

REGULAR MEETING – JULY 12, 2016

The regular meeting of the Common Council of the City of Marshall was held on July 12, 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, Human Resource Manager; Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Jason Anderson, Assistant City Engineer; Harry Weilage, Director of Community Services; Marc Klaith, Fire Chief; Preston Stensrud, Parks Superintendent; Kim Jergenson, Engineer Technician; Jeff Wenker, Police Sergeant; 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 as presented.

CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON JUNE 28, 2016 AND THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 28, 2016:

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the minutes of the work session held on June 28, 2016 and the minutes of the regular meeting held on June 28, 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: 7 Nay: 0. The motion **Carried 7 - 0**

**CONCESSIONS BUILDING AT THE SCHWAN REGIONAL SPORTS CENTER –
CONSIDER AWARD OF BIDS:**

Three bids were received, opened and read for the SMRASC Concessions Building on July 7, 2016 from:

Bladholm Construction, Inc. Marshall, Minnesota \$920,000.00	Mohs Contracting, Inc. Owatonna, Minnesota \$864,000.00	Sussner Construction, Inc. Marshall, Minnesota \$941,000.00
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Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council award the bid for the Schwan Regional Sports Center Ballfield Concessions Building to Mohs Contracting, Inc. of Owatonna, MN in the amount of \$864,000.00'. This project will be funded from Account No. 413-70577-5520 (SMASC Ball Parks Fund – Buildings & Structures). Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

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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: 7 Nay: 0. The motion **Carried 7 - 0**

Authorization be granted to the Department of Public Safety to dispose of three (3) vehicles considered as surplus. These vehicles will be auctioned on-line at the state site or will be taken to Alter Metal Recycling for disposal.

The approval of a contract with Nelly Entertainment to provide an obstacle course and inflatable venue for the National Night Out event on Tuesday, August 2, 2016.

The approval of the Agreements with U.S. Bank Relating to Paying Agency, Registrar and Transfer Agency for the General Obligation Bonds, Series 2016B; for the General Obligation Tax Abatement Bonds, Series 2016C; and for the General Obligation Utility Revenue Refunding Bonds, Series 2016D.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 99338 through 99516.

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

Dennis Simpson, City Attorney, 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 and CSAH 33 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, Subd. 2.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **SUBSTITUTE** motion 'that the Council adopt ORDINANCE NUMBER 709, SECOND SERIES, and Summary Ordinance Number 709, Second Series which will be used for publication. Ordinance Number 709, Second Series is an 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**

ANNUAL REPORT OF THE MARSHALL-LYON COUNTY LIBRARY:

Michele Leininger, Marshall Lyon County Library Director, was in attendance at the meeting to provide the 2015 annual report and 2016 update. The Board members were also in attendance at the meeting.

MARSHALL FIRE DEPARTMENT TANKER - CONSIDER CHANGE ORDER NO. 1:

Marc Klaith, Fire Chief, indicated that on April 28, 2016 the City Council approved a bid from Rosenbauer Minnesota, LLC and Olson Johnson for the purchase of a new tanker for the Marshall Fire Department in the amount of \$386,273.00. The new tanker is scheduled to be in the possession of the Fire Department on July 14, 2016. The final payment owed to Rosenbauer Minnesota, LLE is \$266,838.00, which is \$515.75 higher than originally awarded by City Council. The reason for this is due to changes made during production to better fulfill the needs of the Marshall Fire Department.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 1 (Final) for the Marshall Fire Department Tanker with Rosenbauer Minnesota, LLC of Wyoming, Minnesota resulting in an increase of \$515.75'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z51: BITUMINOUS OVERLAY ON VARIOUS CITY STREETS –
CONSIDER CHANGE ORDER NO. 1 WITH DUININCK, INC:**

Jason Anderson, Assistant City Engineer, indicated that per the request of Preston Stensrud from Parks Department, there will be additional bituminous surfacing at Legion Field Park at the Grandstand. Jeff Bailey from Duininck has asked for a 10% price increase for this portion.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 1 for Bituminous Overlay Project Z51 with Duininck, Inc. of Prinsburg, Minnesota, resulting in a contract increase in the amount of \$10,111.42'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**COMMERCE INDUSTRIAL PARK – 1. CONSIDER EXTENSION OF THE
EFFECTIVE PERIOD OF THE PRELIMINARY PLAT AND APPROVAL OF
PRELIMINARY PLAT; 2. CONSIDER RESOLUTION ADOPTING THE FINAL PLAT:**

