

REGULAR MEETING – DECEMBER 23, 2014

The regular meeting of the Common Council of the City of Marshall was held on December 23, 2014 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:32 P.M. by Mayor Byrnes. In addition to Byrnes the following members were in attendance: Glenn Bayerkohler, Larry Doom, Craig Schafer and John DeCramer. Absent: Ellayne Conyers and Mike Boedigheimer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Ilya Gutman, Building Official; Rob Yant, Director of Public Safety; Cal Brink, CEO Marshall Area Chamber of Commerce; Jane DeVries, Deputy City Clerk and Thomas M. Meulebroeck, Finance Director/City Clerk.

The Pledge of Allegiance was recited at this time.

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

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 9, 2014 AND THE MINUTES OF THE WORK SESSION HELD ON DECEMBER 9, 2014:

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'that the minutes of the regular meeting held on December 9, 2014 and the minutes of the work session held on December 9, 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: 5 Nay: 0. The motion **Carried. 5 - 0**

PUBLIC HEARING - CONSIDER THE REQUEST OF GUIDING LIGHT ENTERPRISES FOR A CONDITIONAL USE PERMIT FOR AN ADVERTISING SIGN AT 1520 EAST COLLEGE DRIVE:

This was the date and time set for a public hearing for a Conditional Use Permit for Guiding Light Enterprises for an advertising sign at 1520 East College Drive. Glenn Olson, Director of Public Works/City Engineer, indicated that this sign will be installed at the corner of Highway 19 South and Highway 23, behind Applebee's restaurant. This is a so called dynamic display LED sign which is a sign with the electronic image that changes every so often. A similar sign was installed at the corner of Highway 59 and Highway 23 about two years ago. The City staff has not heard any adverse or negative comments about that sign and it appears that the highway traffic has not been affected. The new sign will consist of two LED panels, 14 feet by 48 feet each, installed at about 45 degree angle to each other to face traffic on Highway 23 in both directions. The overall height of the sign is requested to be 45 feet. Each panel size is less than maximum allowed length of 55 feet but larger than the sign installed at the corner of Highways 23 and 59 which was 10 feet by 30 feet. The requested sign height exceeds 30 feet which is a height generally allowed by the Ordinance. However, in order to have a sign above the existing trees, the owner wants to have this sign taller than 30 feet.

Member (John DeCramer) moved, Member (Larry Doom) seconded to approve the ORIGINAL motion 'that the Council close the Public Hearing'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

REGULAR MEETEING – DECEMBER 23, 2014

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the NEW motion 'that the Council approve the Conditional Use Permit for Guiding Light Enterprises at 1520, East College 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 which such structure is located therein shall be conformed with.
2. That the City reserves the right to revoke the Conditional Use Permit in the event that the applicant has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.
3. That the owner maintain the structure to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
4. The sign must be installed at the corner of Highway 23 and Highway 19 as shown on the sketch attached to the permit. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
5. This permit is for the sign structure described as follows: (a) Two panels will be installed at an angle to each other with one facing the High School and at about 45 degree to Highway 23 and another perpendicular to that highway. (b) Each sign shall be no greater than 14 feet by 48 feet. (c) The overall height of the sign shall be no more than 45 feet. Prior to sign installation, a sign permit application must be applied and paid for. Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.
6. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The Guiding Light Enterprises, as a current land and sign owner, and all future sign and land owners are fully responsible for maintenance, together or separately.
7. The sign shall comply with the following in regards to image change and brightness: (a) Image Change Frequency: Not more often than every 6 seconds; (b) Image transition shall be instantaneous without any special effect; (c).Image maximum illumination shall be not more than 0.3 foot candle above ambient light at a distance of 150 feet from sign face. (d) No flash or moving images are allowed. (e) The sign brightness shall adjust depending on ambient light conditions. (f) The sign image shall be discontinued in case of sign malfunction.
8. The sign owner shall adjust the sign brightness if the City finds it to be too bright and interfering with driver's operation of motor vehicle and official traffic control.
9. The sign will be used for public messages if there is a need'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

PROJECT Z01: WEST REDWOOD STREET / NORTH 3RD STREET / WEST MARSHALL STREET RECONSTRUCTION PROJECT (LOWELL J. MATTHYS - PARCEL 27-677195-0 -- 1. PUBLIC HEARING ON PROPOSED ASSESSMENT; 2. RESOLUTION ADOPTING ASSESSMENT:

