

REGULAR MEETING – MAY 26, 2015

The regular meeting of the Common Council of the City of Marshall was held May 26, 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, John DeCramer, Glenn Bayerkohler, Larry Doom and Craig Schafer. Absent: David Sturrock. 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; Ilya Gutman, Building Official; Jane DeVries, Deputy City Clerk; 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 addition of item no. 18 which is Consideration of Amendment/Extension of Minnesota Standard Purchase Agreement with Ralco Nutrition.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 12, 2015:

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on May 12, 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: 6 Nay: 0. The motion **Carried 6 - 0**

SEC. 6-35 SMALL BREW LICENSES AND 6-211 PROOF OF AGE; DEFENSE, SEIZURE OF FALSE IDENTIFICATION - 1. PUBLIC HEARING; 2. ADOPTION OF ORDINANCE 3. ADOPTION OF SUMMARY ORDINANCE:

This was the date and time set for a public hearing on the proposed ordinance for Sec. 6-35 Small Brew Licenses and 6-211 Proof of Age; Defense, Seizure of False Identification. Ben Martig, City Administrator, indicated that the Legislative and Ordinance Committee met on Monday, May 11, 2015. Tom Handeland with the Hitching Post met and 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. He felt it would be nice to at least allow the option to be consistent with State law. 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. The redline ordinance dated 5-26-15 was introduced at the last council meeting as recommended by L&O and supported by staff. Please note in last meeting's background it was noted that TK Steakhouse was supportive of the change from 10 a.m. to 8 a.m. Sunday on sales. That was inaccurate information as TK had not followed up to support a change.

Council Member Bayerkohler requested that there be two motions to approve the ordinance. He indicated that he was in favor of the section regarding Underage Persons, but not in favor of changing the hours for Sundays.

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Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on the Ordinance Amending Sec. 6-35 Small Brew Licenses and Sec., Sec.6-59 Sunday on-sale licenses, and 6-211 Proof of Age; Defense; Seizure of False Identification'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**Glenn Bayerkohler**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council adopt ORDINANCE NUMBER 695, SECOND SERIES, Chapter 6 Alcoholic Beverages, Article V – Underage Persons Section 6-211- Proof of Age, Defense, Seizure of False Identification'. 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 **SUBSTITUTE** motion 'that the Council adopt ORDINANCE NUMBER 695, SECOND SERIES, Chapter 6 Alcoholic Beverages, Article I – In General Section 6-35 – Small Brew Licenses and Section 6-59 – Sunday On-Sale Licenses'. This change provides for Sunday sales to be allowed between the hours of 8:00 a.m. and 10:00 p.m. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 – 1** with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council adopt summary ORDINANCE NUMBER 695, SECOND SERIES, which is the Ordinance Amending Sec. 6-35 Small Brew Licenses, Section 6-59 on-sale licenses and Sec. 6-211 Proof of Age; Defense; Seizure of False Identification'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 – 1** with Bayerkohler voting no.

CHAPTER 86, DIVISION 3 OFF-STREET PARKING, SEC. 86-203 YARDS – PUBLIC HEARING AND ADOPTION OF ORDINANCE:

Glenn Olson, Director of Public Works/City Engineer, indicated that in the last several years, residents were installing, attempting to install, or inquiring about installing, pavement along and right against the side property line. All of those cases were within R-1 One family residence district. The Ordinance has always (at least since 2004) prohibited any parking or paving within all required yards, including side yards, in all residential districts. However, there are plenty of residential locations in town where paving comes right up to the property line. One of the reasons for that is that paving does not require a permit so no one checks or approves what people are doing. On the other hand, in business and industrial districts, the only restriction on parking location is a required distance of ten feet from the front property lines and all other property lines bordering residential districts. The new parking ordinance which went into effect last June relaxed the prohibition on paving up to the side property line by allowing it for one and two family dwellings if a neighbor does not complain and signs an agreement. The use of the paving along the side property line varies. Sometimes it is for parking of a third car, a boat or RV; sometimes it is an access drive to the detached garage in the back; and sometimes it is just a sidewalk to the side garage door. The only use explicitly prohibited by the Ordinance is the storage of boats and RV's which may only be stored outside of the required side yard. So it is clear that parking and paving are not necessarily the same things and it is possible to allow paving without allowing parking. The City is now considering some changes to these provisions in light of recent inquiries and contemplating allowing paving against the side property line in

