

## REGULAR MEETING – JUNE 14, 2016

The regular meeting of the Common Council of the City of Marshall was held on June 14, 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: Craig Schafer, Glenn Bayerkohler, David Sturrock and Ellayne Conyers. Absent: Larry Doom and John DeCramer. Staff present included: Sheila Dubs, Interim City Administrator / Human Resource Manager; Glenn Olson, Director of Public Works/City Engineer Jane DeVries, City Clerk and Thomas M. Meulebroeck, Finance Director. Other staff included: Karla Drown, Finance Director effective September 1, 2016.

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 with the addition of item no. 12, which is to consider approval of a Transient Merchant License for TNT Fireworks and item no. 14, which is to authorize advertisement for bids for the Schwan Regional Amateur Sports Center Ball Field Concessions Building.

### **CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 24, 2016 AND THE SPECIAL MEETING HELD ON JUNE 2, 2016 AND THE SPECIAL MEETING HELD ON JUNE 7, 2016:**

Member (**Craig Schafer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'the minutes of the regular meeting held on May 24, 2016 and the minutes of the special meeting held on June 2, 2016 and the minutes of the special meeting held on June 7, 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: **5** Nay: **0**. The motion **Carried 5 - 0**

### **VACATION OF EASEMENT IN WESTERN MENTAL HEALTH CENTER ADDITION (WESTERN MENTAL HEALTH CENTER, INC.) - 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 Western Mental Health Center Addition. Glenn Olson, Director of Public Works/City Engineer, indicated that the purpose of the vacation is to eliminate the easements on the property. All utility companies have been contacted, and staff received no adverse comments.

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

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4291, SECOND SERIES, which is the "Resolution Granting a Petition for Vacation of a Utility Easement" in Lot 1 and Lot 2, Block 1, Western Mental Health Center Addition'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Council Member Sturrock excused himself from the meeting at this time.

**PROJECT Z51: BITUMINOUS OVERLAY ON VARIOUS CITY STREETS**  
**CONSIDER RESOLUTION ACCEPTING BID (AWARDING CONTRACT):**

One bid was received on June 7, 2016 for Bituminous Overlay Project Z51 from:

Duininck, Inc.,  
Prinsburg, Minnesota  
\$276,286.20

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4292, SECOND SERIES which is the "Resolution Accepting Bid (Award Contract)" for Project Z51: Bituminous Overlay on Various City Streets to Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$276,286.20'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **0** The motion **Carried 4 - 0**

**PROJECT Z50: BITUMINOUS CHIP SEALING ON VARIOUS CITY STREETS**  
**CONSIDER RESOLUTION ACCEPTING BID (AWARDING CONTRACT):**

Bids were received on June 7, 2016 for Bituminous Chip Sealing Project Z50 from:

Caldwell Asphalt Co., Inc.  
Hawick, Minnesota  
\$79,599.63

Allied Blacktop Company  
Maple Grove, Minnesota  
\$79,865.05

Member (**Glenn Bayerkohler**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4293, SECOND SERIES, which is the "Resolution Accepting Bid (Award Contract)" for Project Z50: Bituminous Chip Sealing on Various City Streets to Caldwell Asphalt Co. Inc. of Hawick, Minnesota, in the amount of \$79,599.63'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **0**. The motion **Carried 4 - 0**

**APPROVAL OF CONSENT AGENDA:**

Member (**Craig Schafer**) moved, Member (**Ellayne Conyers**) 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: **4** Nay: **0**. The motion **Carried 4 - 0**

The approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at Advanced Opportunities, 1401 Peterson Street, Marshall, Minnesota on July 13, 2016.

The approval of a Temporary On-Sale Liquor License for Marshall Area Chamber of Commerce to use at Running's Distribution Center, 911 Michigan Road, Marshall, Minnesota on August 3, 2016.

The introduction of an ordinance renaming Merlin Lane to Camelot Avenue.

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That the City Council meetings for 2017 be held on the second and fourth Tuesday of the month at the Marshall Middle School Professional Development Room, 401 South Saratoga Street at 5:30 p.m.

The approval of a Transient Merchant License for TNT Fireworks to sell Minnesota approved Safe & Sane Fireworks in the Walmart parking lot located at 1221 East Main Street contingent upon receipt of additional required documents.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 98848 through 99081.