This was the date and time set for a public hearing on the West Redwood Street/North 3rd Street/West Marshall Street Reconstruction Project Z01. Glenn Olson, Director of Public Works/City Engineer, indicated that this project 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. 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 (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing 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: 5 Nay: 0. The motion **Carried. 5 - 0**

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4107, SECOND SERIES, which is the "Resolution Adopting 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: 5 Nay: 0. The motion **Carried. 5 - 0**

CONSIDER THE REQUEST OF LYON COUNTY FOR A VARIANCE ADJUSTMENT PERMIT TO REDUCE THE FRONT YARD ALONG WEST MAIN STREET AND REDUCE THE FRONT YARD ALONG SOUTH 6TH STREET:

This was the date and time set for a public hearing for a Variance Adjustment Permit for Lyon County. Glenn Olson, Director of Public Works/City Engineer, indicated that Lyon County has requested a Variance Adjustment Permit to reduce the front yard along West Main from 35 feet as required by the Ordinance to 15 feet and reduce the front yard along South 6th Street from 25 feet as required by the Ordinance to 1.5 feet thus continuing existing building facade. Lyon County is designing a new addition that will add about 18,000 S.F. of usable office space, including three courtrooms, to the existing building. This property is a corner lot which requires having a front yard along both streets – West Main and South 6th. The Ordinance typically

REGULAR MEETING - DECEMBER 23, 2014

requires a 25 foot front yard except thoroughfares require 35 foot front yard and West Main Street is a thoroughfare. Currently, the building and parking lot occupy almost the entire parcel and there are not too many options to add to the building. Proposed addition will utilize open space in front of the building but will project into required front yards. The existing building is already projecting into required front yard along South 6th Street reducing it to 1.5 feet and it appears that there is no existing variance for that. The addition will line up with the existing building along South 6th Street but a small projection at connection between existing and new construction will be allowed for variation in brick color and for other visual architectural purposes. Condition 5 will guarantee intersection visibility. During Planning Commission meeting, landscaping requirements were mentioned and as a result the Planning Commission added condition 6 to be consistent with other projects in town.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council close the Public Hearing on the request of Lyon County for a Variance Adjustment Permit to reduce the front yard along West Main Street and reduce the front yard along South 6th Street'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council approve the Variance Adjustment Permit for Lyon County to allow 15 foot front yard along West Main Street in Lieu of 35 feet and 1.5 foot front yard along South 6th Street in lieu of 25 feet as required by the Ordinance with the following conditions:

- 1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with.
- 2) That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default.
- 3) That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant.
- 4) That the addition lines up with existing building along South 6th Street with allowed one foot projection at transition from existing building to addition.
- 5) That building addition is located outside of a property corner triangular with 25 foot sides along West Main and South 6th Streets.
- 6) That the County complies with the landscaping requirements or requests a variance for green space'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

CONSIDER THE REQUEST OF LYON COUNTY FOR A VARIANCE ADJUSTMENT PERMIT TO REDUCE THE NUMBER OF REQUIRED PARKING SPACE:

This was the date and time set for a public hearing for a Variance Adjustment Permit for Lyon County. Glenn Olson, Director of Public Works/City Engineer, indicated that Lyon County has requested a Variance Adjustment Permit to provide 300 parking spaces for the Courthouse, including addition, in lieu of 375 parking spaces as required by the City Code. Lyon County is designing a new addition that will add about 18,000 S. F. of usable office space, including three courtrooms, to the existing building which will require 60 additional parking spaces per current

REGULAR MEETING – DECEMBER 23, 2014

Ordinance. However, no new parking spaces will be constructed. Currently, there are 300 available parking spaces on site and on county owned property across the street with 315 parking spaces required. After new addition is built, there will be a shortage of 75 parking spaces. Even though the existing lot and adjacent county owned property do not allow for more parking to be added, a master plan should be developed to address current and future parking needs.

Original Staff recommendation was to approve a Variance Permit with the condition that the variance expires 2 years after the date of approval or 1 year after the Certificate of Occupancy is issued for a new addition, whatever comes first, at which time the County will have to apply for a new variance and provide a plan for parking expansion including current parking use and needs review. This recommendation would allow a use/needs discussion at that time and would be similar to the request by the Avera Hospital after the addition of their Cancer Center allowing their request to be reviewed within 1 year after its completion.

