

## REGULAR MEETING – MAY 12, 2015

The regular meeting of the Common Council of the City of Marshall was held May 12, 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, Glenn Bayerkohler, Larry Doom and Craig Schafer (arrived at 6:10 p.m.). Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Harry Weilage, Director of Community Services (left at 5:35 p.m.); Preston Stensrud, Parks Supervisor (left at 5:35 p.m.); Ilya Gutman, Building Official (left at 6:45 p.m.); 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.

### **PRESENTATION FROM THE ARBOR DAY FOUNDATION:**

Harry Weilage, Director of Community Services stated that Marshall Minnesota was named a 2014 Tree City USA by the Arbor Day Foundation in honor of its commitment to effective urban forest management. Harry Weilage, presented a plaque from the Arbor Day Foundation to the City of Marshall. Preston Stensrud, Parks Supervisor accepted the plaque on behalf of the City.

### **CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON APRIL 28, 2015 AND THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 28, 2015:**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion that the minutes of the work session held on April 28, 2015 and the minutes of the regular meeting held on April 28, 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** Abstain: **1**. The motion **Carried. 5 - 0 - 1** with Bayerkohler abstaining.

### **SECS. 86-106 I-1 LIMITED INDUSTRIAL DISTRICT AND 86-107 I-2 GENERAL INDUSTRIAL DISTRICT – 1. PUBLIC HEARING; 2. ADOPTION OF ORDINANCE:**

This was the date and time set for a public hearing on the proposed ordinance. Glenn Olson, Director of Public Works/City Engineer, indicated that there have been several requests to allow car sales operations along North Highway 59. Currently, car sale use is not listed as permitted or conditional use in any of industrial districts and generally industrial districts are intended for manufacturing and warehousing which limits general public presence. Additionally, Industrial Districts also allow some uses to provide everyday service for those who work in the district. City staff believes that this use may be added as a conditional use. It would be in everyone's interests to limit locations of such business type to major streets within the district, where general public is travelling. Ordinances of several other cities have been analyzed: some cities do not allow that use in an Industrial District like Marshall's current Ordinance; some cities allow it as a conditional use like proposed revision; and some cities have it as a permitted use. The Planning Committee, at their meeting on April 22, 2015, approved the proposed changes. The Legislative

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& Ordinance Committee also reviewed and approved the proposed changes at their meeting on April 27, 2015.

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion that the City Council close the public hearing on the Ordinance Amending Sec. 86-106 I-1 Limited Industrial District and Sec. 86-107 I-2 General Industrial District by adding “Automobile and truck sales and used car lots” to (d) Conditional uses. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion that the Council adopt ORDINANCE NO. 694, SECOND SERIES, which is the Ordinance Amending Sec. 86-106 I-1 Limited Industrial District and Sec. 86-107 I-2 General Industrial District by adding “Automobile and truck sales and used car lots” to (d) Conditional uses. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

**PUBLIC HEARING FOR ADDITIONAL REQUEST FOR PRIVATE USE OF PUBLIC STREETS AND PARKING LOTS FOR SOUNDS OF SUMMER:**

This was the date and time set for a public hearing on the request for private use of public streets and parking lots. On April 27, 2015, Russ Labat and Doug Wing, Marshall Sounds of Summer Board Committee members, requested an additional closure for an additional concert during the Sounds of Summer Event. The Sounds of Summer Committee are requesting permission for the following: 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 Friday, August 21, 2015 from 4:00 p.m. to 1:00 a.m. on Saturday, August 22, 2015 to allow adequate time for clean up after the Friday evening activities.

City Council has previously approved the following: 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. to allow adequate time for clean up after the Saturday evening activities.

In accordance with Section 62-6 of the Marshall City Code, any private use of public streets and parking lots on either a temporary or permanent basis should be considered by the Marshall City Council. Due to the magnitude of the proposed event and potential impact to the businesses adjacent to the areas that are being requested to be blockaded, City Staff would recommend that the City Council hold a public hearing on this request prior to granting final approval.