**CONSIDER AUTHORIZATION TO ADVERTISE FOR BIDS FOR CONCESSIONS BUILDING AT THE SCHWAN REGIONAL AMATEUR REGIONAL SPORTS CENTER:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City has received plans from ATS&R for the Concessions Building at the Schwan Regional Amateur Sports Center. The plans include the concessions building, dugouts, and spectator seating. The utilities are in place for connection to the building.

Member (**Craig Schafer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the Council authorize advertisement for bids for the Schwan Regional Amateur Sports Center Ballfield Concessions Building'. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 1. The motion **Passed 3 – 1** with Bayerkohler voting no.

**CONSIDER SPECIAL EVENT PERMIT FOR SOUNDS OF SUMMER:**

On March 22, 2016 the City Council adopted a resolution Declaring Sounds of Summer as a Community Festival. Sounds of Summer is scheduled for Thursday, August 18, 2016 through Sunday, August 21, 2016. This application identifies the various individuals, organizations and activities involved with the Sounds of Summer. Approval of this permit would allow the holder of a retail intoxicating liquor license to serve intoxicating liquor off their premises. By approving this Special Event Permit the Hitching Post will be allowed to serve alcohol at the Sounds of Summer.

Member (**Craig Schafer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'the approval of a Special Event Permit for the Marshall Festivals Inc., dba Marshall Sounds of Summer and approval for the Hitching Post to serve alcohol in the fenced off area of the parking lot on West College Drive from 5:00 P.M. to 11:00 P.M. on Thursday, August 18, 2016 and from 5:00 P.M. on Saturday, August 20, 2016 to 1:00 A.M. on Sunday, August 21, 2016'. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 1. The motion **Passed 3 – 1** with Bayerkohler voting no.

**CONSIDER APPROVAL OF A TEMPORARY ON-SALE LIQUOR LICENSE FOR MARSHALL AREA SHRINE CLUB:**

The approval of a Temporary On-Sale Liquor License for the Marshall Area Shrine Club to use from August 5, 2016 to August 6, 2016 at Southwest Minnesota State University, 204 Mustang Trail, Marshall, Minnesota'. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 0 Abstain: 1. The motion **Passed 3 – 0 – 1** with Bayerkohler abstaining.

Council Member Sturrock returned to the meeting at 5:51 P.M.

**SCHWAN REGIONAL AMATEUR SPORTS CENTER – CONSIDER CHANGE ORDERS - 1) CHANGE ORDER NO. 5 (0512.005) FOR CONTRACT #0512 – STEEL SUPPLY WITH THURNBECK STEEL FABRICATION, INC.; 2) CHANGE ORDER NO. 2 (0420.002) FOR CONTRACT #0420 – MASONRY WITH JOHNSON NELSON MASONRY, INC.; 3) CHANGE ORDER NO. 5 (0510.005) FOR CONTRACT #0510 – STEEL ERECTION WITH SOWLES COMPANY; 4) CHANGE ORDER NO. 3 (0750.003) FOR CONTRACT #0750 – ROOFING & METAL PANELS WITH LAKE AREA ROOFING & CONSTRUCTION; 5) CHANGE ORDER NO. 2 (0965.002) FOR CONTRACT #0965 – RESILIENT FLOORING & CARPET WITH MULTIPLE CONCEPTS INTERIORS, INC.; 6) CHANGE ORDER NO. 1 (2100.001) FOR CONTRACT #2100 – FIRE PROTECTION WITH BRETH-ZENZEN FIRE PROTECTION, LLC:**

These change orders have been prepared, reviewed and recommended for approval by the City's Construction Manager, Wenk, for the Schwan Regional Amateur Sports Center.

Council Member Schafer was concerned with the City paying for change orders that were caused by design error.

Glenn Olson, Director of Public Works/City Engineer, indicated that the project manager is tracking the change orders and they will be used to determine the final payment for the contractors.

Council Member Sturrock asked if the change orders could be tabled until the final payment is made. Mr. Olson stated that the change orders affect the payment to the contractors and not the project manager.

Member (**David Sturrock**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the following change order resulting in a contract decrease: -Change Order No. 5 (0512.005) for Contract #0512 – Steel Supply with Thurnbeck Steel Fabrication, Inc. of Forest Lake, Minnesota, resulting in a contract decrease in the amount of \$16,355.00'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'that the Council approve the following change orders resulting in a contract increase: -Change Order No. 2 (0420.002) for Contract #0420 – Masonry with Johnson Nelson Masonry, Inc. of Ashby, Minnesota resulting in a contract increase in the amount of \$480.00.

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Change Order No. 5 (0510.005) for Contract #0510 – Steel Erection with Sowles Company of Shakopee, Minnesota resulting in a contract increase in the amount of \$20,948.00. Change Order No. 3 (0750.003) for Contract #0750 – Roofing & Metal Panels with Lake Area Roofing & Construction of Blaine, Minnesota resulting in a contract increase in the amount of \$275.00. Change Order No. 2 (0965.002) for Contract #0965 – Resilient Flooring & Carpet with Multiple Concepts Interiors, Inc. of Waite Park, Minnesota resulting in a contract increase in the amount of \$64,400.00. Change Order No. 1 (2100.001) for Contract #2100 – Fire Protection with Breth-Zenzen Fire Protection, LLC of St. Joseph, Minnesota resulting in a contract increase in the amount of \$15,850.00'. Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 2. The motion **Passed 3 - 2** with Sturrock and Bayerkohler voting no.

**PROJECT BP3: PUMP STATION CONSTRUCTION PROJECT AT SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS BALLPARK - 1. CONSIDER CHANGE ORDER NO. 2 (FINAL); 2. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 2:**

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 (Final) for Project BP3 Pump Station with H&W Contracting LLC resulting in a contract decrease in the amount of \$2,789.75'. This change order is the result of final measurements and changes in item quantities. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

Member (**Ellayne Conyers**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council acknowledge Final Pay Request (No. 2) for Project BP3 Pump Station in the amount of \$12,338.64 to H&W Contracting LLC.'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

**PROJECT Y62 / S.A.P. 139-111-005: T.H. 23 / SOUTH SARATOGA STREET REDUCED CONFLICT INTERSECTION AND PEDESTRIAN OVERPASS PROJECT – CONSIDER AMENDMENT PROPOSAL NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SEH, INC:**

Glenn Olson, Director of Public Works/City Engineer, indicated that at the October 22, 2013 meeting, the Council authorized entering into an Agreement for Professional Services for Preliminary Design Engineering, Final Design & Bidding, and Construction Engineering Services associated with the TH 23/South Saratoga Pedestrian Overpass and Safety Improvements Project to Short Elliott Hendrickson, Inc. of Mankato, Minnesota, in the amount of \$467,000, on an hourly, not to exceed basis. At the January 27, 2015 meeting, the Council awarded the Amendment Proposal No. 1 to the Professional Services Agreement for Preliminary Design Engineering, Final Design & Bidding, and Construction Engineering Services associated with the TH 23/South Saratoga Pedestrian Overpass and Safety Improvements Project to Short Elliott Hendrickson, Inc. of Mankato, Minnesota, in the amount of \$95,000, on an hourly, not to exceed basis, for a total contract amount of \$562,000. This project provides a pedestrian/bike grade separation, prevents traffic from crossing T.H. 23, and provides J turn access from T.H. 23 to northbound and southbound Saratoga Street. Due to the contractor's failure to meet the substantial completion requirements of the roadway and bridge work, this resulted in additional SEH time and cost as a result of their services extending well past November 2015 and is continuing until final completion expected in July of 2016. SEH provided a proposal for

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amending their existing professional services agreement to include construction observation (observation and review of final work until work is completed, final punch list, review final payment applications) and construction administration (contractor negotiations, administration of final paperwork with MnDOT, process final payment applications, change orders and record drawings). The additional cost would be billed on an hourly, not-to-exceed basis, similar to their existing agreement. Additional professional services costs for this estimated construction amount is \$35,000 or approximately 5%. This is well within the normal range for engineering services. These additional costs will be considered in determining final penalties to the contractor prior to final payment.

Member (**David Sturrock**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council award Amendment Proposal No. 2 to the Professional Services Agreement for Construction Engineering Services associated with the TH 23/South Saratoga Pedestrian Overpass and Safety Improvements Project to Short Elliott Hendrickson, Inc. of Mankato, Minnesota, in the amount of \$35,000, on an hourly, not to exceed basis'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

**CONSIDER LAND SURVEYOR'S CERTIFICATE OF CORRECTION TO PLAT OF LIBERTY PARK ADDITION:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Surveyor's Certificate of Correction to Plat, prepared by Daniel L. Buetel, for Liberty Park Addition. This certificate corrects the errors of measurements of the east-west lot dimensions (131 feet) of Block 3 of Liberty Park Addition. After the certificate is signed by the City, Paul Stoneberg will be responsible for recording the certificate with the plat at the Office of the County Recorder.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council approve the Land Surveyor's Certificate of Correction to Plat, prepared by Daniel L. Buetel, for Liberty Park Addition'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

**CONSIDER REQUEST OF SOUTHWEST MINNESOTA STATE UNIVERSITY FOR HOMECOMING PARADE (SATURDAY-OCTOBER 1, 2016):**

Southwest Minnesota State University is requesting street closure for the Homecoming Day Parade on Saturday, October 1, 2016. Line up would begin at 10:00 a.m., with the parade start at 11:00 a.m. and ending at approximately 12:30 p.m. Line up would begin at Jewett Street and East Lyon Street to Bruce Street and beginning there, proceeding to East Main Street (T.H. 59) northwest to downtown Marshall and ending at 5th and 6th Streets. If approved by the City Council, the request will be coordinated with Mn/DOT for their approval.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council approves the SMSU Homecoming Day Parade on Saturday, October 1, 2016, subject to Mn/DOT approval of the permit'. Upon a roll call vote being taken, the vote was: Aye: **4** Nay: **0** Abstain: **1**. The motion **Passed 4 – 0 – 1** with Bayerkohler abstaining.

**STREET DEPARTMENT VENTILATION UPGRADES - CONSIDER CHANGE**

**ORDER NO. 1:**

The Street Department Ventilation Upgrade project consisted of a new ventilation/make-up air system, localized exhaust for a welding station, and CO2/NO2 detection system for the existing Street Department shop/garage. This project was defined as necessary for the improvement of air quality within the working environment of the shop/garage area. The change order is necessary as the existing fire alarm panel was found to have a DC power supply issue and could not be repaired. This work replaced this panel with a 5-zone EST Type Fire Shield Fire alarm control panel or equivalent and reconnected all existing alarm devices and connected the new device of ventilation system and programmed the new panel. TSP recommends approval of said change order to the contract with Bisbee Plumbing & Heating.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 (Final) with Bisbee Plumbing & Heating of Marshall, Minnesota resulting in a contract increase in the amount of \$2,766.75'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

**COMMISSION/BOARD LIAISON REPORTS:**

Byrnes            SW Regional Development Commission will hold their annual meeting on July 14<sup>th</sup>.

Schafer           Library Board - they are conducting a Library Usage Survey.

Bayerkohler    Public Housing Commission met but Bayerkohler was unable to attend.

Sturrock           Airport Commission met but Sturrock was unable to attend.

Conyers           None.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

The employee picnic will be held on June 15<sup>th</sup>. Council Member Schafer encouraged everyone to attend the Transportation Rail Incidents Preparedness and Response Training on August 24, 2016 at the Red Baron Arena & Expo.

Council Member Sturrock attended the grand opening of the MERIT Center. He also toured the Ralco dry land shrimp manufacturing facility in Balaton. He participated in a conference call for the site selection committee for the Coalition of Greater Minnesota Cities for their summer conference in 2017; and he was in Washington, DC working on getting Highway 23 designated for a new program that is included under the transportation bill that was passed.

There was an open house at the Red Baron Arena and Expo on June 7<sup>th</sup>. The League of Minnesota Cities annual meeting is this week.

**CITY ADMINISTRATOR:**

Sheila Dubs, Interim City Administrator / Human Resource Manager indicated that the 2015 Audit Report will be presented to the Ways and Means Committee and City Council on June 28,

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2016. Ms. Dubs indicated that the Retirement party for Harry Weilage, Director of Community Services will be held on July 15, 2016 and the Retirement party for Thomas M. Meulebroeck, Finance Director will be held on August 26, 2016.

**DIRECTOR OF PUBLIC WORKS:**

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

**PENDING ITEMS:**

There were no questions on the pending items.


**INFORMATION ONLY:**

There were no questions on the information items.

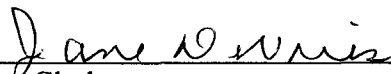
**UPCOMING MEETINGS**

There were no questions on the upcoming meeting list.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) 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:

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