

## REGULAR MEETING – JUNE 28, 2016

The regular meeting of the Common Council of the City of Marshall was held on June 28, 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, Larry Doom, Glenn Bayerkohler, John DeCramer, David Sturrock and Ellayne Conyers. Absent: none. Staff present included: Sheila Dubs, Interim City Administrator / Human Resource Manager; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Harry Weilage, Director of Community Services; Marc Klaith, Fire Chief; Cathy Lee, Executive Assistant; Preston Stensrud, Parks Superintendent; Alex Peterson, Media Communications Specialist; Jane DeVries, City Clerk and Thomas M. Meulebroeck, Finance Director.

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 number 14 which is the presentation of the 2015 Audit Report and the deletion of item number 8 which is the LG220 application for Exempt Permit for Avera Marshall.

### **RECOGNIZE MARC KLAITH, CITY OF MARSHALL FIRE CHIEF FOR HIS ACHIEVEMENTS IN BEING AWARDED THE V.F.W. STATE AND NATIONAL FIREFIGHTER AWARDS:**

On June 11, 2016, Marc Klaith, City of Marshall Fire Chief, was recognized by the Minnesota Veterans of Foreign Wars at a banquet in Rochester, MN. Marc was nominated by VFW member and firefighter Quentin Brunsvold and Assistant Fire Chief Ray Henriksen. Marc was awarded the State of Minnesota V.F.W. Firefighter of the Year Award and the V.F.W. National Firefighter Award "In recognition and utmost appreciation of his dedication and selfless service to the Marshall Fire Department."

Sheila Dubs, Interim City Administrator / Human Resource Manager, read the National Firefighter award: "During Marc Klaith's outstanding career, he has displayed an exceptional record of exemplary and courageous service to the community and the nation. His extraordinary commitment is in keeping with the esteemed core values and traditions of the firefighter profession, further manifested by the high degree of admiration and respect of both his peers and the local public he serves. Fire Chief Marc Klaith is truly a role model to all firefighters and this honor reflects the proudest ideals of the Veterans of Foreign Wars of the United States." Rob Yant, Director of Public Safety, also recognized Marc Klaith for all of his 29 years of service and leadership to the City of Marshall.

### **CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 14, 2016:**

Member (David Sturrock) moved, Member (Ellayne Conyers) seconded to approve the ORIGINAL motion 'the minutes of the regular meeting held on June 14, 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 Abstain: 1. The motion Passed 6 – 0 – 1 with DeCramer abstaining.

**APPROVAL OF CONSENT AGENDA:**

Member (**Craig Schafer**) moved, Member (**John DeCramer**) 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: 7 Nay: 0. The motion **Carried 7 - 0**

BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Holy Redeemer Church to hold a raffle on September 30, 2016, at Holy Redeemer Church Parish Center, 503 West Lyon Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall.

BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to the Marshall Golf Club, to hold a raffle on August 25, 2016, at Marshall Golf Club, 800 Country Club Drive, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall.

Consideration of an LG220 application for Exempt Permit for Avera Marshall was removed from the agenda.

The adoption of RESOLUTION NUMBER 4294, SECOND SERIES, Authorizing the Proper City Official to execute the Master Subscriber Agreement for Minnesota Court Data Services for Governmental Agencies.

That the Regular City Council meeting scheduled for Tuesday, December 26, 2017 be moved to Tuesday, December 18, 2017.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 98224 through 99337.

**CONSIDER APPROVAL OF INDEPENDENCE POND PUBLIC FISHING PIER LAND USE, OPERATIONS AND MAINTENANCE COOPERATIVE AGREEMENT BETWEEN THE STATE OF MINNESOTA (DEPARTMENT OF NATURAL RESOURCES) AND THE CITY OF MARSHALL:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Independence Pond Public Fishing Pier Land Use, Operations and Maintenance Cooperative Agreement between the State of Minnesota and the City of Marshall. At the March 8, 2016 Council meeting, a \$10,000 donation to DNR for the Independence Park Fishing Pier replacement was approved. This was to secure the purchase of a 44 ft. fishing pier and also for the development of the ADA ramp.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Independence Pond Public Fishing Pier Land Use, Operations and Maintenance Cooperative Agreement with the State of Minnesota (Department of Natural

Resources) be approved'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**STREET NAME CHANGE FROM MERLIN LANE TO CAMELOT AVENUE**