Russ Labat, Marshall Sounds of Summer Board Committee member thanked the council for their consideration of the street closure. He stated that the Marshall Ministerial will be bringing in three different bands on Friday night. This was added after they made the first request for the street closure during the Sounds of Summer.

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Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion that the City Council close the public hearing regarding for the private use of public streets and parking lots for an additional event during the Sounds of Summer event. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion that the Council approve the private use of public streets and parking lots from 4:00 p.m. on Friday, August 21, 2015 to 1:00 a.m. on Saturday, August 22, 2015 for an additional event during the Sounds of Summer event. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDER APPROVAL OF CONSENT AGENDA:**

Member (**Larry Doom**) moved, Member (**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: **6** Nay: **0**. The motion **Carried 6 - 0**

Ben Martig, City Administrator requested that # 13. Consideration of Ordinance Amendment to Chapter 6: Alcoholic Beverages and Call for a Public Hearing be removed from the Consent Agenda.

The approval of authorization to declare a city car (1998 Ford Taurus) as surplus property.

The approval of a change of meeting time for the Marshall Community Services Advisory Board. The board would meet at 4:30 p.m. instead of 5:30 p.m. the 1<sup>st</sup> Wednesday of each month.

The approval of the introduction of the ordinance amending Chapter 86, Division 3 Off-Street Parking and Off-Street Loading, Sec. 86-203 - Yards and call for public hearing to be held on May 26, 2015.

The approval of the Special Vehicle Permit fee of \$35.00 per permit be waived for the two vehicles that have been approved by Director of Public Safety, Rob Yant for the Avera Marshall Morningside Heights Care Center.

The approval of a Temporary On-Sale Liquor License for Marshall Area Chamber of Commerce to use at Bot's Appliance & Electronics, 405 West Main Street, Marshall, Minnesota on June 10, 2015.

That the following bills and project payments be authorized for payment ACCOUNTS PAYABLE, Voucher No. 93343 through 93697.

**ITEM REMOVED FROM CONSENT AGENDA CONSIDERATION OF ORDINANCE AMENDMENT TO CHAPTER 6: ALCOHOLIC BEVERAGES AND CALL FOR A PUBLIC HEARING:**

Ben Martig, City Administrator indicated that Legislative and Ordinance Committee met on Monday, May 11, 2015. Tom Handeland from the Hitching Post attended the meeting and

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requested an amendment to the On-Sale Sunday license to allow sales to begin at 8 a.m. He indicated they may have interest in expanding breakfast if this were pursued. Mr. Handeland indicated that it would be nice to at least allow the option to be consistent with State law. Since the meeting on May 11<sup>th</sup>, TK Steakhouse has clarified they are now in support of an 8 a.m. Sunday sale start time as well. City Councilmembers Doom and Conyers were present and both recommended an amendment to the ordinance presented that would lower the Sunday On-Sale and growler Sunday license proposed from 10 a.m. to 8 a.m.

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion to approve Introduction of Ordinance Amendment to Chapter 6: Alcoholic Beverages Sections 6-35, 6-59 and 6-11 and Call for a Public Hearing on May 26, 2015 at 5:30 p.m. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 – 0

**SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER (SMASC) - AWARD CONTRACT FOR COMMISSIONING AGENT:**

Glenn Olson, Director of Public Works/City Engineer, stated that the Agreement with the consultant, Wenck, extended invitations to four firms to submit a Proposal for Construction Phase Commissioning Services for the SMASC. The following firms are: ATS&R, Hallberg Engineering, Karges-Faulconbridge, Inc., and Questions & Solutions Engineering, Inc.

| Bidder Name           | Hallberg Engineering | Karges-Faulconbridge, Inc (KFI) | Questions & Solutions Engineering, Inc. | ATS&R    |
|-----------------------|----------------------|---------------------------------|---|----------|
| Base Bid              | \$35,000             | \$43,000                        | \$51,000                                | \$58,000 |
| Reimbursable Expenses | \$3,000              | \$2,000                         | \$3,800                                 | \$5,000  |
| TOTAL                 | \$38,000             | \$45,000                        | \$54,800                                | \$63,000 |

Commissioning (CX) services are required to follow the State of Minnesota Sustainable Building Guidelines (B3) for the construction phase of the project. The CX agent will be responsible for ensuring compliance with the B3 tracking tool as required by the State. The CX agent shall observe and document that the contractors are following the Construction Air Quality Management Plan during the construction period. In addition, the CX agent will work with the Facility Operations Manager (FOM) to develop an Operations Commissioning Plan required by B3.

The Operations Commissioning Plan shall include: • Systems Turnover Process (From Construction to Operations) • Operations and Maintenance Manuals • Problem Response Plan • Maintenance Plan • Measurement and Verification Plan • Systems Operation Manual • Funding and Staffing Plan.

After proposals were received, the cities Construction Manager (CM), Wenck, reviewed the proposals and, after review, recommends acceptance of the proposal from KFI. As this proposal was not the low proposal, staff requested the CM to provide written justification to recommend the award of a proposal that was not the low dollar amount. Based upon the CM's review of the

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proposals, the CM indicated that Hallberg (the low proposer in the amount of \$38,000) barely addressed the B3 items from the RFP and did not outline how they are to approach handling those items. KFI and the other firm did address the B3 items very well and showed their expertise in their proposals. Therefore, from a price standpoint and experience/expertise in B3, the CM recommended KFI for the CX work on this project.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion that Council award the proposal for Professional Non-Design Services for Construction Phase Commissioning Services for the SMASC to Karges-Faulconbridge, Inc. (KFI) of St. Paul, Minnesota, in the amount of \$45,000.00. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed. 5 – 1**, with Bayerkohler voting no.

**APPROVAL OF APPOINTMENT TO THE COMMUNITY SERVICES ADVISORY BOARD:**

Mayor Byrnes indicated that the Community Services Advisory Board Committee interviewed for the opening on the Board on Wednesday, April 29<sup>th</sup>. The School Board met on May 4<sup>th</sup> and recommended Austin DeMuth for the Community Services Advisory Board. Mr. DeMuth's term will expire on February 28, 2018.

Member (**Ellayne Conyers**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion approval of appointment of Austin DeMuth to the Community Services Advisory Board for a term to expire February 28, 2018. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**PROFESSIONAL SERVICES AGREEMENT FOR TESTING SERVICES WITH AMERICAN ENGINEERING TESTING, INC. (AET) FOR VARIOUS INSPECTION SERVICES FOR THE PERIOD ENDING DECEMBER 31, 2017:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall has entered into separate agreements with AET for some of our construction projects for 2015. As the City is in the process of building and bidding various projects for 2015/2016, the city is considering entering into an annual contract with one firm identifying the unit prices for each type of test with a rate schedule from your firm for the entire year of 2015. A request was submitted to AET for an agreement for a 3-year term with the rates for the various tests being reevaluated on an annual basis (January-December of each year) with approval of the rates approved by City Council in December for the following year. Staff is proposing a 3-year agreement for these services for consideration by the City. The agreement has been reviewed by the City Attorney.

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion that the Council authorize entering into a Professional Services Agreement for Testing Services with American Engineering Testing, Inc. (AET) for various inspection services ending December 31, 2017. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

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**CONSIDER AMENDMENT NO. 2 TO MN/DOT GRANT AGREEMENT NO. 03904:**

Glenn Olson, Director of Public Works/City Engineer, is requesting approval of Amendment #2 to MN/DOT Grant Agreement No. 03904 for Airport Maintenance and Operation. This amendment provides for additional funding to be paid by MN/DOT for State Fiscal Year 2015. In May 2014 the Minnesota Legislature appropriated additional funding, and this amendment adds additional funding. A new resolution is not needed as long as the same designees sign the amendment as authorized by the original grant resolution. Tom Meulebroeck, Finance Director/City Clerk explained that the City Council entered into a three (3) year agreement with the State of Minnesota for maintenance at the Airport. The annual amount allocated by the State is \$76,256. Mr. Meulebroeck indicated that the amount the state reimburses the City is based on maintenance cost at the airport. The maintenance cost at the airport exceeds the amount allocated by the State.

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion the approval of Amendment No. 2 to MN/DOT Grant Agreement #3904. This amendment provides for the City to potentially receive an additional \$12,390. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

**COMMISSION/BOARD LIAISON REPORTS:**

- Byrnes            Regional Development Commission will meet on Thursday.
- Schafer           Library Board met on Monday and discussed the budget for 2016. The budget team will bring back to the board a proposed budget for 2016. Construction on the children's wing should be completed around July 4, 2015. The patio area will not be ready at that time.
- Doom             SW MN Amateur Sports Center met and discussed the contract.
- Bayerkohler    No report.
- DeCramer        EDA met and discussed their audit plan; Utilities Commission met on April 15<sup>th</sup> and reviewed their annual audit.
- Sturrock         Airport Commission met and working on a master plan and a business plan; Police Advisory Board will met on May 4<sup>th</sup> and reviewed the hiring process.
- Conyers         No report.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

Other items from the Council included: Sturrock attended the pre-construction meeting on Hwy 23/Saratoga on April 30<sup>th</sup>. Mr. Sturrock will be not be at the May 26, 2015 council meeting. There was a concern on an area outside city limits where there are old vehicles parked and in the open for the public to see. This is temporary and the vehicles will be moved within two weeks. There was also a concerned party on West Main Street (900 block) regarding large vehicles parked on the street and it is hard to back out of the driveway. Olson will check into this further.

**CITY ADMINISTRATOR:**

Ben Martig, City Administrator, indicated that Glenn Olson would be addressing the rain issues that the City experienced this past week-end. AEM Financial Solution interviewed city employees that work with the finance department this last week. AEM will bring back their recommendations. The auditors completed their field work and everything went very smoothly. The audit report will be presented to the City Council on June 23<sup>rd</sup>. Staff is currently working on bonding issues. Staff has started the 2016 budget process. The three year contracts with the unions come to end in 2015, so staff will be working on the union contracts. Staff continues to work on the Market Street Development.

**DIRECTOR OF PUBLIC WORKS:**

Glenn Olson, Director of Public Works discussed the rain issues from this past week-end. There was a concern with water on the southwest corner by O'Connell Street. Olson had not been informed of that issue and will check to see if there is a blockage. The most sufficient flooding was in front of Bello Cucina, as there was garbage in the catch basin. There was also flooding on Hahn Road in the industrial park. The problem with that area is lack of adequate storm sewer. The size of the catch basins need to be increased. Staff needs to review the cities procedures when closing off street. In the past, Tiger Pond was always an issue but with the changes the city has made this pond was not even half full after the rain. Olson gave an update on the construction projects.

**CITY ATTORNEY:**

Continue to work on projects for the city. Will give an update at a later date on the criminal cases they are working on.

**PENDING ITEMS:**

There were no questions on the pending items.

**INFORMATION ONLY:**

There were no questions on the information items

**CONSIDERATION TO MOVE TO CLOSED SESSION FOR PRELIMINARY DISCUSSION OF SALE OF MUNICIPAL LIQUOR STORE PROPERTY AT 1305 E. COLLEGE DRIVE:**

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion to move to closed session at 6:55 p.m. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion Carried. 7 – 0

The Mayor called for a five minute recess.

The Council went into closed session at 7:02 p.m. Pursuant to MN Statute 13D.05 subd. (c) for 1305 East College Drive. Those present at the closed session included: Byrnes, Schafer, Doom, Bayerkohler, DeCramer, Sturrock and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; and Thomas M. Meulebroeck, Finance Director/City Clerk.

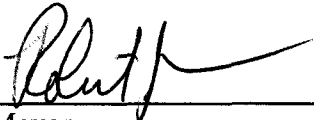
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The council came out of closed session at 7:15 p.m.

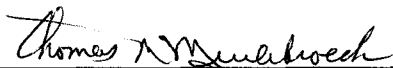
**UPCOMING MEETINGS:**

There were no questions on the upcoming meeting list.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion adjourn meeting. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Finance Director/City Clerk