As of Friday, December 19, 2014, the recommendation was as follows: that the Council denies a request for a Variance Adjustment Permit to provide 300 parking spaces for the Courthouse, including addition, in lieu of 375 parking spaces as required by the City Code until the County has a parking plan for the future that is obtainable in one calendar year of occupancy.

After the Planning Commission Public Hearing held on December 9, 2014 and their recommendation, Lyon County requested their consultant to provide a parking plan. Loren Stomberg, Lyon County Administrator, presented a parking plan, reconfiguring and providing additional parking within their current property. The new plan includes 240 parking spaces on site along with 92 spaces east of 6th Street, requiring a parking variance of 43 parking spaces. In addition to the off-street parking spaces required there are 38 parking spaces along West Main Street and South 6th Street available for public parking. The new configuration will require one additional ADA accessible parking space and the removal or relocation of the existing garage and reconfiguration of the west access drive and elimination of the sidewalk on the northwest side of the facility. Staff reviewed the revised parking plan and found it generally conform to the direction of the Planning Commission. The County should also consider acquisition of additional property or leased space in the future for parking needs, working with the City for any rezoning required.

Floyd Phillips, resident of 606 West Main Street, was concerned with parking on both sides of West Main Street, and the possibility of him losing part of his front yard for parking. Loren Stromberg, Lyon County Administrator, indicated that there would not be parking on that side of West Main Street at this time.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council close the Public Hearing'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that the Council approves a Variance Adjustment Permit for Lyon County to provide 332 parking spaces for the Courthouse, including addition, in lieu of 375 parking spaces as required by the City Code'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

REGULAR MEETING – DECEMBER 23, 2014

**AWARD OF BIDS CONSIDERATION OF MINNESOTA EMERGENCY RESPONSE
AND INDUSTRIAL TRAINING CENTER ADDITION AND ROAD COURSE BIDS:**

Dave Maroney with ATS&R was in attendance at the meeting to review the bids received for the MERIT Center Training Center Addition and Road Course. The MERIT Board supported the Building Addition recommendation as prepared but did add a recommendation on the Road Course to include a change in the skills pad from asphalt to concrete (alternate No.3).

Additionally, the motion to recommend approval also included a request to continue to pursue options for watermain installation (alternate no.1) and parking lot expansion at the merit center building (not included in bid alternates). There is not currently funds available but the board indicated it would like to pursue an updated cost estimate as the Marshall Municipal Utility Board has agreed to fund the boring under CSAH33/Erie Road. The board also felt if there was funds in the contingency the paving of the lot would be valuable to extend to the end of the building. These actions are not included in the motion of Council to approve but the MERIT Board did want these items brought forward so the Council was aware of the discussions.

The bids received, opened and read for the MERIT Center Addition were from:

	Mohs Contracting Owatonna, Minnesota	Brenan Companies Mankato, Minnesota
Base Bid	\$1,518,000.00	\$1,545,000.00
Alternate A1	(600.00)	50.00
Alternate A2	12,000.00	11,700.00
Alternate A3	10,050.00	13,700.00
Alternate E1	1,880.00	1,700.00
Alternate E2	7,920.00	7,400.00
	Sussner Construction Marshall, Minnesota	Bladholm Construction Marshall, Minnesota
Base Bid	\$1,598,000.00	\$1,607,560.00
Alternate A1	(4,590.00)	(5,339.00)
Alternate A2	6,100.00	73,950.00
Alternate A3	10,400.00	10,500.00
Alternate E1	1,500.00	1,800.00
Alternate E2	7,000.00	7,600.00
	Robert L. Carr Company Marshall, Minnesota	Gopher State Contractors Rice, Minnesota
Base Bid	\$1,610,500.00	\$1,694,175.00
Alternate A1	NC	(14,575.00)
Alternate A2	11,400.00	30,000.00
Alternate A3	8,700.00	9,700.00
Alternate E1	1,800.00	1,800.00
Alternate E2	7,600.00	7,650.00

REGULAR MEETEING – DECEMBER 23, 2014

Ebert Construction
Corcoran, Minnesota

Base Bid	\$1,713,800.00
Alternate A1	(5,000.00)
Alternate A2	13,700.00
Alternate A3	10,000.00
Alternate E1	1,800.00
Alternate E2	7,800.00