**ADOPTION OF ORDINANCE:**

Glenn Olson, Director of Public Works/City Engineer, indicated that it was brought to the City of Marshall's attention from the County 911 Coordinator that the platted designation of this street is Merlin Lane. The street signage and City map for this street indicates Camelot Street. To clear up this difference of designation, staff contacted the property owner, James Carr, and he has indicated his preference would be Camelot Avenue. The street designations (street, avenue, road, lane, drive, etc.) are defined in the City Code of Ordinances.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council adopt ORDINANCE NUMBER 708, SECOND SERIES, which is the Ordinance for Renaming Street from Merlin Lane to Camelot Avenue'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PRESENTATION OF THE 2015 YEAR END AUDIT REPORT FOR THE CITY OF MARSHALL:**

Kyle Meyers, Partner of Abdo, Eicks and Meyers presented the 2015 City of Marshall's Audit Financial Report at a Special City Council meeting held at 4:30 P.M. on June 28<sup>th</sup>. Mr. Meyers provided a brief summary at this time.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to approve the Annual Financial Report (audit) for the Year Ended December 31, 2015'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL TO ACCEPT B&H PHOTO VIDEO BID FOR THE RED BARON ARENA & EXPO CENTER VIDEO EQUIPMENT:**

Alex Peterson, Media Communications Specialist, reviewed the quotes that were received for video equipment for the Red Baron Arena & Expo Center. The quotes were from:

B&H Photo Video  
New York City, New York  
\$36,576.93

Adorama  
New York, New York  
\$37,466.25

The original plan at Red Baron Arena & Expo Center was to explore requesting and using cable franchise dollars to provide cameras for the facility, but with the timing of the franchise contracts being extended to the end of this calendar year, it would be past the time that the City needed the cameras for the facility. With the new franchise negotiations, staff is not asking for or expecting to receive any upfront capital. Alex Peterson, Media Communications Specialist, has compiled a list of necessary equipment. Cameras will be used at the Red Baron Arena & Expo Center, not only for tournaments, but also for special events, such as concerts, expos, meetings, etc. Alex Peterson did request quotes from Daktronics as well as a Minneapolis-based company and they did not submit quotes.

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Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'approval to accept the bid from B&H Photo Video, New York City, New York for the Red Baron Arena & Expo Center video equipment in the amount of \$36,576.93'. This will be paid out of account number 258-70579-5540, Red Baron Arena Expo machinery and equipment fund. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed 6 – 1** with Bayerkohler voting no.

**CONSIDER JOINT POWERS AGREEMENT FOR THE BLR DRUG TASK FORCE:**

Rob Yant, Director of Public Safety, indicated that the Brown, Lyon, and Redwood Counties Drug Taskforce (BLR) was formed with the Sheriff's Department of those counties and the Police Department from their county seats to provide coordinated drug enforcement within this region. A tactical team called the Emergency Response Unit or ERU was formed about the same time by the six member departments. The taskforce added Renville County five or six years ago and this last year added the Lower Sioux Police Department. Investigations were done initially primarily with department personnel working on-duty or over-time. It has grown to an investigator from within each of the four counties and a fifth investigator from the Lower Sioux. Marshall PD Detective Jody Gladis is the Commander for both the Taskforce and the ERU. Lyon County Attorney Rick Maes is the current legal advisor to the taskforce. With the addition of the Lower Sioux and just to update the Joint Powers agreement, Rick Maes went through and revised the document. It was sent out to each member for their jurisdiction's legal review - Marshall City Attorney Dennis Simpson did the review for our City and suggested several minor changes that have been incorporated in the final version of the document

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the proper city personnel be authorized to enter into the Joint Powers Agreement for the BLR Drug Task Force'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF AGREEMENTS BETWEEN MPD AND SMSU:**

Rob Yant Director of Public Safety, indicated that in response to sexual assaults that occur on college campuses in Minnesota, the Minnesota legislature passed legislation that requires local law enforcement and postsecondary institutions to enter into a Memorandum of Understanding (MOU) that delineates responsibilities and requires certain information sharing, in accordance with applicable state and federal privacy laws, about certain crimes. In meeting with Michael Munford, SMSU Director of Public Safety, he and PD staff discussed this and reviewed a draft MOU that Director Munford provided. Rob indicated that their staff believes that they can more formally outline what they already generally do and work with this MOU. City Attorney Dennis Simpson reviewed this document and made several minor changes that have been included in this document.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the proper city personnel be authorized to enter into a Memorandum of Understanding between the City of Marshall and Southwest Minnesota State University related to the Marshall Police Department's relationship with Southwest Minnesota State University and the deterrence and response to sexual assault'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0** Abstain: **1**. The motion **Passed 6 – 0 – 1** with Bayerkohler abstaining.