Dennis Simpson, City Attorney, indicated that according to Chapter 66, "Subdivisions," Sec. 66-56 "Effective Period of Preliminary Approval" of the Code of Ordinances, "The approval of a preliminary plat shall be effective for a period of one year unless agreed otherwise." If the preliminary plat, or a portion of it, has not received final approval within the year without an agreement otherwise, the preliminary plat process starts over subject to any new subdivision regulations. The preliminary plat of Marshall Commerce Park (formerly referenced as North Industrial Park) was approved by the City Council on November 22, 2011. No significant changes have been made since that date. The preliminary plat did include the newly acquired and annexed area on the western most portion of the platted area.

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Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council extend the effective period of the preliminary plat of Marshall Commerce Park, now named Commerce Industrial Park, to July 12, 2016 and approve the preliminary plat'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4295, SECOND SERIES, which is the Resolution Approving the Final Plat of Commerce Industrial Park, subject to City Attorney review and approval and renaming of street from 240th Avenue to Pacific Avenue'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PROJECT Z45: EAST LYON STREET / JEAN AVENUE / EAST REDWOOD STREET / "B" STREET RECONSTRUCTION PROJECT – CONSIDER CHANGE ORDER NO. 1 WITH R&G CONSTRUCTION CO:

Jason Anderson, Assistant City Engineer, reviewed Change Order No. 1 for East Lyon Street / Jean Avenue / East Redwood Street / "B" Street Reconstruction Project Z45. Jason indicated that the contractor has encountered poor materials, water, and tile lines going through the grades that pit run material (sand) would not be adequate for support of the new piping. In those areas where these conditions are encountered, the contractor has suggested the pit run material be revised to aggregate foundation material (rock less than 1 inch) for stability and support. The cost will include the replacement material less a credit for the specified pit run material.

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 for East Lyon Street / Jean Avenue / East Redwood Street / "B" Street Reconstruction Project Z45 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$10,166.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AND APPROVE SPONSORSHIP AGREEMENT BETWEEN CITY OF MARSHALL AND DOLL DISTRIBUTING, LLC REGARDING PREFERRED BEER DISTRIBUTION AND ADVERTISING AT THE RED BARON™ ARENA & EXPO:

The City has requested that various service and product providers respond to Requests for Proposals at the Red Baron™ Arena & Expo. Preferred beer proposals were solicited and the preferred beer provider was determined to be Doll Distributing, LLC of Worthington, Minnesota. The Sponsorship agreement has been drafted and has been approved by Doll Distributing. Doll Distributing is a Budweiser beer dealer. Exhibit A of the Sponsorship Agreement sets forth rights and obligations granted to Doll Distributing. A successful sponsor does receive certain signage and brand name branding rights within the facility. In addition, there are certain advertising rights granted to this sponsor. The sponsor does agree to provide certain pieces of equipment and product within the building. Doll Distributing will pay to the City of Marshall the total sum of \$75,000, over a five year period of time.

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Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **SUBSTITUTE** motion 'that the Council reject the proposals and re-open the proposal process for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo'.

Council Member Schafer indicated that he received several questions in regard to the Sponsorship Agreement for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo. He indicated that this may have kept a potential distributor from submitting a proposal.

Schafer moved, DeCramer seconded, to rescind the motion and to table the awarding of the proposal for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo. Council Member DeCramer was concerned if this is tabled. City Attorney Simpson indicated that if this is tabled there will only be one proposal for review and would prevent a potential distributor from submitting a proposal. Following discussion DeCramer withdrew his second and proceed with the motion to reject the proposal.

Darin Rahm, Convention & Visitors Bureau Director, agreed that there were several changes brought forth by the Ignite Group in regard to this agreement.