Alternate A1 is for polished concrete floors in reception and corridor

Alternate A2 is for ground concrete masonry units

Alternate A3 is for fiberglass acoustic ceiling panels

Alternate E1 is for recessed floor boxes

Alternate E2 is for provisions for emergency power

The bids received, opened and read for the MERIT Center Road Course were from:

R & G Construction
Marshall, Minnesota

Duininck, Inc.
Prinsburg, Minnesota

Base Bid	\$2,143,750.70	\$2,183,339.70
Alternate No. 1	102,532.00	105,682.00
Alternate No. 2	18,082.94	18,082.94
Alternate No. 3	189,826.00	No bid
Alternate No. 4	353,230.00	434,158.00
Alternate No. 5	13,652.00	13,652.00

Midwest Contracting
Marshall, Minnesota

Central Specialities
Alexandria, Minnesota

Base Bid	\$2,289,336.45	\$2,566,302.00
Alternate No. 1	138,039.00	127,801.00
Alternate No. 2	20,423.15	18,163.94
Alternate No. 3	209,346.00	No bid
Alternate No. 4	357,626.00	514,244.46
Alternate No. 5	13,652.00	13,713.20

Alternate No. 1 is for watermain installation

Alternate No. 2 is for signing and striping

Alternate No. 3 is for concrete skills pad

Alternate No. 4 is for subgrade work at skills pad expansion, skid pad, access road and cul-de-sac

Alternate No. 5 is for seeding

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to approve the Minnesota Emergency Response and Industrial Training Center Addition

REGULAR MEETING – DECEMBER 23, 2014

bid with MOHS Contracting, Owatonna, Minnesota including Base Bid in the amount of \$1,518,000.00; Alternate A1 in the amount of (\$600.00); Alternate A2 in the amount of \$12,000.00; Alternate E1 in the amount of \$1,880.00; and Alternate E2 in the amount of \$7,920.00 for a total bid of \$1,539,200.00'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'to approve the Minnesota Emergency Response and Industrial Training Center Road Course bid with R&G Construction, Marshall, Minnesota including Base Bid in the amount of \$2,143,750.70; Alternate No.3 in the amount of \$189,826.00 and Alternate No.5 in the amount of \$13,652.00 for a total bid of \$2,347,228.70'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

CONSIDERATION OF AWARD OF BID FOR MUNICIPAL LIQUOR STORE CONSTRUCTION PROJECT:

Bids were received, opened and read on December 18, 2014 for the Marshall Municipal Liquor Store Bid Package 2 Building Construction Site Improvement from:

Bladholm Construction Marshall, Minnesota \$1,911,200.00	Gopher State Contractors Rice, Minnesota \$1,853,000.00	Robert L. Carr Marshall, Minnesota \$2,074,000.00
Sussner Construction Marshall, Minnesota \$1,898,000.00	Salonek Concrete & Construction Inc. Springfield, Minnesota \$1,821,477.00	

Ron Halgerson, TSP reviewed the bids received and indicated that Salonek Concrete & Construction, Inc. is the lowest responsible bidder. They have advised them that their bid proposal is thorough upon review with TSP and the following key sub-contractors are designated for their construction team: Mechanical: Hart's Mechanical, Marshall; Electrical: Community Electric, Renville; Refrigeration/Cooler: Carlson & Stewart Refrigeration, Marshall. TSP has had a long-time working experience with this General Contractor and the noted sub-contractors they find them good to work with. Salonek indicated 270 calendar days on their bid for Substantial Completion. However, in further discussion, it was agreed that Substantial Completion will be achieved by October 16, 2015, which provides 5 weeks of occupancy prior to Thanksgiving. Liquor Store Manager Scott VanMoer has responded favorably to this schedule

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to award contract for Bid Package No. 2 – Building Construction & Site Improvements to Salonek Concrete & Construction, Inc., Springfield, Minnesota for the Base Bid amount of \$1,821,477.00, with Substantial Completion designated for October 16, 2015'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

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: **5** Nay: **0**. The motion **Carried. 5 - 0**

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at AVERA, 300 South Bruce Street, Marshall, Minnesota on January 21, 2015.

Approval of the renewal of the Group Self-Insured Accident Plan for Volunteers with the League of Minnesota Cities for January 1, 2015 to January 1, 2016, at a cost of \$992.00

The approval of an On-Sale 3.2 Percent Malt Liquor License for Mike's Café for 2015 at a fee of \$250.00.