**CONSIDER APPROVAL OF A WINE LICENSE, SUNDAY LIQUOR LICENSE AND ON-SALE 3.2 PERCENT MALT LIQUOR LICENSE FOR FOUR SEAS ASIAN RESTAURANT:**

Thomas M. Meulebroeck, Finance Director indicated that the Four Seas Asian Restaurant is under new ownership. They have applied for a Wine License, a Sunday Liquor License and an On-Sale 3.2 Percent Malt Liquor License. These licenses will be effective July 1, 2016 and will expire on December 31, 2016. On June 23, 2015 the City Council adopted Ordinance Number 697, Second Series Authorizing Sale of Intoxicating Malt Liquors. This ordinance is for the business and will remain in effect.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the approval of a Wine License for Four Seas Asian Restaurant, 1404 East College Drive to be effective July 1, 2016 and will expire on December 31, 2016 at a fee of \$400.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'the approval of a Sunday License at a fee of \$200.00 and an On-Sale 3.2 Percent Malt Liquor License at a fee of \$250.00 for Four Seas Asian Restaurant, 1404 East College Drive to be effective July 1, 2016 and will expire on December 31, 2016'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

**THE SCHWAN REGIONAL SPORTS CENTER – CONSIDER CHANGE ORDERS: 1) CHANGE ORDER NO. 10 (2200.010) FOR CONTRACT #2200 PLUMBING & HEATING WITH BISBEE PLUMBING & HEATING; 2) CHANGE ORDER NO. 12 (2600.012) FOR CONTRACT #2600 ELECTRICAL/LOW VOLTAGE WITH L&S ELECTRIC, INC:**

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.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the following change orders resulting in a contract increase: Change Order No. 10 (2200.010) for Contract #2200 Plumbing & Heating with Bisbee Plumbing & Heating of Marshall, Minnesota resulting in a contract increase in the amount of \$23,248.00. Change Order No. 12 (2600.012) for Contract #2600 Electrical/Low Voltage with L&S Electric, Inc. of Springfield, Minnesota resulting in a contract increase of \$54,776.00'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion **Passed 4 - 3** with Sturrock, Bayerkohler and Doom voting no.

**CONSIDER JOINT FUNDING AGREEMENT WITH US GEOLOGICAL SURVEY (USGS) FOR REDWOOD RIVER GAGING STATION NEAR MARSHALL, MINNESOTA:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the Joint Funding Agreement with US Geological Survey (USGS) for Redwood River Gaging Station near Marshall, Minnesota, for federal FY2016-FY2020. In 2010, the City of Marshall was notified that the Department of Natural Resources (DNR) would be discontinuing funding of the stream gage just west of the City of Marshall. The USGS relocated and constructed a new gage at no cost to the

local entities, but requires funding for 50% of the operational costs. This is an extremely important gage for not only flooding but several other informational issues, including the following items: - 75 years of continuous streamflow record - Unregulated flow record important for assessing trends - Site is part of National Streamflow Information Program - Gage data used in USGS water-quality studies - Flood forecasting and warning - Water-quality & aquatic life assessments - Wastewater permits tied to streamflow's. The USGS has estimated that the operational cost for federal FY2016-FY2020 to be \$84,500 with a local cost of \$42,250. The City of Marshall will be the local project sponsor of the 50% match of this gage (approximately \$8,450/year). In 2010, the City of Marshall sought interest and funding participation from various agencies regarding keeping this stream gage operational, including Archer Daniels Midland Company, Redwood-Cottonwood Rivers Control Area (RCRCA), Minnesota DNR, Lyon County Emergency Management, Lyon County Soil & Water Conservation, National Weather Service and the US Army Corps of Engineers. At that time, all entities that the City requested participation from denied participation, except ADM, who participated in 50% of the \$7,935 federal FY2010 amount. ADM has continued to partner with the City in funding 50% of the annual operational costs of approximately \$8,200/year. City staff will pursue requesting funding from ADM for this federal FY2016-FY2020 agreement.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council authorize entering into the Joint Funding Agreement with US Geological Survey (USGS) for Redwood River Gaging Station near Marshall, Minnesota, for federal FY2016-FY2020 in the amount of \$42,250 for the five year agreement period'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**ANNEXATION OF CITY-OWNED PROPERTY ADJACENT TO PROPOSED COMMERCE INDUSTRIAL PARK – INTRODUCTION OF ORDINANCE:**