Mayor Byrnes indicated that the motion is to reject the proposals and re-open the proposal process for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AND APPROVE QUIT CLAIM DEED AND RESOLUTION REGARDING TRANSFER OF PROPERTY FROM CITY OF MARSHALL TO BREMER TRUST, N.A. AS TRUSTEE OF THE VIOLET E. JOHNSON REVOCABLE TRUST:

Dennis Simpson, City Attorney, indicated that at various times in the past, the Violet E. Johnson Trust and its predecessors, transferred various parcels of property to the City of Marshall. The City previously used those parcels of property for well site location. The well site parcels are in the area surrounding the present water treatment facilities operated by Marshall Municipal Utilities (MMU). MMU has previously operated the facilities, but the land has remained titled in the name of the City of Marshall. Bremer Trust, NA as trustee of the Violet E. Johnson Trust is preparing to sell real estate owned by the trust. An abstract examination by attorney Paul Stoneberg has questioned the legal descriptions used in the 1950s and 1960s to transfer some of the property to the City of Marshall. The property, however, is no longer used by MMU for water well production. The old deeds transferring property to the City, contained a “right of reverter” which indicated that if the City ceased to use the property for water well purposes, that the property would then revert/transfer back to the former owners. Dennis has discussed this matter with MMU General Manager Brad Roos. Mr. Roos has indicated that neither the City nor MMU has any current interest in using that property for water well production uses. Mr. Roos agrees that it is appropriate for the City to convey property back to the Violet Johnson Trust. Attorney Stoneberg was requesting surveys of the property to determine legal descriptions of the property and other matters. Mr. Simpson discussed these matters with attorney Stoneberg and it has been agreed that a conveyance by quit claim deed from the City to the Trust would alleviate the need for survey and would allow the Trust to continue with its proposed sale of property.

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This proposed action appears to be the “good neighbor” method by which the City conveys property so as to allow for the transfer of property with little or no expense to the City.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'to approve the quit claim deed and adopt RESOLUTION NUMBER 4296, SECOND SERIES regarding the transfer of property from the City of Marshall to Bremer Trust, N.A. as Trustee of the Violet E. Johnson Revocable Trust'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER AND APPROVE GARBAGE/RECYCLABLE/ORGANIC HAULING CONTRACT BETWEEN CITY OF MARSHALL AND WASTE MANAGEMENT FOR SERVICES AT THE RED BARON™ ARENA & EXPO:

Waste Management presently has a service contract with the City of Marshall for a two year period of time through December 31, 2016 to provide garbage and refuse hauling services at City operated facilities. The City recently submitted Request for Proposals regarding garbage and recyclable services at the Red Baron™ Arena & Expo. Waste Management submitted a proposal to provide garbage recyclable hauling services. City staff has reviewed the proposal and is recommending that the parties enter into a service contract from the time period July 1, 2016 through June 30, 2019. City Attorney has drafted a Garbage/Recyclable/Organic Hauling Contract. That proposed contract incorporates a number of terms and conditions of the existing contract between the City and Waste Management for other services. The drafted agreement has been submitted to Waste Management and has been approved by Waste Management. Please note that the contract does include costs for providing 10 Busch Systems International Pavilion Collection Bins at various locations within the Red Baron™ Arena & Expo. The contract does indicate that at the termination of this agreement, those collection bins will be the property of the City of Marshall.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **SUBSTITUTE** motion 'to table the approval of the Garbage/Recyclable/Organic Hauling Contract between the City of Marshall and Waste Management for services at the Red Baron™ Arena & Expo to allow time to review the proposals'.

Council Member Schafer indicated that there were differences and changes in the requested proposals, making it difficult to compare the proposals.

Dan Ritter, Southwest Sanitation, addressed his concerns with the council.

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

INTRODUCE ORDINANCE AMENDING WAGES FOR MAYOR AND COUNCIL MEMBERS:

Sheila Dubs, Human Resource Manager, indicated that in accordance with the City of Marshall Charter, Section 2.07 "Salaries of the Councilmembers and Mayor shall be discussed as an agenda item at the first council meeting in July of each year. After said discussions, the council shall set and determine said salaries in accordance with the applicable state law." Salaries are approved by ordinance of the City Council. In accordance with Minnesota Statute 415.11 Subd