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low density residential districts. In checking other cities' ordinances, it was noted that some cities do not restrict parking in required yards at all, some limit restrictions to front yard only, and some, like Marshall, prohibit parking and paving in side yards as well. The main question is what is the reason for limiting paving in required side yards. Limiting it in areas adjacent to other residences may reduce interference and negative impact of access drives on residential properties. However, for low density residence districts, negative influence of paving installed correctly alongside property line will be minimal. The staff's opinion is that paving for one- and two-family dwellings may be allowed next to the side property line provided it is not used for parking and it meets adjacent property elevation along the property line in addition to the existing requirement not to drain water there (unless natural slope dictates that). In addition, another small change is proposed allowing residential districts bordering commercial districts to be treated similar to commercial districts in regards to parking and paving because new landscaping regulations will take care of providing necessary green space. This issue was discussed at the Planning Commission meeting on October 8, 2014 but no common opinion was formed and no recommendation was made. At their meeting on April 27, 2015, the proposed changes were discussed by the Legislative & Ordinance Committee and recommend to the City Council for the introduction of the ordinance amending Chapter 86, Division 3 Off-Street Parking, Sec. 86-203 Yards.

Ilya Gutman, Building Official, reviewed the parking issues.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on the Ordinance Amending Chapter 86, Division 3 Off-Street Parking and Off-Street Loading, Sec. 86-203 Yards'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council adopt ORDINANCE NO. 696, SECOND SERIES, which is the Ordinance Amending Chapter 86, Division 3 Off-Street Parking and Off-Street Loading, Sec. 86-203 Yards'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1**, with DeCramer voting no.

SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER PUMP HOUSE – CONSIDER REJECTION OF BID:

One bid was received, opened and read on May 21, 2015 for the SMASC Pump House from:

KHC Construction, Inc.
Marshall, Minnesota
\$587,000.00 Base Bid
\$217,000.00 Alternate 1 – High School Irrigation
\$15.00 / CY Unit Price for Engineered Fill
\$5.00 / CY Site Engineered Fill

The project estimate was \$265,000.00 for Base Bid and \$175,000.00 for Alternate 1 – High School Irrigation. After review of the bid it is recommended that the bid be rejected. The

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architect will be reviewing the bid for comparison with the estimate. Staff plans to rebid the Pump House after this information is provided.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council reject the bid received for the SMASC Pump House'. 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 (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the following consent agenda items be approved as presented'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

The Wastewater Treatment Facility be authorized to purchase a new paint sprayer in the amount of \$5,915.00 from Sherwin Williams Company and the Wastewater budget account no. 602-90581-5540 be adjusted to reflect the purchase.

The City Council call for public hearing on the Preliminary Plat of Marshall Square Addition to be held at the June 9, 2015 City Council meeting, as per the recommendation of the Planning Commission.

Per the recommendation of the Personnel Committee the wage schedule for the Cable Coordinator to Media Communication Specialist on the 2015 City Wage Schedule be approved.

That the following bills and project payments be authorized for payment ACCOUNTS PAYABLE, Voucher No. 93698 through 93930.

The approval of a Taxi Cab License for Robert T. Quasius contingent upon the 2002 Honda Odyssey be marked as a Taxi as required by our Ordinance. This license will expire on December 31, 2015. The fee for this license is \$100.00.

CONSIDER RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS SERIES 2015B:

Terri Heaton, Springsteds, indicated that the General Obligation Bonds Series 2015B will be used for construction of various infrastructure projects. The Ways & Means committee reviewed the bond issue.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 4160, SECOND SERIES, which is a Resolution Providing for the Issuance and Sale of General Obligation Bonds Series 2015B in the amount of \$1,905,000.00'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

CONSIDER THE REQUEST OF MARTIN ZASTROW FOR A CONDITIONAL USE PERMIT FOR A CAR DEALERSHIP IN AN I-2 CENTRAL BUSINESS DISTRICT AT 904 HIGHWAY 59 NORTH:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from Mr. Martin Zastrow to have a used car sales lot in an I-2 General Industrial District. Used car sales has just

