

REGULAR MEETING – JULY 26, 2016

The regular meeting of the Common Council of the City of Marshall was held on July 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, Glenn Bayerkohler, John DeCramer, David Sturrock and Ellayne Conyers. Absent: Craig Schafer. Staff present included: Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Rob Yant, Director of Public Safety; Cathy Lee, Executive Assistant; 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.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 12, 2016:

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the minutes of the regular meeting held on July 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**

CONDUCT A PUBLIC HEARING ADOPTING AN ORDINANCE AMENDING WAGES FOR THE MAYOR AND COUNCIL MEMBERS:

This was the date and time set for a public hearing to amend wages for the Mayor and Council Members. Thomas M. Meulebroeck, Finance Director, 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. At the July 12th meeting, the Council approved to introduce the ordinance. In accordance with Minnesota Statute 415.11 Subdivision 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. Staff recommends the Council approve an ordinance that would be consistent with non-union employee wages. This would require a lag of one year as the 2015 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.

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'to close the public hearing amending wages for Mayor and Councilmembers'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried 6 - 0**

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Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'the adoption of ORDINANCE NUMBER 710, SECOND SERIES, amending wages for Mayor and Council Members effective January 1, 2017'. 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 CONSENT AGENDA:

Member (**Larry Doom**) 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: **6** Nay: **0**. The motion **Carried 6 - 0**

That the proper city personnel be authorized to apply to the State of Minnesota for a HSEM Grant.

BE IT RESOLVED that the City Council hereby (1) grants local unit of government approval to Prairie Home Hospice Inc., for a raffle on December 2, 2016 at Prairie Home Hospice, 408 East Main Street, Suite 8, 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.

The approval of a Temporary 3.2 Percent Malt Liquor License for the VFW Post 742 for the month of August at the Lyon County Fairgrounds.

BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Pheasants Forever Lyon County Chapter 6 to hold a raffle on March 11, 2017, at SMSU Upper Conference Center, 1501 State 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.

The proper city personnel be authorized to execute the Master Subscriber Agreement between the Marshall Police Department and Minnesota Court Data Services.

BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Marshall M Club to hold a raffle on October 19, 2016 at Schwan Regional Event Center - Southwest Minnesota State University, 1501 State 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.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No., 99517 through 99714.

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

This item was removed from the table for discussion at this time.

Nick Johnson, City Administrator, reviewed the RFPs for the trash hauling services at the Red Baron™ Arena & Expo that were received from Southwest Sanitation and Waste Management. Nick also provided a brief cost comparison based upon various scenario needs. Notable Items: Waste Management's service costs are for one dump per month on the 3 yard dumpsters and for the rental of 10 triple stream containers. After 36 months the dumpsters will be owned by the City. The rental fee would then no longer be charged. Southwest Sanitation's service costs are on an annual basis with all needed services included regardless of number of dumps. The service contract would be for 5 years per the original RFP document.

The Lockwood Motors Arena reported having a 4 yard dumpster for garbage and a 2 yard dumpster for recycling. During the off season they would dump an average of once per week. During peak season they would dump on average twice per week. This information is provided to help give a comparison to help estimate what the dumping needs may be for the Red Baron Arena and softball/baseball fields.

Council Member Bayerkohler asked what the cost and useful life of the dumpsters from Southwest Sanitation would be. Dan Ritter, Southwest Sanitation, indicated that the dumpsters will belong to Southwest Sanitation.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **SUBSTITUTE** motion 'that the RFP for the trash hauling services at the Red Baron™ Arena & Expo be awarded to Southwest Sanitation at a yearly cost not to exceed \$9,728.27 (including tax). This contract would be for 5 years per the original RFP'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

PROVIDE AN UPDATE TO THE PROCESS REGARDING PREFERRED BEER ADVERTISING AT THE RED BARON™ ARENA & EXPO:

At the City Council Meeting held on July 12, 2016 the Council rejected the proposals and approved to re-open the proposal process for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo.

Dennis Simpson, City Attorney, indicated that Ignite was hired to do RFPs for a preferred beer supplier. Mr. Simpson indicated that the City cannot have an exclusive beer supplier; but they can have exclusive advertising at city events. The council has two options: they could let the original motion from July 12, 2016 stand which rejects the proposal and re-open the proposal process for the Preferred Beer Distribution and Advertising at the Red Baron™ Arena & Expo; or they could rescind the motion from the July 12, 2016 meeting and finalize a contract with Doll Distributing.

Mayor Byrnes was conceded that questions from a vendor were not answered; therefore they were not able to provide a RFP.

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Following additional discussion no action was taken; therefore new RFPs for the preferred beer advertising at the Red Baron™ Arena & Expo will be requested.

