on page 2. All principal payments are deferred so long as the owner occupies the property. The principal payments are forgiven 10% per year for 10 years.

The owner has failed to occupy the property and the property has been for sale for the past two years. Mr. Simpson was notified on Thursday, November 20th that a purchase agreement has been signed for the sale of the property. The perspective purchaser will pay \$84,000 for the purchase of the property. The outstanding first mortgage balance due to Wells Fargo is in the amount of \$83,520. The seller's realtor commission of 5% of sale proceeds is due. The seller is processing the paper work with Wells Fargo as a "short sale" because there are not enough sales proceeds to pay the first mortgage lien. The second mortgage lien due to the City of Marshall now exceeds \$19,000.

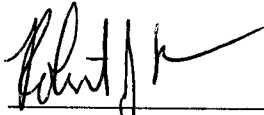
The seller's attorney has contacted Mr. Simpson and requested the City to voluntarily satisfy its lien without receipt of any money.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the City of Marshall forgive the Small Cities Development Program mortgage against property located at 404 North 6th Street and authorize the sale of this property'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed 6 – 0 – 1** with Boedigheimer abstaining

UPCOMING MEETINGS:

There were no questions on the upcoming meeting list.

Doom moved, Schafer seconded, the meeting be adjourned. All voted in favor of the motion.



Mayor

ATTEST:



Finance Director/City Clerk