

REGULAR MEETING – MARCH 24, 2015

The regular meeting of the Common Council of the City of Marshall was held March 24, 2015 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, David Sturrock, John DeCramer, and Glenn Bayerkohler. Absent: Larry Doom and Craig Schafer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Barb Lipinski, Adult Community Center Coordinator; Cathy Lee, Executive Assistant, and Thomas M. Meulebroeck, Finance Director/City Clerk.

The Pledge of Allegiance was recited at this time.

APPROVAL OF AGENDA

It was the general consensus of the council that the agenda be approved as presented with the deletion of agenda item number 10, which was a duplicate item for the appointment to the Airport Commission.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 10, 2015

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion that the minutes of the regular meeting held on March 10, 2015 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 ON THE PROPOSED MODIFICATION OF THE MODIFIED TAX INCREMENT FINANCING PLANS FOR TAX INCREMENT DISTRICT NO. 1-13 LOCATED WITHIN REDEVELOPMENT PROJECT NO. 1 OF THE MARSHALL HOUSING AND REDEVELOPMENT AUTHORITY FOR THE MARKET STREET MALL REDEVELOPMENT PROJECT.

Staff and the city's consultant, Springsted, Inc. is continuing to receive information as part of the analysis for the requested TIF District establishment and related development agreements. The City initiated the process in order to accommodate timelines as information anticipated to be received. The State of Minnesota has specific timelines related to public notices so it was important to begin the process in order to meet these expectations. On April 14, the City will have a hearing including the proposed development agreement details.

Member (**Ellayne Conyers**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion to continue the public hearing until April 14 for the proposed modification of the Modified Tax Increment Financing Plans for Tax Increment District No. 1-13 located within Redevelopment Project No. 1 of the Marshall Housing and Redevelopment Authority for the Market Street Mall Redevelopment Project. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried. 5 - 0**

SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER (SMASC) – AWARD OF PROPOSAL FOR PORTABLE TOILET SERVICES.

Bids were received, with the low responsible proposal received from Enviro Pump-Plus, Inc. of Balaton, Minnesota, in the amount of \$181.47/toilet/month, including sales tax. Sales tax will be

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removed since this service is tax exempt. The reason the Council is receiving this recommendation for award is because the estimated cost of the project, at this time, is approximately \$6,500-\$7,000 for the term of the construction. Numbers of toilets and length of the contract will be determined by the time of construction and number of contractors on site. The services are based upon twice weekly service per toilet.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion that the Council award the proposal for portable toilet services for the SMASC construction to Enviro Pump-Plus, Inc. of Balaton, Minnesota. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 -1**, with Bayerkohler voting no.

SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER (SMASC) – AWARD OF PROPOSAL FOR CONSTRUCTION TESTING SERVICES.

Construction Testing Services for the SMASC project are required to be contracted for by the City in accordance with the specifications. American Engineering Testing, Inc. of Marshall, Minnesota (AET), is a local testing firm with capabilities of providing all construction testing services for the SMASC project. As this firm has completed most of the testing services on all City projects for the past few years, and they are a professional service, it is the recommendation to request only a proposal from AET. The estimated cost of the proposal is \$40,031.50. The actual cost will be completely dependent upon number and type of tests required by the contracts. Each type of test and service is identified in the proposal.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion that the Council award the proposal for Construction Testing Services to American Engineering Testing, Inc. of Marshall, Minnesota. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 -1** with Bayerkohler voting not.

CONSIDER APPROVAL OF CONSENT AGENDA

Member (**Ellayne Conyers**) 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 adoption of RESOLUTION NUMBER 4146, Second Series, which is a “resolution” declaring the Sounds of Summer as a Community Festival. The City Council may declare an event a Community Festival that would provide an option for a holder of a retail intoxicating liquor license to dispense intoxicating liquor off their premises at a Community Festival. Any specific applications for liquor off premises – assuming Council approves the proposed resolution declaring a community festival - will require an additional review and approval by City Council.

Approval of Mr. Gene Persons to the Airport Commission for the term to expire on May 31, 2016.

Approval of an application for an on-sale intoxicating liquor license for Avera Marshall. This license is to be used at 300 South Bruce Street, Marshall, Minnesota on April 20, 2015.

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Authorization to declare vehicles as surplus property for the Police Department. These vehicles have been abandoned or seized by the Marshall Police Department and have gone through the notification processes and required periods for disposal.

Call for a Public Hearing for private use of public streets and parking lots for Sounds of Summer from August 20 – 23, 2015. Requesting closure of West College Drive from the corner of Main Street and West College Drive to Saratoga Street, and also Marvin Schwan Memorial Drive from West College Drive to South 1st Street on Thursday, August 20, 2015 from 3:00 p.m. to approximately 12:00 midnight, and again on Saturday, August 22, 2015 from 12:00 noon to Sunday, August 23, 2015 to approximately 3:00 a.m.

