

## REGULAR MEETING – APRIL 26, 2016

The regular meeting of the Common Council of the City of Marshall was held April 26, 2016 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: Larry Doom, David Sturrock, Ellayne Conyers; John DeCramer and Glenn Bayerkohler. Absent: Craig Schafer. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Harry Weilage, Director of Community Services; Ilya Gutman, Plan Examiner, Sheila Dubs, Human Resource Coordinator; Preston Stensrud, Parks Supervisor; Jason Anderson, Assistant City Engineer; Alex Peterson, Media Communications Specialist; Jane DeVries, City Clerk and Thomas M. Meulebroeck, Finance Director. Also, in attendance were: Cal Brink, CEO Marshall Area Chamber of Commerce and Darin Rahm, CVB Director.

The Pledge of Allegiance was recited at this time.

### **APPROVAL OF AGENDA:**

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'approve the agenda with the removal of item no. 36, which is a resolution authorizing execution of a collective bargaining agreement between LELS Local 190 and the City of Marshall and to move item no. 20, which is to consider a resolution naming of Steve Strautz Way to after no. 3 – approval of minutes'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

### **CONSIDER APPROVAL OF THE MINUTES OF THE LOCAL BOARD OF APPEAL AND EQUALIZATION HELD ON APRIL 12, 2016 AND THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 12, 2016:**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the minutes of the Local Board of Appeal and Equalization held on April 12, 2016 and the minutes of the regular meeting held on April 12, 2016 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**

### **APPROVAL OF RESOLUTION NAMING STATE HIGHWAY 23 UNDERPASS AS STEVE STRAUTZ WAY:**

Cal Brink, CEO Marshall Area Chamber of Commerce, indicated that Steve Strautz was one of Marshall's most passionate people when it came to safety and future infrastructure needs to prepare Marshall for the future. He served as Chair of the Marshall Area Chamber Transportation Group that worked on this project and others. His time and efforts can be seen throughout the community and this walkway. (Steve Strautz Way) is an example of one thing that would not have happened without Steve's vision. That vision is why the City now has students, fans, community residents and all who pass through, able to do so without crossing Highway 23 above. This underpass is just one of many priorities that had been identified as necessary in the long term goal of a safer Marshall and Southwest Minnesota. The City's task is not yet complete. Work continues towards other goals such as adding four lane highway access via Highway 23 through Southwest Minnesota that is and continues to be, underserved in comparison to the rest of Minnesota and working to identify areas of improvements through the Marshall Area Highway 23 Safety Assessment underway. For many years Steve was the "Voice"

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of the Marshall Area Transportation Group, a committee that functions within the Chamber of Commerce. Steve will always be remembered for his countless contributions to the community. Although his time was far too short on Earth, his memory and positive results can be seen and felt throughout the community for a long time to come. There will be a dedication ceremony the evening of April 29th in conjunction with the Southwest Minnesota State University Stampede Glow Run.

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4268, SECOND SERIES, which is a Resolution Naming State Highway 23 Underpass as Steve Strautz Way'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Mayor Byrnes and Cal Brink took this opportunity to present Sue Strautz with a Resolution Naming State Highway 23 Underpass as Steve Strautz Way.

**CONDUCT PUBLIC HEARING ON THE REQUEST OF JAN #2 LP TO MOVE A DWELLING INTO A RESIDENTIAL DISTRICT AT 1121 EAST FAIRVIEW STREET:**

This was the date and time set for a public hearing on the request of JAN #2 LP to move a dwelling into a residential district at 1121 East Fairview Street. Glenn Olson, Director of Public Works/City Engineer, indicated that the house to be moved is currently located in Spicer, MN. It is a one story over basement 2,142 S.F. footprint house with an attached garage built in 1958. This house was inspected by Ray Henriksen, Building Inspector II, and found to be in good condition suitable for moving. The plan is to set this house on a newly built basement at the new location; and at that time the entire house will be brought up to the new Building Code. The site at East Fairview Street seems to be adequate. The residential area where this house will be moved in does not appear to have any covenant agreements. All dwellings in that area were built in the mid 70's, have one story (one is a split entry), and have about 1,400 SF average footprint; some houses have attached garage and some do not. This house seems to be a good match for the area. According to the City Ordinance, the aesthetics, i.e. how the house fits into the locale to which it is being moved, is the main concern for the Council and a deciding factor for approval which shall be granted in case it is determined that the house does fit into the area.