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been added as a conditional use to I-2 so this request is consistent with revised zoning ordinance. The owner of the property, Doug Mosch, has a dealership license for adjacent building from the 70's, prior to adoption of the current zoning ordinance. This Conditional Use Permit is intended for a person who wishes to lease a space from the owner. General Industrial District regulations are located in Section 86-107. The conditional use permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve the conditional use permit (CUP) be granted to Douglas Mosch to have a used car dealership in an I-2 General Industrial District at 904 Highway 59 North 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. That there will be at least 6 striped parking spots for customers with one handicap accessible. 5. Mr. Martin Zastrow is the lessee. 6. No parking in the green space is allowed'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

CONSIDER ACQUISITION OF MOBILE STAGE FOR CITY OF MARSHALL:

Ben Martig, City Administrator, indicated that the City of Marshall is a regional center of southwest Minnesota and has seen continued growth within the community related to visitors coming for arts and entertainment. In 2014, there were a number of regional events that demonstrated the City is lacking in a quality community stage that could be used for music and other formal presentations related to civic events. The City has primarily relied on the County stage that is basically an uncovered semi-trailer flatbed with stairs that is rented for \$1,000. This stage has been inadequate for expectations. In 2011, the City paid about \$4400 rental for a similar size stage for the "Celebrating the American Spirit" 10-year 9-11 memorial event. Staff is recommending the purchase of a stage that would be used for a number of locations including downtown (sounds of summer area), fairgrounds, Independence Park, Justice Park, new sports arena, new ballpark fields in development and more. Event usage for the City could include Sounds of Summer, Independence Day and Festival of Kites, and more. Staff would anticipate interest from MAFAC for music events and there is considerable Legacy funding available for various performance arts that this stage could accommodate. Staff would also expect it could be used for some other events in the City of Marshall such as Hopfest, Cinco-De Mayo, Lyon County Fair, and others.

SMSU has expressed an interest in rental of the stage for purposes of activities on campus. The uses could include music events open to the general public at the Regional Event Center, Mustang Pond Entrance Area (used for the past Governor Pheasant Opener), regional track and field facility and others on campus.

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If authorized, staff would work to finalize the purchase of the stage and separately the sound and light bars. Staff would also work on the development of a use policy that would come back for review at another time.

Staff searched for various stages online and narrowed to three. One vendor failed to respond to repeated requests. This purchase is more of a specialized product so the procurement process was treated more as a general request for proposals that involved some give and take similar to a fire truck acquisition.

The stageline product, while more costly, is considered the exact type of stage that would be beneficial for the vast majority of current and prospective events. That includes size, roof, handicap access, and other amenities. Stageline received very strong references. Upon reference checks - and feedback from Stageline - staff is recommending to purchase the sound and light including generator separate as staff believes they can get at a lower cost which will allow the City to increase the quality within that price range. Staff is also recommending adding Section "F Reversibility" in an effort to avoid damage to certain facilities that may be more difficult to maneuver such as the Schwan Regional Event Center and other outdoor turf venues that can have more sensitivity to heavy turning movements.

The City Council was interested in pursuing a stage during the budget process in 2014 for 2015 but it was proposed late in the process and had not identified the sources of funds. There was a suggestion to continue to research this and to come back with more information. Staff would need to move forward at this meeting if there was interest in securing this for Sounds of Summer that will feature additional performances in conjunction with the Fire Department 125th Anniversary.

The Sounds of Summer Committee did not initiate this process but the Chairs of the Committee are fully supportive and advocating now for the stage. Staff also knows there may be emerging opportunities for partners to add additional value to the stage as well.

Member **(Larry Doom)** moved, Member **(John DeCramer)** seconded to approve the **ORIGINAL** motion 'to approve the acquisition of Stageline mobile stage with the deletion of Section J Lighting & Sound and the addition of Section F Reversibility with a total City related project revenue budget of \$175,000 for stage and incidentals'. The recommended funding sources were:

\$84,975.00 dedicated use of former 1986 Hill Street Funds

\$24,431.00 current available Capstone Endowment Funds

\$40,000.00 park dedication fee reserves

\$27,178.00 capital equipment reserves

Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Bayerkohler voting no.

SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER – CONSIDER CHANGE ORDER NO. 2600.001 FOR CONTRACT #2600 ELECTRICAL:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 (2600.001) for Contract #2600 Electrical/Low Voltage for Contract #2600 Electrical for the Southwest Minnesota Regional Amateur Sports Center. This change order provides the labor and material to change Panel P20 Feeder to 400 amp in lieu of 200 amp. The design initially included the generator to run emergency systems only. The City subsequently acquired a large generator system capable of providing emergency power for the entire facility. In conversation with MMU, it would be a benefit to the City to utilize the generator as an interruptible power supply thereby significantly reducing the monthly power costs. After that determination, the entire building was designed to be connected to the generator as well. In the process of switching loads between panels, one panel switch got missed. The reason for increased cost is that this now requires an additional feeder. The feeder turned into a parallel run, so there is a second run of 2-1/2" EMT with the 250mcm aluminum wire and a #3 copper ground in both the runs. ATS&R and Wenck have reviewed this pricing and take no exceptions. There is no increase in contract time associated with this change order.

Member (**Craig Schafer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 (2600.001) for Contract #2600 Electrical/Low Voltage with L&S Electric, Inc. of Springfield, Minnesota, for a contract increase in the amount of \$1,593.00'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

APPROVAL OF APPOINTMENT TO VARIOUS BOARDS AND COMMISSIONS:

Per the recommendation of Mayor Byrnes, Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'approval of appointments to the Planning Commission and the Public Housing Commission'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Planning Commission – Mike Fox be appointed to a 3 year term to expire on May 31, 2018

Public Housing Commission – Carol Briggs be appointed to a 5 year term to expire on May 31, 2018

CONSIDERATION OF AMENDMENT/EXTENSION OF MINNESOTA STANDARD PURCHASE AGREEMENT WITH RALCO NUTRITION:

Ben Martig, City Administrator, indicated that the City of Marshall entered into an agreement for the acquisition of property or the construction of property to house City vehicles and to house vehicles confiscated or impounded by Marshall Police Department. Ralco Nutrition has requested an extension to the closing date to accommodate their transition to Hahn Road related to improvements made there in preparation of their move. The City Council met on April 14, 2015 in closed session to review the request. Mr. Martig briefly reviewed the proposed Amendment/Extension Agreement to the Minnesota Standard Purchase Agreement between Knochenmus Enterprises, LLC and City of Marshall. The extension agreement extends occupancy and payment for a 60 day time period. The agreement also anticipates that an additional 30 day extension can be granted if requested by Ralco. The additional 30 day

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extension also requires payment by Ralco of an additional \$1,500. The City has alternative storage needs secured for 2015. This amendment is proposed as a mutually beneficial arrangement between the buyer and seller.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to approve the Amendment/Extension of Minnesota Standard Purchase Agreement with Ralco Nutrition'. 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 met last week.

Schafer Library Board is working on their budget and the staffing is to be reviewed by the Personnel Committee.

Doom Convention and Visitors Bureau met last week; EDA discussed Parkway Addition; Personnel Committee discussed the job description for the Cable Production Technician.

Bayerkohler Planning Commission item was acted on earlier in the meeting.

DeCramer Utilities Commission met on May 20th; Ways and Means Committee item was acted on earlier in the meeting.

Conyers Community Services Advisory Board reviewed their Sumer programs.

COUNCILMEMBER INDIVIDUAL ITEMS:

There were no additional comments from the Council Members.

CITY ADMINISTRATOR:

Ben Martig, City Administrator, indicated that the Regional Trade Analysis will be sent to the Mayor and Council Members.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, provided an update on the construction and safety measures at the intersection of Minnesota Highway 23 and Saratoga Street. Mr. Olson extended the City's deepest sympathy to those affected by the fatal crash on May 21st.

Mr. Olson also provided updates on the various construction projects.

CITY ATTORNEY:

Dennis Simpson, City Attorney, provided updates on the TIF District for the Mall area; MMU will be holding a public hearing on June 17th and indicated that he would be providing an update on prosecutions through his office in the Administrative Brief.

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PENDING ITEMS:

There were no questions on the pending items.

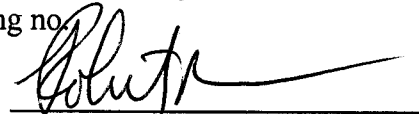
INFORMATION ONLY:

There were no questions on the information items

UPCOMING MEETINGS:

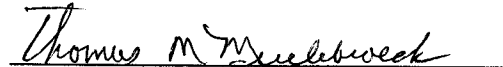
There were no questions on the upcoming meeting list.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'adjourn meeting'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed 5 – 1** with Schafer voting no.



Mayor

ATTEST:



Finance Director/City Clerk