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2, no change in salary shall take effect until after the next succeeding municipal election. Therefore, if the Council is proposing an increase to salaries for 2017, it should hold an ordinance hearing and adopt prior to the election in November. Minnesota Statute 415.11 Subd. 3 does provide temporary reduction authority to the Mayor and Council prior to an election to enact an ordinance that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted. The recommendation is to bring forward an ordinance that would be consistent with non-union employees. This would require a lag of one year as the 2016 non-union general wage increase was adopted starting January 1, 2016. The non-union general wage increases adopted by the Council are as follows: 2.5% for 2016, 2.5% for 2017, and 2.75% for 2018. Staff and the City Attorney's office agrees the ordinance should have fixed dollar amounts to be in compliance with state statutes. The fixed dollar amounts consistent with non-union general wage increases would be: For the Mayor: \$777.73 for 2017, \$797.17 for 2018, and \$819.09 for 2019. For the Council: \$491.92 for 2017, \$504.22 for 2018, and \$518.09 for 2019.

Member **(Larry Doom)** moved, Member **(David Sturrock)** seconded to approve the **ORIGINAL** motion 'introduce ordinance amending wages for Mayor and Councilmembers'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed 6 – 1** with Bayerkohler voting no.

COMMISSION/BOARD LIAISON REPORTS:

- Byrnes Fire Relief Association held their quarterly meeting, but Byrnes was unable to attend. Finance Director Meulebroeck provided an overview of the Relief Association Report. Regional Development Commission annual meeting will be held on July 14th in Marshall.
- Schafer Library Board Michelle provided an update on the Library; Finance Director Meulebroeck provided a review of the Library's Audit; a joint City/County/Library Board needs to meet to begin the budget process.
- Doom Legislative and Ordinance Committee met, but Doom was unable to attend – discussion was held in regard to bike trails and motorized vehicles.
- Bayerkohler Public Housing Commission discussed a non-smoking policy; Planning Commission meets on July 13th.
- DeCramer EDA and Utilities Commission have not met. Discussions have taken place in regard to the MERIT Center budget; the MERIT Center Board will meet next month.
- Sturrock Airport Commission meeting scheduled for July 5th was cancelled.
- Conyers Community Services Advisory Board has not met. Interviews were held for the Director of Community Services Position earlier today.

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COUNCILMEMBER INDIVIDUAL ITEMS:

Byrnes indicated that the issue of weeds and grass along the bike path on Saratoga Street will be taken care of. The council thanked Sheila Dubs for being Interim City Administrator for the past four months. City Administrator Nick Johnson was a guest on the News and View Show. Sturrock was concerned with the bowed trees along Saratoga Street. A retirement party will be held on July 15th at Legion Field for Harry Weilage. On Saturday, July 16th there will be a 2016 Camden Trail Bike Ride. There will be a meet and great for City Administrator Nick Johnson on July 19th.

CITY ADMINISTRATOR:

Nick indicated that he is thankful for the opportunity to service as City Administrator for the City of Marshall.

DIRECTOR OF PUBLIC WORKS:

Jason Anderson, Assistant City Engineer, provided updates on the construction projects.

CITY ATTORNEY:

Dennis Simpson, City Attorney, provided information on the sale of lots and construction in Parkway II Addition. The Legislative and Ordinance Committee discussed noise and nuisance issues; mopeds and tiny houses.

Mayor Byrnes called for a 5-minute recess at 7:02 P.M.

CONSIDERATION TO GO INTO CLOSED SESSION FOR THE PURPOSES OF ATTORNEY CLIENT PRIVILEGE:

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

The Council went into closed session at 7:06 P.M. Those present at the closed session included: Byrnes, Schafer, Doom, Bayerkohler, DeCramer, Sturrock and Conyers. Staff present included, Sheila Dubs, Human Resource Manager; Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Thomas M. Meulebroeck, Finance Director; Karla Drown, Finance Director (effective September 1, 2016); and Jane DeVries, City Clerk.

The Council came out of closed session at 7:22 P.M.

INFORMATION ONLY:

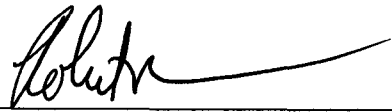
There were no questions on the information items.

UPCOMING MEETINGS

There were no questions on the upcoming meeting list.


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



Mayor

ATTEST:



City Clerk