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: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that the Council approve the request of JAN #2 LP to move a dwelling into a residential district at 1121 East Fairview Street'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**VACATION OF UTILITY EASEMENT IN LOT 1, BLOCK 1, WILKE-MILLER-BUESING SEVENTH ADDITION (GREGORY S. TAYLOR) - 1. PUBLIC HEARING, 2. CONSIDER RESOLUTION GRANTING A PETITION FOR VACATION.**

This was the date and time set for a public hearing to consider the vacation of a utility easement in Lot 1, Block 1, Wilke-Miller-Buesing Seventh Addition. Glenn Olson, Director of Public Works/City Engineer, reviewed the petition from Gregory S. Taylor for the vacation of a portion of a utility easement along the easterly side on Lot 1, Block 1, Wilke-Miller-Buesing Seventh Addition. A legal description for the area to be vacated is difficult as it runs diagonally across the lot and is only to be vacated from the south line of the existing east/west easement to the west line of the existing north/south easement. The purpose of the vacation is to remove the easement area to allow construction over or adjacent to the easement area. There are no existing utilities within the requested area for vacation.

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4269, SECOND SERIES , which is a Resolution Granting a Petition for Vacation of a Portion of a Utility Easement in Lot 1, Block 1, Wilke-Miller-Buesing Seventh Addition'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**PROJECT Z45: EAST LYON STREET / JEAN AVENUE / EAST REDWOOD STREET / "B" STREET RECONSTRUCTION PROJECT – 1. CONSIDER RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS; 2. CONSIDER RESOLUTION ACCEPTING BID (AWARD CONTRACT):**

Glenn Olson, Director of Public Works/City Engineer, reviewed the East Lyon Street / Jean Avenue / East Redwood Street / "B" Street Reconstruction Project Z45. This project consists of the proposed reconstruction of streets and utilities on East Lyon Street from "A" Street to "C" Street, "B" Street from East Main Street to East Redwood Street, East Redwood Street from "A" Street to East Lyon Street, and Jean Avenue from East Redwood Street to South Whitney Street.

Bids were received, opened and read on April 26, 2016 from:

R & G Construction Co.  
Marshall, Minnesota  
\$1,411,351.00

D & G Excavating, Inc.  
Marshall, Minnesota  
\$1,562,459.65

Keuchle Underground, Inc.  
Kimball, Minnesota  
\$1,644,685.70

Quam Construction Company, Inc.  
Willmar, Minnesota  
\$1,779,038.36

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Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4270, SECOND SERIES, which is a Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z45: East Lyon Street / Jean Avenue / East Redwood Street / "B" Street Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4271, SECOND SERIES, which is a Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with R&G Construction Co. of Marshall, Minnesota, in the amount of \$1,411,351.00 for Project Z45: East Lyon Street / Jean Avenue / East Redwood Street / "B" Street Reconstruction Project'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**CONSIDER AWARD OF QUOTATIONS FOR PORTABLE RESTROOMS SUPPLY AND MAINTENANCE AT VARIOUS LOCATIONS:**

A proposal was received on April 21, 2016 for providing portable restrooms and cleaning for various locations in the city of Marshall from Southwest Sanitation, Inc., Marshall, Minnesota.