Approval of a farm lease between the City of Marshall and RJC, Inc. for a lease of three acre parcel of farmland located near the MERIT Center. This property is adjacent to the MERIT Center driving course property and is presently been leased by proposed tenant RJC, Inc. The property was put out for bid last fall but no bids were received. Current tenant RJC has offered to pay \$100 per acre for lease.

That the following bills and project payments are authorized for payment ACCOUNTS PAYABLE, Voucher No. 92933 through 93119.

APPROVAL OF ITEMS PULLED FROM CONSENT

CONSIDER APPROVAL FOR A SUNDAY LIQUOR LICENSE FOR BELLO CUCINA

Bello Cucina is requesting to add a Sunday Liquor License to their current On-Sale Intoxicating Liquor License. They did not apply for the Sunday License when they applied for their On-Sale Intoxicating Liquor License. There are no changes to the original application. Sturrock asked how many license the City is allocated. Simpson stated that is no limitations, this was removed several years ago. Sturrock asked for clarification on the Sunday license vs. the regular liquor license.

Member (**David Sturrock**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion for the approval of a Sunday Liquor License for Bello Cucina. This license will expire at the same time as their current On-Sale Intoxicating Liquor License which is December 31, 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 AMENDMENTS TO THE 2015 WAGE/CLASSIFICATION SCHEDULES.

On March 3, 2015, the City received a letter of resignation from the Adult Community Center Office Specialist (Cheri Appel) to be effective June 11, 2015. This position performs a variety of clerical and customer service responsibilities at the Adult Community Center on a part-time basis. In preparation for turnover in this position, last fall (August/September 2014), Staff began exploring the possibility of adding a staff member to focus on programming for the center. Staff developed a job description and had it pointed (Hay Pointing). During the budget process, the additional staff member was not approved. The Adult Community Center Coordinator, Barb Lipinski and Director of Community Services, Harry Weilage, are requesting that the city fills

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the vacated position of Office Specialist with a Program Specialist position, instead. Staff is proposing to continue the part-time nature of the support position at the Adult Community Center, working 18-20 hours per week. The following is a summary of the points and salary schedule for each position: Office Specialist Points: 148 wage range (eff 1/1/15): \$16.28 – 21.71 Program Specialist Points: 203 wage range (eff 1/1/15): \$18.47 – 24.63. The current Office Specialist is compensated at the top of the wage schedule (\$21.71); staff would anticipate that a Program Specialist would start at Step 1 (\$18.47 or \$18.66 depending on date of hire). Staff are requesting the addition of the Program Specialist classification and corresponding wage range to the City 2015 wage schedules. It would then be staff's intention to fill the upcoming vacancy with a Program Specialist position. Bayerkohler asked why staff is changing the title from Office Specialist to a Program Specialist. Lipinski stated that this position description has not been reviewed for 20 years and the responsibilities in that position have changed. This position would be much more involved with the programming of activities. Bayerkohler's was concerned that the city is paying half-time for an Office Specialist and half-time for a Program Specialist but paying for a full rate of a Program Specialist. Lipinski explained that the position has change and this person will be spending more time on programming activities at the Adult Community Center. Martig explained that when the pointing analysis is done by an independent consultant, the pointing is based on the responsibilities of the position.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion to approve the amendments to the City's 2015 wage/classification schedules. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 -1** with Bayerkohler voting no.

PROJECT Z37: NORTH "A" STREET / EAST REDWOOD STREET RECONSTRUCTION PROJECT - CONSIDER RESOLUTION ORDERING IMPROVEMENT AND PREPARATION OF PLANS.

Glenn Olson, Director of Public Works explained that this project consists of the reconstruction of streets and utilities on North "A" Street from East Main Street to East Marshall Street and East Redwood Street from Jean Avenue to the Redwood River. Items of work included in the project are sanitary sewer, watermain, and storm sewer replacement, curb and gutter replacement, sidewalk replacement, bituminous surfacing, aggregate base, grading and other minor work. Prior to the improvement hearing at the City Council meeting of February 24, 2015, a public informational meeting was held concerning this project. At the improvement hearing, there was a discussion concerning the width of East Redwood Street to reduce the overall street width from 40 feet to 32 feet and prohibit parking on one side of the street. There was also a discussion of eliminating sidewalks from the west side of North "A" Street from East Marshall Street to East Redwood Street. Petitions were received for each of these proposals from property owners along each of the streets. Subsequent to the improvement hearing, City staff went out to the project site and placed paint markings where the proposed new curb and gutter, proposed sidewalk locations (orange for sidewalk proposal next to the right-of-way and white for sidewalk proposal 5'-6' from the back of the new curb), and stakes on the right-of-way line/property lines. After review, it is the recommendation to install the new sidewalk approximately 5'-6' from the back of the new curb on North "A" Street from East Marshall Street to East Redwood Street. It is also the recommendation to reduce the overall street width on East Redwood Street from 40 feet to 32 feet and prohibit parking on the south side of East Redwood Street from North "A" Street

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to the Redwood River. Additional street width will be provided for a turnaround at the west end of East Redwood Street. The plans and specifications have been prepared by the City staff for the above referenced project. If the City Council decides to proceed with this project, a resolution has been prepared approving the plans and specifications and ordering advertisement for bids.