CONSIDER AND APPROVE THE RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS BETWEEN THE CITY OF MARSHALL ON BEHALF OF ITS CITY ATTORNEY (PROSECUTING OFFICE) AND THE POLICE DEPARTMENT:

Dennis Simpson, City Attorney, indicated that the prosecution of criminal complaints by the City of Marshall is authorized by electronic submittal of police reports and charging documents from the prosecutor's office with electronic transmission of documents between the agencies through the Lyon County Court system. Process is known as "e-charging". The current agreement between the State of Minnesota Bureau of Criminal Apprehension (BCA), the police department and the City of Marshall is currently terminating and the State Agency is requesting that a new five year Joint Powers Agreement be entered into between the City of Marshall and BCA.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4297, SECOND SERIES, which is a Resolution approving the State of Minnesota Joint Powers Agreements between the City of Marshall on behalf of its City Attorney (Prosecuting Office) and the Police Department and to execute the appropriate documents related to such Agreement'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

THE SCHWAN REGIONAL SPORTS CENTER – CONSIDER CHANGE ORDERS:
1) CHANGE ORDER NO. 6 (0330.006) FOR CONTRACT #0330 CAST-IN PLACE CONCRETE WITH INNOVATIVE BUILDERS OF ALEXANDRIA, INC.;
2) CHANGE ORDER NO. 13 (2600.013) 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 Sports Center.

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approve the following change order resulting in a contract decrease: Change Order No. 6 (0330.006) for Contract #0330 – Cast-In Place Concrete with Innovative Builders of Alexandria, Inc. of Alexandria, Minnesota, resulting in a contract decrease in the amount of \$42,056.00'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Member (**John DeCramer**) 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. 13 (2600.013) for Contract #2600 – Electrical/Low Voltage with L&S Electric, Inc. of Springfield, Minnesota resulting in a contract increase in the amount of \$20,570.00'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 – 1** with Bayerkohler voting no.

INTRODUCE OF AN ORDINANCE “OPTING-OUT” OF THE NEW STATUTORY REQUIREMENT FOR TEMPORARY FAMILY HEALTH CARE DWELLINGS:

On Thursday, July 7, 2016, the Legislative & Ordinance committee met to consider the introduction of an ordinance allowing the City to opt-out of the temporary family health care dwellings statute recently passed by the Minnesota legislature. The Legislative & Ordinance committee recommended that the ordinance opting out of the new statutory provisions allowing for temporary family healthcare dwellings be introduced and adopted by the City of Marshall. This spring, a new law was passed creating a procedure that allows home owners to place a mobile unit on their property to temporarily accommodate sick family members. The law allows the cities to opt out of the new temporary family health care dwellings act. The League of MN Cities is recommending that cities opt out. City staff and the Legislative & Ordinance committee recommend that the City opt out of the new law. Allowing people to have a relative living in a structure in their back yard may create problems for the neighbors and may create a difficult situation for the City. Further, since the law does not fully describe several important aspects of the permitted structures, it will become subject to interpretation and a conflicting point between City staff and applicants. Additionally, this law requires the City to receive private health information about tenants to determine eligibility which may complicate record keeping and bring privacy issues into discussion. The City does not anticipate many people using this option as it makes more sense to have sick family members in an actual house rather than a 300 square foot backyard shed, but it is prudent to be proactive and opt out of this law while it is possible. The League of MN Cities has created a simple opt out ordinance. The City must opt out of allowing the temporary family health care dwellings prior to September 1, 2016. Therefore, staff recommends the introduction of an ordinance presently so that the ordinance can then be discussed and approved at a subsequent Council meeting. Secondly, the classification of a temporary family healthcare dwelling would qualify as an accessory building on the property. Accessory buildings are regulated by Sec. 86-163 of the Marshall City Code. That accessory building ordinance is specific and detailed in the requirements of accessory buildings. It is the recommendation that City opt-out and not allow temporary family health care dwellings of 300 square foot buildings to qualify as an accessory building.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'the introduction of an ordinance “opting-out” of the new statutory requirement for temporary family health care dwellings'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried.6 - 0**

CONSIDER AN APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR SMSU FOUNDATION FOR AUGUST 19 & 20, 2016:

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for SMSU Foundation to use at the Regional Event Center, 1501 State Street, Marshall, Minnesota on August 19 & 20, 2016'. 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.

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COMMISSION/BOARD LIAISON REPORTS:

Byrnes Regional Development Commission held their annual meeting in Marshall. They toured the Solar Farm; Mattress Barn; and the MERIT Center. They also reviewed an overview of the Camden Trail.

Doom EDA met but he was unable to attend.

Bayerkohler No report.

DeCramer Utilities Commission will meet on July 27th.

Sturrock No report.

Conyers No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

The summer conference of Coalition of Greater Minnesota Cities was held last week. Mayor Byrnes indicated that there was a great turn out on Saturday for the 2016 Camden Trail Bike Ride.

CITY ADMINISTRATOR

Nick Johnson, City Administrator, indicated that he has met most of the City employees; he was on News and Views; attended the EDA meeting and met with the Chamber staff. He is working closely with the Finance Department on the budget process.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, provided updates on the Highway 23 Overpass; the East Main Street sidewalk project and other projects.

CITY ATTORNEY:

Dennis Simpson, City Attorney, indicated that the personal property of Joe Bot has been moved out of the Hotel.

PENDING ITEMS:

There were no questions on the pending items.

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INFORMATION ONLY:

There were no questions on the information items.

UPCOMING MEETINGS

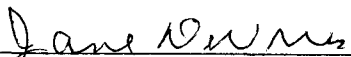
There were no questions on the upcoming meeting list.

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



Mayor

Attest:



City Clerk