Weekly Rates:

Liberty Park	May 2 <sup>nd</sup> – October 3 <sup>rd</sup>	\$45.57
Legion Field Softball Fields	May 23 <sup>rd</sup> – August 22 <sup>nd</sup>	\$45.57
Windstar Park	May 2 <sup>nd</sup> – October 3 <sup>rd</sup>	\$45.57
Wayside Park	May 23 <sup>rd</sup> – October 3 <sup>rd</sup>	\$45.57

Daily Rates:

Day Rate/Unit for Special Events \$58.80

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'Award the quotations for Portable Restrooms supply and maintenance services to Southwest Sanitation, Inc. of Marshall, Minnesota for the period of May 2, 2016 to October 3, 2016'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**AWARD OF QUOTATIONS FOR SEPTIC TANK PUMPING AT THE SOFTBALL COMPLEX:**

A proposal was received on April 21, 2016 to provide pumping and dumping of the softball complex septic tanks from:

Laleman Septic & Drain  
Ghent, Minnesota  
\$100.00 per tank per dump

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council award the quotation to Laleman Septic & Drain of Ghent, Minnesota, for septic tank services at the softball complex in the amount of \$100.00 per pumping

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and dumping per tank'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**APPROVAL OF CONSENT AGENDA:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion '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 proper city personnel be authorized to enter into a Professional and Technical Services Contract Amendment 2 with the State of Minnesota for the SWMN Chemical Assessment Team. This is an extension of the current 5-year award, but will be extended an extra year to the end of September 2017.

The approval of a Transient Merchant License for The Country Stop to sell fresh produce at Perkins parking lot located at 1020 Southview Drive at a fee of \$315.00. This license will expire on December 31, 2016.

The approval of the Amended Fire Department Scholarship Trust Fund Administrative Policy. This policy outlines the background information of the fund, fund designations, award selection criterion, and award amount parameters.

That the Council call for a public hearing to be held on May 9, 2016 on the Preliminary Plat of Habitat for Humanity Addition.

The approval of the termination and transfer of waterline and water utility easement from the City of Marshall to property owners Gary and Armella Deutz.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 98224 through 98443.

**CONSIDER RESOLUTION FOR GREATER MINNESOTA INFRASTRUCTURE GRANT FOR PHASE I DEVELOPMENT OF THE COMMERCE INDUSTRIAL PARK:**

City and EDA staff have cooperatively developed an application for Phase I of the Commerce Industrial Park. A power point presentation was presented to the Marshall City Council on March 15, 2016. The cost and financing is the same as proposed at that time. The EDA has reviewed the proposal at two separate meetings following the City Council work session in March and April. There was a unanimous recommendation to recommend the City Council approve the resolution and application at their April 20 meeting. The intersection project is underway. The completion of the infrastructure proposed in this application and titled "Phase I" in the Power point will allow development to occur on the site.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 4272 SECOND SERIES, which is a Resolution for Greater Minnesota Infrastructure Grant for Phase I Development of the Commerce Industrial Park'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**6:00 P.M. - PUBLIC HEARING ON PROPOSED PROPERTY TAX ABATEMENTS AND CONSIDERATION OF RESOLUTIONS APPROVING PROPERTY TAX ABATEMENT AND RELATED BONDS:**

The public hearing was called to order at 6:13 P.M. on the Proposed Property Tax Abatements and consideration of Resolutions approving Property Tax Abatement and Related Bonds. Doug Green, Vice President from Springsted, provided a power point presentation on the Tax Abatement Bonds. Items reviewed included:

- Proposed use of funds
- Financing
- Abatement: What is it? How does it work?
- Tax Abatement Basics, Eligible Costs, Constraints, Project Examples, Bond Specifics
- Proposed Tax Abatement Area

Council Member Bayerkohler was concerned that \$2.7 million would be used for ballfield improvements. He thought the voters should be allowed to vote on a referendum for this.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. 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 (**David Sturrock**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4273, SECOND SERIES, which is a Resolution Approving Property Tax Abatement Related to Public Infrastructure Improvements in the City of Marshall, Minnesota'. 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 (**David Sturrock**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4274, SECOND SERIES, which is a Resolution Providing for the Issuance and Sale of General Obligation Tax Abatement Bonds, Series 2016C, in the Proposed Aggregate Principal Amount of \$2,900,000'. 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 (**David Sturrock**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4275, SECOND SERIES, which is a resolution providing for the Declaration of Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 - 1**, with Bayerkohler voting no.