Dana Moore, East Redwood Street asked if there was currently parking on both sides of the street and if so will this be changed to parking only on one side of the street. Olson stated that there will be parking on only one side of the street.

Lori Meulebroeck, 401 A Street asked how much traffic does really go through this street. If we narrow the streets it would slow the traffic down but was concerned at how tight it was by the church. Ms. Meulebroeck wanted clarification on where the electrical boxes were going to be placed. Olson said they would all be placed on the same side of the street but closer together. Ms. Meulebroeck asked if a study was done regarding the value that is taken away from the property because of the loss of trees. She stated that the houses were built not to have sidewalks and now we are adding them. Bayerkohler asked if trees should be planted in easements areas. Mayor Byrnes stated that in the previous policy, the city actually encourage residents to plant trees in the boulevards.

Dana Moore is concerned with the location of the orange markings for sidewalk as he will lose three mature trees and was concerned that it would decrease the value of his home. Mr. Moore stated that when there were discussions about wants and needs, he feels this is more of a want than a need for this neighborhood.

Gordon Crow, 403 North A Street, stated that the only real concern he has would be the loss of one of the three trees on his property. What safety issue is addressed by putting in sidewalks? Mr. Crow asked if a study been done that walking in this area will increase, will it be safer for both drivers and pedestrians.

Olson stated that some of the houses could be accommodated by putting the sidewalks on the other side of the trees. These trees need to be five feet away from the sidewalks so that there will be no issues with the sidewalk heaving from the tree roots.

Jamie Wendorff, 405 North A Street questioned the City putting sidewalks in around the trees. If you need to stay five feet from the sidewalk then the sidewalk would be in the middle of the yard. Mayor Byrnes also suggested that the trees could be moved if they are not real mature.

DeCramer asked if this item could be tabled for the next meeting to give Mr. Olson and his staff time to identify all the issues that were discussed tonight. Mr. Olson said he would meet with the neighbors and hopefully get some of the issues resolved.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **SUBSTITUTE** motion that the Council table the “Resolution Approving Plans and Specifications and Ordering Advertisement for Bids” for Project Z37: North “A” Street / East Redwood Street Reconstruction until April 14, 2015. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried. 5 - 0**

PROJECT Z22: MARGARET AVENUE IMPROVEMENT PROJECT AND PROJECT Z30: WINDSTAR STREET IMPROVEMENT PROJECT - CONSIDER RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS.

Glen Olson, Director of Public Works stated that this project consists of the construction of Margaret Avenue from approximately 225 feet south of the intersection of Boyer Drive and Margaret Avenue to Windstar Street. The project shall include curb and gutter, grading, aggregate base, sanitary sewer, watermain, storm sewer, sidewalk and other work. Also included in this project is a mill and overlay of the existing Margaret Avenue from Boyer Drive to approximately 225 feet south. Project Z30: Windstar Street Improvement Project -- this project consists of the construction of Windstar Street from T.H. 59 to approximately 350 feet east to the existing Windstar Street. This project shall include bituminous surfacing, aggregate base, curb & gutter, sidewalk, bike path, grading, and other miscellaneous work. Construction shall provide left turn lanes and right turn lanes on and off of T.H. 59. This project has two project numbers to differentiate funding and actual quantities for each section of roadway. This was done because the Windstar Street project needed Mn/DOT review and approval and, if necessary, may have been delayed by project review requirements. As the review has been essentially completed, we are able to bid both projects under one contract, which should help unit prices for both projects.

Member (John DeCramer) moved, Member (David Sturrock) seconded to approve the ORIGINAL motion that the Council adopt RESOLUTION NUMBER 4147, SECOND SERIES which is the “Resolution Approving Plans and Specifications and Ordering Advertisement for Bids” for Project Z22: Margaret Avenue Improvement Project and Project Z30: Windstar Street Improvement Project. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion Carried. 5 - 0

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

Thomas Meulebroeck, Finance Director/City Clerk stated that the year-to-date 2014 revenues and expenditures have been compared to the original 2014 budget. The recommended budget adjustments are included in the following funds: General Fund, Insurance Reserve, Special Revenue, Capital Projects, Wastewater Fund, Liquor Fund, and Surface Water Utility Fund. The resolution encompasses all recommended budget changes and will reduce the variances between budget to actual. This resolution was reviewed by the Ways and Means Committee on March 23, 2015. The committee voted 2-1 to recommend to the City Council approval of the resolution reallocating budget amount for fiscal year ended December 31, 2014 with Bayerkohler voting no.

Bayerkohler concerns are whether individuals or departments are spending more than they are authorized to spend. Meulebroeck indicated that there are circumstances that we may go over on a line item but there is flexibility within their budget, so transfers offset those expenses. Bayerkohler also raised a concern that we are trying to eliminate the variances and by eliminating the variances it is making the city look better. If we are adjusting the budget three months after the fact, to look better then is that really fair to the bond rating agencies and the people buying our bonds. Martig responded that last year in 2014 Ways and Means did look at

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our practices of doing the budget adjustments one time, at the end of the budget year. It is appropriate and legal what staff is doing. The second issue was if we are misleading the bond council and the answer is very directly not. We have had our auditor and consultant address both of those issues last year and brought them back to the committee and full city council to review and no changes were recommended. We discussed at Ways and Means having a review of policies to adopt, giving greater definition to budget oversights as there currently are no policies in place. It will be included on their review for 2015.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion the adoption of RESOLUTION NUMBER 4148, SECOND SERIES reallocating budget amounts for Fiscal Year Ended December 31, 2014. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 -1**, with Bayerkohler voting no.

COMMISSION/BOARD LIAISON REPORTS

Byrnes - Regional Development Commission had a meeting this past Thursday. SRDC Revolving Loan Fund also met this week. Approximately \$1.8 million dollars loaned out in the region that came from a 1994 grant following a flooding. This \$1 million grant - \$100,000 was raised by \$10,000 from the surrounding counties and \$10,000 from the City of Marshall.

COUNCILMEMBER INDIVIDUAL ITEMS

Conyers: Senator Amy Klobuchar staff met on March 11, 2015 to discuss Alzheimer's. There were many agencies that work with the elderly present.

Mayor Byrnes followed up with upcoming groundbreaking ceremonies; MERIT Center Monday, March 30th and the Liquor Store groundbreaking is Wednesday, April 8th.

CITY ADMINISTRATOR

Discussed the matter with the March 9 tobacco violation at the Marshall Municipal Liquor Store. The store does provide training in regards to checking identification.

Building Inspections will be holding an education meeting tomorrow. An outside consultant will be coming in with over 70 contractors attending. Over the lunch hour there will be a presentation on the new stormwater regulations.

There will be a special meeting with the council on the Building Inspection Department review. Staff is working on a number of issues to address and implement some of the changes.

EDA is working on the development of a program on handicap accessibility issues.

The Housing Study is coming up shortly. Staff is working on identifying the different entities to be interviewed.

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DIRECTOR OF PUBLIC WORKS

Discussed construction updates there are several project identified by MN dot coming to the Marshall area.

1. Hy-Vee to the Varsity Pub – will be reconstructing and mill and overlay the rest of the road.
2. TH 19 from Bruce Street TH 23 - mill and overlay project
3. TH 59 to TH 68 to Erie Road is update to bridge crossing the channels
4. TH 68 to Erie Road (from Ghent) that will be this summer as well.

This is an addition to the project the City is working on:

1. Pedestrian overpass and reduce conflict intersection. Opening bids this Thursday.
2. Notice of six passing lane in TH 23 from Willmar to Hwy 90 –there are six locations identified already and will be done in 2016.

CITY ATTORNEY

South 2nd project has legal description problems with the properties. Not sure what the solution is on this yet.

Continue to work on finishing the Amateur Sports Facility contracts.

Working with Chamber on EDA ADA Audit matters.

Market Street Mall Redevelopment on Thursday conference with financial and hopefully on the 14th council meeting will present

PENDING ITEMS

There were no questions on the pending items.

INFORMATION ONLY

There were no questions on the information items.

CONSIDERATION GOING INTO CLOSED SESSION FOR THE PURPOSES OF ATTORNEY CLIENT PRIVILEGE.

Member (**John DeCramer**) Moved, Member (**Glenn Bayerkohler**) seconded to approve the **ORIGINAL** motion to consider going into closed session for the purposes of Attorney Client Privilege. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried. 5 - 0**

The closed session was called to order at 7:28 p.m. by Mayor Byrnes. In addition to Mayor Byrnes, these individuals were in attendance at the closed session: Ellayne Conyers, David Sturrock, John DeCramer and Glen Bayerkohler. Staff present were: Ben Martig, Dennis Simpson and Thomas M. Meulebroeck. The city council came out of closed session at 7:40 p.m.

UPCOMING MEETINGS

There was no questions on the upcoming meeting list.

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Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion adjourn meeting. 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