Glenn Olson, Director of Public Works/City Engineer, indicated that the City of Marshall has acquired the proposed Commerce Industrial Park property (formerly known as the DeRuyck property). Included in the property purchase was the entire quarter section, including one-half of the township roadway (240th Avenue) on the westerly edge of the property. In order to properly develop the property, it was necessary to acquire the westerly half of the township roadway, as well as a triangular piece of property west of the township road and adjacent to the intersection of TH 68. This property was not included in the original purchase nor within the city limits. It is the intent to include the addition of the western portion of the township road and the triangular piece of property adjacent to TH 68 in the Marshall City limits for the purpose of development of the roadway and proper access to TH 68 from the Industrial Park. There are several methods of annexation related to whether or not the area is within the Orderly Annexation area or is entirely City-owned property or is partially-owned and privately-owned property. In this case, the entire area to be annexed is City-owned property and immediately adjacent to the current city limits and is not in the currently Orderly Annexation area. Therefore staff is proposing the annexation by ordinance pursuant to Minnesota Statutes §414.033.

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council introduce the "Ordinance Annexing Land Located in Fairview Township, Lyon County, Minnesota Pursuant to Minnesota Statutes §414.033'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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**COMMISSION/BOARD LIAISON REPORTS:**

- Byrnes        Regional Development Commission will hold their annual meeting on July 14<sup>th</sup> in Marshall.
- Schafer       Library Board held a budget meeting on June 27<sup>th</sup>.
- Doom         Convention and Visitors Bureau toured the Red Baron Arena and Expo Center, they also reviewed their financial statements.
- Bayerkohler   No report.
- DeCramer     Utilities Commission will meet one week later due to scheduling conflicts.
- Sturrock      No report.
- Conyers       Community Services Advisory Board held their annual picnic.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

There was a concern with areas along the bike path on Saratoga Street having overgrown grass and weeds. There are still complaints on trash and noise. The color of the piers on the Saratoga Street Overpass continues to be discussed; there are some trees along Saratoga Street that are bowed. Lona Rae, Mary Tate and Cathy Lee were thanked for the planning of the Employee City Picnic. Interviews for the Director of Community Services will be held on July 12<sup>th</sup>. On July 16<sup>th</sup> at 9:30 A.M. there will be an event to help provide awareness of the Camden Bike Trail. Mayor Byrnes thanked Council Member Conyers for her commitment to the News and Views show that is broadcasted on Studio One.

**CITY ADMINISTRATOR:**

Sheila Dubs, Interim City Administrator / Human Resources Manager provided updates on the following:

- The schedule for the interviews for the Community Services Director.
- The orientation schedule for Nicholas Johnson, City Administrator.
- There will be a public open house on July 19<sup>th</sup> for Nicholas Johnson.

**DIRECTOR OF PUBLIC WORKS:**

Glenn Olson, Director of Public Works/City Engineer, indicated that information from the ATP meeting on June 24<sup>th</sup> was provided in the agenda packet. He also provided updates on the current projects.

**CITY ATTORNEY:**

Dennis Simpson, City Attorney, provided updates on the following:

- Attended the EDA meeting – officers were elected and there is a proposal for the sale of lots in Parkway Addition.
- There is a Legislative and Ordinance Committee meeting on July 7<sup>th</sup>.
- Dennis toured the Marshall Hotel with a potential mover to remove personal items that Mr. Bot would like to be moved out of the Hotel.

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Provided updates on the Sponsorship Agreements for the Red Baron Arena and Expo Center.

**PENDING ITEMS:**

There were no questions on the pending items.

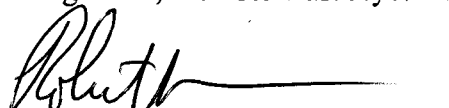
**INFORMATION ONLY:**

There were no questions on the information items.

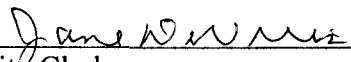
**UPCOMING MEETINGS**

There were no questions on the upcoming meeting list.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) 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:

  
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City Clerk