**CONSIDER RESOLUTIONS PROVIDING FOR THE ISSUANCE AND SALE OF BONDS FOR THE FOLLOWING: GENERAL OBLIGATION BONDS, SERIES 2016B; GENERAL OBLIGATION UTILITY REVENUE REFUNDING BONDS, SERIES 2016D:**

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'to adopt RESOLUTION NUMBER 4276, SECOND SERIES, which is a Resolution Providing for the Issuance and Sale of General Obligation Bonds, Series 2016B in the amount of \$3,660,000'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

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Member (**Glenn Bayerkohler**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4277, SECOND SERIES, which is a Resolution Providing for the Issuance and Sale of General Obligation Utility Revenue Refunding Bonds, Series 2016D in the amount of \$3,440,000'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'to adopt RESOLUTION NUMBER 4278, SECOND SERIES, which is a resolution providing for the Declaration of Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax Exempt Bonds'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**CONSIDER AGREEMENT WITH PROPERTY OWNER PAUL DROWN TO RAZE HAZARDOUS PROPERTY LOCATED AT 104 S. 10TH STREET, MARSHALL:**

Paul Drown, currently residing in Milroy, Minnesota, is the owner of property located at 104 S. 10th Street, Marshall, Minnesota, with tax parcel ID 27-843008-0. This property has previously been damaged and is in a state of disrepair. The property is unoccupied and is not served by water, sanitary sewer service, electrical or natural gas service. The City Attorney's office and the Building Official's office have been working with Mr. Drown for an extended period of time, regarding the demolition of that property. Mr. Drown has attempted to come up with the finances to pay for the demolition of the property, but has been unable to do so. Minnesota Statutes §463.151 authorizes the City to proceed with demolition of property, and to bill the costs to the property owner and assess those costs as a special assessment against the property. Mr. Drown has agreed to that statutory process and a consent agreement to that effect has been prepared. Mr. Drown has contacted D&G Excavating to proceed with the demolition of the property. Asbestos inspection and abatement has occurred. D&G has applied for both the State and local demolition permits. D&G Excavating is ready, willing and able to proceed with the work as anticipated. The cost for the demolition of the property is on an hourly rate not to exceed total of \$5,000.

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the proper City personnel be authorized to enter into a Consent Agreement with property owner Paul Drown regarding demolition of hazardous building property located at 104 S. 10th Street, Marshall'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**EDA 2016 ANNUAL REPORT PRESENTATION:**

Cal Brink, CEO Marshall Area Chamber of Commerce, reviewed the 2015 Annual Report. Mr. Brink provided information on:

New Businesses	Business Development
Business Expansion	City Projects
Building Permit Activity	Retail Trade Analysis
Demographic Analysis	Workforce Analysis
Educational Analysis	Housing Analysis
Development Opportunities	

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Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to accept the 2015 EDA Annual Report'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

Mayor Byrnes called for a 5-minute recess at 7:12 P.M.

**CONSIDER APPROVAL TO PURCHASE STUDIO 1 PRODUCTION EQUIPMENT:**

Ben Martig, City Administrator, and Alex Peterson, Media Communications Specialist; provided input on the request to purchase Studio 1 Production Equipment.

In order to improve Studio 1 TV's collaboration with Marshall Public Schools and SMSU, there is a significant need to upgrade equipment. This will enhance local cable access television capabilities, and in turn, benefit all residents of Marshall. Staff had been delaying the equipment acquisition to coincide with cable franchise renewal negotiations. Recent discussions with the City Attorney and the consulting attorney who specializes with cable franchises have concluded that it is not realistic that the City will have any up-front capital replacement as part of the new negotiated agreement. Recent settlements with other cities in Minnesota and Charter Communication have clarified likely outcomes. Ultimately, there is no benefit in delaying and may actually assist in negotiations to have had significant equipment investment completed.

Last summer, Studio 1 moved from the leased property on 3rd Street into the Marshall High School. The intention was to allow Studio 1 staff to work with students in the Video Production classes, provide a location for a studio and have Studio 1 staff manage and operate the TigerTV channel. After the school year started, rapidly growing enrollment created space issues within the shared classroom/studio area and made it difficult for community members to schedule and shoot television programming in that location. SMSU graciously stepped forward and offered their dedicated TV studio space for Studio 1 to utilize for producing local programming to reduce the conflicts that had arisen at the high school. SMSU then offered to renovate some underutilized space in the duplication/mailroom area to build a new larger office space for Studio 1.