The approval of Change Order No. 1 with Buysse Roofing of Marshall, Minnesota, resulting in a contract increase in the amount of \$5,658.00 and acknowledgement of Final Pay Application (No. 1) in the amount of \$94,058.00 for the Municipal Building Reroof Project.

That the following bills be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 91753 through 91951.

Approval to renew the City's Workers Compensation Insurance with the League of Minnesota City Insurance Trust for 2015 at an estimated premium of \$241,594.00.

VACATE UTILITY EASEMENTS IN TIGER PARK SECOND ADDITION, BLOCK TWO, LOTS 1-2 - CONSIDER RESOLUTION GRANTING PETITION TO VACATE UTILITY EASEMENTS:

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council remove this item from the table'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried. 5 - 0**

Dennis Simpson, City Attorney, reviewed the petition for vacation of utility easements between Lot 1 and Lot 2, Block Two in Tiger Park Second Addition that was submitted from the owners of all of the abutting properties of the utility easements proposed to be vacated. The purpose of the vacation is for reconfiguration of Lot 1 and Lot 2, Block Two of Tiger Park Second Addition. No existing utilities are located within the easements to be vacated. All utility companies were contacted. Charter Communications will need the 10' easements along Tiger Drive and the 15' easement over to Commencement Boulevard retained due to the fiber optic and coaxial cable feeding Marshall High School is in those easements. Tiger Park Sixth Addition as proposed will include adequate easements to cover this requested easement, as well as easements requested by MMU. At the September 10, 2013 meeting, the City Council conducted the public hearing on the vacation. As the vacation of existing easements should not take place until after Tiger Park Sixth Addition is ready to be approved, the motion for adoption of the Resolution Granting a Petition for Vacation of Utility Easements was tabled until such time as the final plat of Tiger Park Sixth Addition is approved, which includes the dedication of new utility easements. According to Robert's Rules of Order, Chapter 14, "A Summary of Motions", Item C. "Subsidiary Motions", "Lay on the Table allows the Council to lay the main motion aside temporarily without setting a

REGULAR MEETING – DECEMBER 23, 2014

time for resuming its consideration, but with the provision that it can be taken up again whenever a majority so decides.”

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the NEW motion 'that the Council adopt RESOLUTION NUMBER 4108, SECOND SERIES, which is the “Resolution Granting a Petition for Vacation of Utility Easements in the City of Marshall” in Tiger Park Second Addition, Block Two, Lots 1-2'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

CONSIDERATION OF STATE OF MINNESOTA DEPARTMENT OF PUBLIC SAFETY AGENCY AGREEMENT FOR MERIT CENTER EXPANSION:

Ben Martig, City Administrator, reviewed the agreement provided by the State of Minnesota that will appropriate funds for the MERIT Center as awarded in the 2010 State bonding bill. This agreement must be approved by the City Council at the meeting on the 23rd. If not, the Legislative authority will be waived and special legislation would need to be pursued this session. Staff has been working diligently with state officials to finalize the necessary documents. Delivery is planned this week with state execution of the contracts prior to the end of the year.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the ORIGINAL motion 'to approve the State of Minnesota Department of Public Safety Agency Agreement for MERIT Center Expansion'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the NEW motion 'to approve declarations restricting MERIT property related to conditions of State bond financing'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 - 1** with Bayerkohler voting no.

Mayor Byrnes called for a 5-minute recess at 7:06 P.M.

CONSIDER \$2,900,000 STATE BOND REQUEST FOR THE M.E.R.I.T. CENTER TRACK EXPANSION:

Ben Martig, City Administrator, indicated that the City of Marshall had applied for \$2.5 Million in state bond funds last legislative session for the MERIT Center expansion. The City was not awarded these funds. The MERIT Center had to cut back on critical components of the track due to the lack of state funds. The upcoming legislative session is not a traditional bonding year but there could be funds approved. Senator Dahms and Representative Swedzinski have indicated they would support a bill requesting funds this session. The MERIT Board met on Thursday, December 18 and passed a motion requesting the Council support for \$2,900,000 in State bond requests.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the ORIGINAL motion 'to approve support for a \$2,900,000 State bond request for the M.E.R.I.T. Center track expansion'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed. 4 – 1** with Bayerkohler voting no.

PROJECT Y61 / S.A.P. 139-130-001: KOSSUTH AVENUE RECONSTRUCTION
PROJECT -- 1. CONSIDER CHANGE ORDER NO. 4; 2. CONSIDER CHANGE ORDER
NO. 5 (FINAL); 3. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 9:

This project involved the replacement of watermain, sanitary sewer and storm sewer utilities, and street reconstruction. The project reconstructed the street and described utilities on Kossuth Avenue from North 4th Street to North 7th Street and North 5th Street from Mason Street to Hudson Avenue. The project included a change in alignment of Kossuth Avenue from North 4th Street to North 7th Street and included the demolition of the old rendering building and small storage building adjacent to the animal impound center. The items on Change Order No. 4 are the result of work done for removal of concrete foundation and installation of temporary erosion control for a total amount of \$7,390.00. The items on Change Order No. 5 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 4 with Kuechle Underground, Inc. of Kimball, Minnesota, resulting in a contract increase in the amount of \$7,390.00 for Kossuth Avenue Reconstruction Project Y61 / S.A.P. 139-130-001'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that Council approve Change Order No. 5 (Final) with Kuechle Underground, Inc. of Kimball, Minnesota, resulting in a contract increase in the amount of \$2,000.43 and acknowledgement of Final Pay Request (No. 9) in the amount of \$95,327.72 for Kossuth Avenue Reconstruction Project Y61 / S.A.P. 139-130-001'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

PROJECT Z05: TIGER PARK STORMWATER DETENTION POND PROJECT - 1.
CONSIDER CHANGE ORDER NO. 4; 2. CONSIDER CHANGE ORDER NO. 5 (FINAL);
3. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 8:

The City of Marshall had contracted with R&G Construction Co. for the construction of three stormwater detention and treatment ponds for the runoff area located north of T.H. 19 and east of T.H. 23. The City is developing a Southwest Minnesota Amateur Sports Commission (SMASC) Facility located on property being utilized as a disposal site for excavation material coming from the stormwater pond construction. The items on Change Order No. 4 are the result of modifications to the storm sewer work related to the construction of the SMSU and Minnesota storm ponds and the removal of an old concrete foundation for a total amount of \$19,957.96. The items on Change Order No. 5 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 4 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$19,957.96 for Tiger Park

REGULAR MEETING - DECEMBER 23, 2014

Stormwater Detention Pond Project Z05'. Upon a roll call vote being taken, the vote was: Aye: 5
Nay: 0. The motion **Carried 5 - 0**

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the NEW motion 'that Council approve Change Order No. 5 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract decrease in the amount of \$63,191.05 and acknowledgement of Final Pay Request (No. 8) in the amount of \$74,505.56 for Tiger Park Stormwater Detention Pond Project Z05 '. Upon a roll call vote being taken, the vote was: Aye: 5
Nay: 0. The motion **Carried 5 - 0**

PROJECT Z06: VICTORY DRIVE IMPROVEMENT PROJECT-PHASE II -- 1.
CONSIDER CHANGE ORDER NO. 2 (FINAL); 2. ACKNOWLEDGEMENT OF FINAL
PAY REQUEST NO. 5:

This project involved the construction of curb and gutter, bituminous pavement, sidewalk and miscellaneous items on Victory Drive from Tiger Drive to Commencement Boulevard. The items on Change Order No. 2 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Member (Larry Doom) moved, Member (Craig Schafer) seconded to approve the ORIGINAL motion 'that Council approve Change Order No. 2 (Final) with Sherbrooke Turf of Pelican Rapids, Minnesota, resulting in a contract decrease in the amount of \$14,904.45 and acknowledgement of Final Pay Request (No. 5) in the amount of \$38,461.50 for Victory Drive Improvement Phase II Project Z06'. Upon a roll call vote being taken, the vote was: Aye: 5
Nay: 0. The motion **Carried 5 - 0**

PROJECT Z26: PATRICIA COURT / ELAINE AVENUE / STEPHEN AVENUE
PROJECT -- 1. CONSIDER CHANGE ORDER NO. 1; CONSIDER CHANGE ORDER
NO. 2 (FINAL); 3. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 4:

This project consisted of the street reconstruction of Patricia Court and Elaine Avenue from the west side of South 2nd Street to Patricia Court. Included in this project was the reconstruction of the street section, including bituminous pavement, aggregate base, street grading, sub base drainage, minor curb and gutter and sidewalk replacement and miscellaneous work. Also included in this project was a mill and overlay of Elaine Avenue from the west side South 2nd Street to South 4th Street and Stephen Avenue from Patricia Court to South 4th Street. The items on Change Order No. 1 are the result of additional pavement removal on Stephen Avenue due to the delamination of the previous bituminous wearing course for a total amount of \$2,812.50. The items on Change Order No. 2 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Member (Craig Schafer) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'that Council approve Change Order No. 1 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$2,812.50 for Patricia Court / Elaine Avenue / Stephen Avenue Project Z26'. Upon a roll call vote being taken, the vote was: Aye: 5
Nay: 0. The motion **Carried 5 - 0**

REGULAR MEETEING – DECEMBER 23, 2014

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that Council approve Change Order No. 2 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$4,707.22 and acknowledgement of Final Pay Request (No. 4) in the amount of \$28,475.09 for Patricia Court / Elaine Avenue / Stephen Avenue Project Z26'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

PROJECT Z33: BITUMINOUS OVERLAY PROJECT -- 1. CONSIDER CHANGE ORDER NO. 1 (FINAL); 2. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 2:

The items on Change Order No. 1 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 (Final) with McLaughlin & Schulz, Inc. of Marshall, Minnesota, resulting in a contract decrease in the amount of \$14,456.29 and acknowledgement of Final Pay Request (No. 2) in the amount of \$10,516.89 for the Bituminous Overlay Project Z33'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

TIGER PARK SIXTH ADDITION – CONSIDER RESOLUTION APPROVING THE FINAL PLAT:

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

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4109, SECOND SERIES, which is the "Resolution Approving the Final Plat of Tiger Park Sixth Addition"'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

PROJECT Z27: EAST MAIN STREET / SOUTHVIEW DRIVE SANITARY SEWER & WATERMAIN RECONSTRUCTION PROJECT – CONSIDER CHANGE ORDER NO.

2:

This project consists of replacing sanitary sewer and watermain along East Main Street from "E" Street to Southview Drive and along Southview Drive from East Main Street to the south side of the existing Hy Vee property southwest approximately 755 feet. The items on Change Order No. 2 are the result of extra work items including a 12" diameter outside drop at Manhole No. 2, sanitary sewer bypass pumping, and additional 8" watermain pipe fittings for a total amount of \$13,650.00. This change order includes a 6-day time extension for work described and for other

REGULAR MEETEING – DECEMBER 23, 2014

time critical delays not in control of the contractor. The revised completion date is October 29, 2014.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 4 with D&G Excavating, Inc. of Marshall, Minnesota, resulting in a contract increase in the amount of \$13,650.00 and a 6-day time extension for East Main Street / Southview Drive Sanitary Sewer and Watermain Reconstruction Project 27'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

AGREEMENT WITH LYON COUNTY FOR THE PURCHASE OF FUEL, EQUIPMENT UPGRADES, AND MAINTENANCE AND REPAIR:

Lyon County is requesting an agreement for the purchase of fuel, equipment upgrades, and maintenance and repair. The Agreement is similar to the previous Agreement except for the software upgrade to the fuel system, estimated at \$9,000 to \$11,000 and the elimination of the 20% overhead charge for maintenance and repair purchases. The historical City use of fuel is approximately 33% of the total and this percentage will be used to calculate our costs of the software upgrade and maintenance and repair. The City used to have their own fueling station but was eliminated when increased environmental regulations were put in place for storage and monitoring of fuel equipment. Hopefully, with the anticipated reduced costs of fuel, the added costs of \$3,000 to \$3,600 for this software upgrade can be covered by the fuel budgeted for 2015.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve the Agreement with Lyon County for the purchase of fuel and equipment upgrade and maintenance cost allocations'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried. 5 - 0**

CONSIDERATION OF ADOPTION OF 2015 BUDGET AND 2014 TAX LEVY PAYABLE IN 2015:

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 4110, SECOND SERIES, which is a resolution adopting the 2014 Tax Levy Payable in 2015'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **1**. The motion **Passed 4 – 1** with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4111, SECOND SERIES, which is a resolution Adopting the 2015 budget'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **1**. The motion **Passed 4 – 1** with Bayerkohler voting no.

CONSIDERATION OF APPOINTMENT OF CITY ATTORNEY:

In accordance with Section 3.03 of the City Charter the Mayor shall nominate to the city council the City Attorney. The term shall be two years beginning at the first meeting in December after the municipal election, and he/she shall continue in office until his/her successor is appointed. The appointment will change to January in future years consistent with the Charter amendment that was just passed last meeting. Mayor Byrnes is nominating Mr. Dennis Simpson to serve as

REGULAR MEETING – DECEMBER 23, 2014

City Attorney. The City Council must confirm the nomination. The Mayor has recommended the re-appointment of Mr. Simpson. The Council must approve by majority vote.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'appoint Dennis Simpson as the City Attorney'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

CONSIDER APPOINTMENTS TO VARIOUS BOARDS/COMMISSIONS:

Per the recommendation of Mayor Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'approval of appointments to the various boards and commissions'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 - 1** with Bayerkohler voting no.

Airport Commission – John Albert be appointed for an unexpired term to expire on May 31, 2016.

Planning Commission – Mike Fox be appointed to an unexpired term to expire on May 31, 2015.

CONSIDER RESOLUTION OF INTENT FOR THE CITY OF MARSHALL TO PROVIDE FUTURE MAINTENANCE AND REPAIRS FOR A “TRANSPORTATION ALTERNATIVES” PROJECT FOR MARSHALL AREA TRANSIT ADA BUS ACCESS

Glenn Olson, Director of Public Works/City Engineer indicated that Marshall Area Transit (MAT) has requested the installation of several ADA accessible bus shelters within the city of Marshall. MAT has submitted a funding request from the State Transportation Alternatives Program (TAP) for the construction of accessible walkways and installation of bus shelters. MAT already has the shelters on hand. The TAP program participates in the eligible items at 80% State / 20% local share. MAT needs written support and commitment from the City of Marshall to be the sponsoring agency for their application. It will be the responsibility of MAT to provide any non-State funding for the project. The project is part of the MAT Bus Route Plan and provides a primary function for transportation purposes. The locations of the bus stops are in strategic locations for people with disabilities and subsidized housing areas. The grant also requires the sponsoring agency to provide a resolution for future maintenance of the project. The resolution includes MAT providing all maintenance of the bus stops and shelters with the City responsible for the sidewalk maintenance approaching the bus stops. The City may provide the maintenance with its own forces or through special assessments for replacement in accordance with City policy.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4112, SECOND SERIES which is the “Resolution of Intent for the City of Marshall to Provide Future Maintenance and Repairs for a “Transportation Alternatives” Project for Marshall Area Transit ADA Bus Access”'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried. 5 - 0**

REGULAR MEETING – DECEMBER 23, 2014

COMMISSION/BOARD LIAISON REPORTS:

- Byrnes Regional Development Commission has had a 50% turn over in membership; Southwest MN Amateur Sports Center held a meeting to recognize the members that are no longer on the board.
- Schafer Library Board approved their budget; Marshall Area Transit Committee discussed adding a new route in February.
- Doom Convention and Visitors Bureau reviewed their budget.
- Bayerkohler Planning Commission items were acted on earlier in the meeting.
- DeCramer EDA discussed the revenue bonds for the Liquor Store; MERIT Center Commission met; Utilities Commission discussed their budget.

COUNCILMEMBERS INDIVIDUAL ITEMS:

Additional items from the Council Members included: need to review the ordinance on dog bites; and discussion on the third application for Legacy Funding for the bike trail in which notification was received of an award of \$910,800 for this project

CITY ADMINISTRATOR:

Ben Martig, City Administrator, provided an update on the funding for the bike trail. He also indicated that staff is finalizing the purchase of furniture and fixtures for the Library Children's addition. Studio One is discussing partnering with Marshall Public School and SMSU. The local State Representatives are working on sponsoring a bill for equipment being exempt from sales tax.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, provided an update on the construction projects for the past year.

CITY ATTORNEY:

Dennis Simpson, City Attorney, thanked the council for approving his appointment for the next 2 years.

PENDING ITEMS:

There were no questions on the pending items.

INFORMATION ONLY:

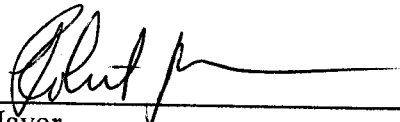
There were no questions on the information items.

UPCOMING MEETINGS:

There were no questions on the upcoming meeting list.


REGULAR MEETING - DECEMBER 23, 2014

Member (**Glenn Bayerkohler**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**



Mayor

ATTEST:



Finance Director/City Clerk