To strengthen this partnership, Studio 1 agreed to move their office from Marshall High School over to the new space at SMSU. This will allow SMSU students the opportunity to easily help with producing local programming for Studio 1 and in return, Studio 1 can offer internship hours back to those students. The best part of this collaboration is the fact that Studio 1 will be able to utilize all of the SMSU equipment and TV studio area for show production. Even after this move, Studio 1 staff will continue to be available to help with the MHS video production class and continue to manage the MHS TigerTV channel to keep their partnership and collaboration with the high school.

As it stands today, there has been a lack of funding available to upgrade aging equipment for Studio 1, Tiger TV and SMSU Media. A majority of Studio 1's video production equipment is outdated, still standard definition and the cable broadcasting equipment is reaching its end-of-life. Tiger TV's production equipment and cable broadcasting equipment is even older than Studio 1's. SMSU Media's studio equipment is currently from the early 1990s and completely outdated. All three cable channels run from separate systems currently which is very difficult to



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manage and keep running. None of these systems are currently able to broadcast in high definition or provide any video content for online delivery.

Because of the degraded and outdated equipment, Studio 1 is requesting to purchase a new Cablecast broadcast system that would be able to run all three channels from one system instead of duplicating three separate systems, in turn saving significant costs for all three entities. Studio 1 is also requesting to update their cameras and Tricaster Live Video Production system in order to be HD (high definition) capable. This upgrade of equipment would all be required to be in place before adding any HD cable access channels on both Vast and Charter's cable lineups. SMSU currently has a program available of reserved monies that provide a dollar-for-dollar match from any gifts of money or equipment to the university.

The City does receive all of the cable franchise taxes that does justify the City purchase of equipment that services Marshall Public Schools and SMSU. Each of the organizations are contributing in their own equipment needs and have provided space for production at both locations at no cost to the City. The ongoing partnership will continue to evolve related to financial and in-kind contributions.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'approve the purchase of equipment for Studio 1 in the amount of \$101,900 subject to the SMSU leveraged funds currently estimated at \$57,000'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0** Abstain: **1**. The motion **Passed 5 – 0 – 1** with Bayerkohler abstaining.

**SCHWAN REGIONAL AMATEUR SPORTS CENTER – CONSIDER CHANGE ORDERS: 1) CHANGE ORDER NO. 9 (2200.009) FOR CONTRACT #2200 PLUMBING & HEATING WITH BISBEE PLUMBING & HEATING; 2) CHANGE ORDER NO. 3 (0840.003) FOR CONTRACT #0840 ALUMINUM ENTRANCES, STORE FRONTS & WINDOWS WITH SOUTHWEST GLASS CENTER, INC.; 3) CHANGE ORDER NO. 6 (0930.006) FOR CONTRACT #0930 TILE WITH SUPERIOR TILE & TERRAZZO, INC.; 4) CHANGE ORDER NO. 11 (2600.011) FOR CONTRACT #2600 ELECTRICAL/LOW VOLTAGE WITH L&S ELECTRIC, INC.:**

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the change orders for the Schwan Regional Amateur Sports Center be tabled to the May 9, 2016 regular meeting'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

**CONSIDER CHANGE ORDER BE AUTHORIZED AND PROCESSED REGARDING THE ACQUISITION AND INSTALLATION OF RUBBER TILE FLOORING OVER PORTIONS OF THE RED BARON™ ARENA & EXPO FACILITY IN FULL AND FINAL SETTLEMENT OF POLISHED CONCRETE FLOOR DELAMINATION MATTER AND THAT THE CITY ATTORNEY BE DIRECTED TO PROCESS AND PREPARE A SETTLEMENT AGREEMENT AND HOLD HARMLESS AGREEMENT BETWEEN THE CITY, ITS CONSTRUCTION MANAGER, ARCHITECTS, AND INNOVATIVE BUILDERS, INC. AND MOLIN CONCRETE PRODUCTS, INC. CONTRACTORS REGARDING THIS CONSTRUCTION MATTER.**

Molin Concrete Products, Inc. of Lino Lakes, Minnesota, was awarded contract number 0341 to provide precast concrete plank and stadia at the Red Baron™ Arena & Expo project for the City of Marshall. The original contract was in the amount of \$272,093. Payment and performance bonds were provided by Travelers Casualty and Surety Company of Minnesota.

Innovative Builders of Alexandria, Inc. was awarded contract number 0330 to provide cast in place concrete in the amount of \$761,000 for the Red Baron™ Arena & Expo project. Payment and performance bonds were provided by West Field Insurance Company as the surety.

The contractors provided materials and service pursuant to the approved contracts. After installation of the concrete flooring, however, it was noted that there were hairline cracks/fractures appearing on the surface of the concrete. Tests were performed on the flooring to determine the extent of damage/problems created by the cracking. There is no spalling or deterioration of the surface of the concrete at the present time. Three separate tests were completed including testing of two 6 inch deep core samples taken of both the concrete topping and the precast concrete stadia plank. Testing revealed that the concrete topping did not properly adhere to the precast stadia planking at various locations. The testing has determined, however, that the structural integrity of the product does meet the appropriate guidelines. Testing concluded with the following statement: “Both the coarse and fine aggregate was hard, appeared sound, and durable.”

The air void analysis as completed by American Engineering Testing, Inc. (AET) concluded “the concrete contains an air void system which is not consistent with American Concrete Institute (ACI) recommendations for freeze/thaw resistance.” As this surface is on the interior of the building, it would appear that the freeze/thaw resistance should not be an issue.

Both contractors and their bonding companies have been contacted and notified of the existence of the problem. Both contractors have agreed to each be responsible for one-half of the costs related to the installation of a rubber tile surface over the “problem area” of the surface area. Costs for the materials, labor and other costs associated with this fix are estimated to be \$94,692. It will take approximately 3-4 weeks for the delivery of the product. City Engineer Glenn Olson has indicated that the surface appears to be sound. The testing company had a very difficult time removing the core samples as there is significant wire mesh within the surface which would make removal of the concrete topping difficult, time-consuming and expensive. City Attorney is estimating that it would be a 2-3 year litigation process to reach court ordered resolution, if there was not a voluntary compliance with the contractors. The proposed rubber tile product appears to be a resolution that construction management, architect, contractors and City are proposing and

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appears to be a satisfactory resolution. Both contractors are agreeable to be responsible for the appropriate costs, but do want a hold harmless indemnification agreement executed so that their liability ends with the installation of the rubber tile product. The rubber tile product is the same product that has been installed elsewhere within the facility.

Any litigation resulting from this matter would be complex litigation requiring referral to construction experts and would be time-consuming, expensive and would delay the use of a portion of the facility for a significant amount of time. Loss of use would be a significant factor in any subsequent litigation. Any potential or future litigation would be subject to district court mandated mediation in an attempt to limit and resolve costs and liability exposure.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'approval of a change order regarding the addition of rubber tile flooring to be installed at the Red Baron™ Arena & Expo Center'. 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 (**David Sturrock**) seconded to approve the **NEW** motion 'that the City Attorney work on a settlement agreement between all parties to be signed as full and final satisfaction of this matter'. 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 FURNITURE FOR AMATEUR SPORTS ARENA:**

Quotes were received for furniture for the Red Baron Arena and Expo from:

	Office Elements Sioux Falls, South Dakota	One Office Solutions Worthington, Minnesota
Club Room		
30 Fold-up Tables	\$10,756.20	\$14,926.20
65 Nesting Chairs	16,519.10	13,667.55
Bistro Tables		
10 Tables	4,062.10	4,754.00
30 Chairs	6,891.00	8,064.90
Meeting Room		
18 Fold-up Tables	6,453.72	8,955.72
40 Chairs	9,408.80	8,410.80
4 Office Chairs	1,342.76	1,254.24
4 Press Box Chairs	918.80	1,075.32
TOTAL	\$56,352.48	\$61,108.73

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'authorize the purchase of the furniture for the Red Baron Arena and Expo

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from Office Elements, in the amount of \$56,352.48'. 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 APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:**

Per the recommendation of Mayor Byrnes, Member (**David Sturrock**) 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: **6** Nay: **0**. The motion **Carried 6 - 0**

Adult Community Center – Larry Schiavo be reappointed to a 3 year term to expire on May 31, 2019

Airport Commission – John Albert be reappointed to a 3 year to expire on May 31, 2019

Airport Commission – David Bero be appointed to a 3 year term to expire on May 31, 2019

Airport Commission – Kyle Dretsch be appointed to a 3 year term to expire on May 31, 2019

Economic Development Authority – Chester Lockwood be reappointed to a 6 year term to expire on May 31, 2022

Marshall Municipal Utilities Commission – Sonya Kayser be appointed to a 5 year term to expire on May 31, 2021

Planning Commission – Mark Ruud be appointed to a 3 year term to expire on May 31, 2019

Planning Commission – Russell Labat be appointed to a 3 year term to expire on May 31, 2019

Police Advisory Board – Tricia Zimmer be reappointed to a 3 year term to expire on May 31, 2019

Public Housing Commission – Dale H. Janiszski be reappointed to a 5 year term to expire on May 31, 2021

**UPDATE ON MAY 2016 BUILDING SAFETY MONTH:**

The International Code Council is promoting the National Building Safety month as a means to advance understanding of building codes in communities. The National Building Safety month is May and it is a good opportunity for the Marshall Building Department to raise awareness in Marshall about what the Building Inspection Department does and why. Staff is working on additional ongoing public communications related to building safety; they will be relatively short ones devoted to the topics of Building Codes in general, Minnesota Building Code and its enforcement in Marshall, smoke and fire alarms, etc.

Doom moved, DeCramer seconded, the adoption of the Mayor's Proclamation designating May, 2016 as the Building Safety Month.

**COMMISSION/BOARD LIAISON REPORTS:**

Byrnes No report.

Doom EDA items were acted on earlier in the meeting; Legislative & Ordinance Committee met but he was unable to attend.

Bayerkohler Planning Commission items were acted on earlier in the meeting.

DeCramer Utilities Commission held a presentation on their 2015 Audit; Ways and Means Committee items were acted on earlier in the meeting.

Sturrock No report.

Conyers No report.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

At this time Mayor Byrnes and Council Members Doom, Bayerkohler, DeCramer, Sturrock and Conyers expressed their appreciation and thanked Ben Martig, City Administrator, for his leadership and hard work during his time with the City of Marshall.

**CITY ADMINISTRATOR:**

Ben Martig, City Administrator, provided updates on the following items:

- Issues in regard to the railroad tracks
- Tree policy
- Bond documents
- Status of the Finance Director position
- Assistant Finance Director Position has been filed
- Status of Community Services Director position
- Special City Council on May 9, 2016 to review applications for Administrator Position
- Concern with MAHA disposing of hockey equipment

Ben indicated that it was an honor, pleasure and greatly appreciated the Council's support during his time as City Administrator.

**CITY ATTORNEY:**

Dennis Simpson, City Attorney, thanked Ben for his service, professionalism and wished him good luck.

**PENDING ITEMS:**

There were no questions on the pending items.

**DETERMINATION TO GO INTO CLOSED SESSION PURUSANT TO MINNESOTA STATUTE 13D.03 RELATED TO UNION CONTRACTS:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'adjourn to close session'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

The Council went into closed session at 8:24 P.M. Those present at the closed session included: Byrnes, Doom, Bayerkohler, DeCramer, Sturrock and Conyers. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Sheila Dubs, Human Resource Coordinator; Jane DeVries, City Clerk and Thomas M. Meulebroeck, Finance Director.

The Council came out of closed session at 8:43 P.M.

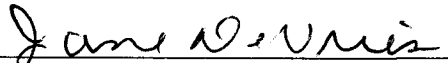
**UPCOMING MEETINGS**

There were no questions on the upcoming meeting list.

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

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk