

REGULAR MEETING – SEPTEMBER 27, 2016

The regular meeting of the Common Council of the City of Marshall was held on September 27, 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 President Pro-Tem Doom. In addition to Doom the following members were in attendance: Craig Schafer, Glenn Bayerkohler, John DeCramer and David Sturrock. Absent: Byrnes and Conyers. Staff present included: Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Karla Drown, Finance Director; Scott VanDerMillen, Community Services Director; Sheila Dubs, Human Resource Manager; Ilya Gutman, Plan Examiner; Preston Stensrud, Parks Superintendent; and Jane DeVries, City Clerk.

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 REGULAR MEETING HELD ON SEPTEMBER 13, 2016, THE WORK SESSION HELD ON SEPTEMBER 13, 2016 AND THE WORK SESSION HELD ON SEPTEMBER 19, 2016:

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the ORIGINAL motion 'the minutes of the regular meeting held on September 13, 2016, the minutes of the work session held on September 13, 2016 and the minutes of the work session held on September 19, 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

PROJECT Z49: EAST MAIN STREET SIDEWALK REPLACEMENT PROJECT: 1. PUBLIC HEARING ON ASSESSMENT; 2. CONSIDER RESOLUTION ADOPTING ASSESSMENT:

This was the date and time set for a public hearing on the East Main Street Sidewalk Replacement Project Z49. Glenn Olson, Director of Public Works/City Engineer, indicated that this project consisted of the proposed sidewalk and driveway improvements along East Main Street from Southview Drive to First Street. The improvements were constructed along both sides of East Main Street (T.H. 59) and meet ADA guidelines for wheelchair accessibility. Mr. Olson briefly reviewed the City special assessment procedures for this project: 1. ADA required sidewalk ramps at the intersections are paid for by the City. 2. The sidewalk replacement costs are split 50/50 between the property owners and the City. 3. The removal and replacement of the individual driveways are the responsibility of the property owner as each driveway is different in size and serves only the property involved. Dennis Simpson, City Attorney, provided information on how a property owner can object to their assessment and preserve their right to challenge the assessment. Questions and comments included:

Butch Dahl, 113 East Main Street, was concerned that he is being assessed more than what the original notice indicated.. Mr. Olson indicated that there were six properties that had been assessed incorrectly because of an error with their address. The errors were corrected and the properties were assessed for their proper amounts.

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Genevieve Ahmann, 115 East Main Street and Jane Malo, 414 East Main Street were concerned that more sidewalk was replaced than the City originally marked for replacement.

Mr. Olson suggested that they come to his office to review their concerns.

Council Member DeCramer asked about the sidewalk fund that the City has. Mr. Olson indicated that if a property owner replaces their sidewalks the City will reimburse them 50% up to a maximum of \$500.00.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on assessments for Project Z49: East Main Street Sidewalk Replacement Project'. 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 4308, SECOND SERIES, which is the "Resolution Adopting Assessment" for Project Z49: East Main Street Sidewalk Replacement Project, with any adjustments deemed appropriate'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

APPROVAL OF CONSENT AGENDA:

Member (**John DeCramer**) moved, Member (**Craig Schafer**) 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: **5** Nay: **0**. The motion **Carried 5 - 0**

The approval of the specifications and authorize advertisement for bids for a Compact 4-Wheel Drive Articulating Wheel Loader for the Street Department.

That the date for the 2017 regular Council meeting be changed from Tuesday, August 15, 2017 to Tuesday, August 8, 2017 and from Tuesday, August 29, 2017 to Tuesday, August 22, 2017.

The approval of the specifications for the following equipment for the Amateur Sports Ballfields. This has been approved by the Equipment Review Committee and is to be included in the 2016C GO Tax Abatement Fund in the amount of \$230,500.

- Compact 4-wheel drive articulating wheel loader
- One ton 4-wheel drive truck chassis
- Model ball diamond dragging machine
- Track skid loader
- 4-wheel drive 72" commercial mower with cab
- ATV Vehicle

The approval of the Group Long-Term Disability renewal with Madison National Life Insurance Company, Inc., with a rate decrease from .20% to .19% of covered payroll. This rate is guaranteed for three years and will be effective January 1, 2017.

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The adoption of RESOLUTION NUMBER 4309, SECOND SERIES, which is a resolution designating Nicholas Johnson as the Responsible Authority for the purposes of meeting all requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Section 13.01 through 13.90, as amended.

The approval of amendments to the Data Practices Policy for Data Subjects and Data Practices Policy for Members of the Public.

Authorization be granted to the Department of Public Safety to dispose of one (1) vehicle considered as surplus. This vehicle will be auctioned on-line at the state site or will be taken to Alter Metal Recycling for disposal.

That the following bills and project payments be authorized for payment, ACCOUNTS PAYABLE, Voucher No. 100367 through 100429.

CONSIDER APPROVAL OF PERSONNEL POLICY AMENDMENT TO APPENDIX B: MAXIMUM ALLOWABLE REIMBURSEMENT / PER DIEM EXPENSE RATES FOR NON-LOCAL TRAVEL:

Council Member Bayerkohler requested that this item be removed from the consent agenda. He was concerned that these maximum allowable reimbursement / per diem expense rates for non-local travel are higher than the rates used by Southwest Minnesota State University.

Sheila Dubs, Human Resource Manager, indicated that the Personnel Committee met on Friday, September 23, 2016 and unanimously recommended approval of amendments to the Policy Manual. Manual—Appendix B—Maximum Allowable Reimbursement / Per Diem Rates, which will be effective October 1, 2016. Ms. Dubs stated that since August 2009, the City Council has established the City's maximum allowable reimbursement and per diem rates for non-local travel in accordance with the rates established by the U.S. General Services Administration (GSA) rate schedule. The GSA per diem rates are set by federal fiscal year, which begins on October 1 and ends on September 30 each year. The GSA schedule includes several rate adjustments for FY2017. The table in our policy manual reflects MN per diem rates only, as the majority of travel by employees occurs in-state. Where employees receive authorization to travel out-of-state, the employee clicks on the web-link provided in this Appendix to find the designated per diem rates. The Council will note that the Meal Per Diem column on the City's schedule reflects a decrease of \$5 from the GSA table (if you were to go to www.gsa.gov). Since August 2009, the Council has approved individual meal per diems (breakfast, lunch, dinner) consistent with the GSA schedule, minus the "Incidental Expenses", which equates to \$5 for all locations. Per the City's policy, any incidental or miscellaneous expenses require the Division Director approval and submission of an itemized bill/receipt from the vendor. Examples of miscellaneous expenses may include but are not limited to: parking fees, taxi fare, internet access charges, fax charges, and business telephone charges

Council Member Bayerkohler, indicated that the City could go with lower rates.

Member (John DeCramer) moved, Member (Craig Schafer) seconded to approve the ORIGINAL motion that the Council approve Appendix B of the City of Marshall Personnel

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Policy Manual for Maximum Allowable Reimbursement / Per Diem Rates for Non-Local Travel to be effective October 1, 2016 through September 30, 2017'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

CONSIDER RESOLUTION CERTIFYING SPECIAL ASSESSMENT FOR HAZARDOUS BUILDING REMOVAL AT 104 SOUTH 10TH STREET:

Council Member Bayerkohler requested that this item be removed from the consent agenda. Bayerkohler indicated there is an agreement to remove the property located at 104 South 10th Street. The agreement makes reference to State Statute 463.151 stating that the interest rate shall be eight (8) percent per annum. He is concerned that the according to the proposed resolution the interest rate will be 3.31%.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4310, SECOND SERIES Adopting Assessment for Removal of Hazardous Building located at 104 South 10th Street'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

CONSIDER ADOPTION OF RESOLUTION ADOPTING ASSESSMENT FOR ICE AND SNOW REMOVAL AND FOR GRASS AND WEED CONTROL:

Council Member Bayerkohler requested that this item be removed from the consent agenda. He indicated that State Statute provides for removal of weeds but does not address mowing of grass. Glenn Olson, Director of Public Works/City Engineer, reviewed the process or weed/grass removal.

All of the affected property owners were provided written notice of what was due to the City of Marshall. The property owners were informed that if this was not paid the City Council would consider adopting a resolution authorizing that this would be certified to Lyon County to be added to their Real Estate Tax Statement due and payable in 2017.

City Administrator Nick Johnson indicated that this is common practice among other cities.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4311, SECOND SERIES Adopting an Assessment for Ice and Snow Removal and for Grass and Weed Control'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion **Passed 4 – 1** with Bayerkohler voting no.

INTRODUCE AN ORDINANCE TO REZONE THE PROPERTY FROM R-4 HIGHER DENSITY – MULTI FAMILY RESIDENCE DISTRICT TO AN I-1 LIMITED INDUSTRIAL DISTRICT AT 811 NORTH BRUCE STREET AND CALL FOR A PUBLIC HEARING:

Council Member Bayerkohler requested that this item be removed from the consent agenda.

Glenn Olson, Director of Public Works/City Engineer, indicated that Great Plains Natural Gas Company conducts local business from the location at the edge of town at 811 N. Bruce Street.

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There is an office building and a contractor's shop building there. The owner wants to take down a part of the shop (a building built in 1971) and build an addition for storage. The land Great Plains owns is currently zoned R-4 Higher Density Multiple Family Residence District. It was rezoned from an A-Agricultural District in 2006 in conjunction with Conditional Use Permit for a business office that was built there at that time. The contractor's shop was there prior to rezoning and was left intact making it a non-conforming use which allows continuation of the previous activity but not any extension. Rezoning seems to be the best way of achieving Ordinance compliance and allowing construction to proceed. I-1 Limited Industrial District allows both contractor's shops and offices. The area North of Kossuth Avenue where the City shops are located is already zoned I-1 Limited Industrial District making it somewhat consistent even though I-1 zoning will not be contiguous rezoned. Additionally, these two parcels are already zoned differently from surrounding area. To make it consistent, the City is proposing to similarly rezone adjacent parcel 813 North Bruce Street (27-626-012-0) owned by Northern Natural Gas Company. Requirements for I-1 Limited Industrial District can be found in Section 86-108. Rezoning procedures are described in Section 86-30 Amendments.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council introduce an ordinance to rezone 811 North Bruce Street and 813 North Bruce Street from R-4 Higher Density – Multi Family Residence District to an I-1 Limited Industrial District'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'that the Council call for a Public Hearing to rezone the properties located at 811 North Bruce Street and 813 North Bruce Street from R-4 Higher Density – Multi Family Residence District to an I-1 Limited Industrial District to be held at the October 11, 2016 City Council meeting'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

KNIEFF ADDITION - INTRODUCTION OF PRELIMINARY PLAT AND CALL FOR PUBLIC HEARING:

Glenn Olson, Director of Public Works/City Engineer, reviewed the preliminary plat of Knieff Addition in Marshall, Minnesota. A portion of the property had been previously platted. Mr. Knieff is in the process of acquiring an additional piece of adjacent property in an unplatted area, requiring a subdivision of property. The new subdivision will include Lot 3 and Lot 4, Block Three of Wilke-Miller-Buesing Second Addition, as well as a triangular piece of unplatted property immediately adjacent to and south of those lots. Copies of the proposed subdivision have been sent to the local utility companies for their review and comments. Per the City Assessor, the real estate taxes payable in 2016 have been paid for all parcels.

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council introduce the Preliminary Plat of Knieff Addition'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **0**. The motion **Carried 5 - 0**

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'that the Council call for public hearing on the Preliminary Plat of Knieff Addition to be

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held at the October 11, 2016 City Council meeting.'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion Carried 5 - 0

CONSIDER A THREE-YEAR AGREEMENT WITH PYROTECHNIC DISPLAY, INC. FOR THE CITY OF MARSHALL JULY 4TH FIREWORKS:

Scott VanDerMillen, Director of Community Services, reviewed the letter and contract received from Pyrotechnic Display, Inc. of Clear Lake MN. The annual 4th of July fireworks presentation is very well attended and staff has received many favorable reviews of the fireworks display with Pyrotechnic Display, Inc. of Clear Lake (PDI) whom the City has worked with since 2010. 2016 was the final year of a 3-year, \$8,925 per year contract with PDI. PDI has extended a new 3-year, \$10,263.00 per year contract. This "Traditional Action Packed" (19-21) minute fireworks display will always have fireworks in the sky. Every year new fireworks are incorporated to keep the display fresh and exciting. This multi-year contract will allow for continuity in price for the next three years.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the ORIGINAL motion 'the proper City personnel be authorized to enter into a three-year agreement at a rate of \$10,263 per year with Pyrotechnic Display, Inc. from Clear Lake, MN'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion Carried 5 - 0

SOUTHWEST MINNESOTA REGIONAL AMATEUR SPORTS CENTER (SMASC) – CONSIDER CHANGE ORDERS: 1) CHANGE ORDER NO. 3 (0810.003) FOR CONTRACT #0810 DOORS, FRAMES & HARDWARE WITH BUILDERS SUPPLY COMPANY; 2) CHANGE ORDER NO. 14 (2600.014) 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, Wenck.

Glenn Olson, Director of Public Works/City Engineer, indicated that these two change orders are part of a larger summary that the City has reviewed with the project's architect and construction manager. Mr. Olson and City Attorney Simpson indicated that the complete list of change orders will be brought to the council for review.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the ORIGINAL motion 'that Council approve Change Order No. 3 (0810.003) for Contract #0810 Doors, Frames & Hardware with Builders Supply Company of Sioux Falls, South Dakota, for a contract increase in the amount of \$1,342.00'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion Passed 4 - 1 with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the NEW motion 'that the Council Change Order No. 14 (2600.014) for Contract #2600 – Electrical/Low Voltage with L&S Electric, Inc. of Springfield, Minnesota resulting in a contract increase in the amount of \$592.00'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 1. The motion Passed 4 - 1 with Bayerkohler voting no.

PROJECT Z39: DIVERSION CHANNEL BIKE TRAIL PROJECT (DIVERSION CHANNEL TO T.H. 19) - CONSIDER RESOLUTION APPROVING PLANS & SPECIFICATIONS AND AUTHORIZE ADVERTISEMENT FOR BIDS:

Glenn Olson, Director of Public Works/City Engineer, reviewed the Diversion Channel Bike Trail Project Z39 (Diversion Channel to T.H. 19). The purpose of the project is to construct the last remaining segment of recreational bike trail along the Camden Regional Trail. The project will create a new trail segment between two existing trail segments from the diversion structure (south) to Channel Parkway (at West College Drive north). This project proposes to construct a bituminous/concrete recreational trail. Improvements include a 3” thick bituminous trail over a 6” Class 5 base and a 6” thick concrete pavement over a 6” Class 5 base for portions of the trail constructed near and through BNSF railroad tracks. Comments received from BNSF, US Army Corps of Engineers, MnDOT, Lyon County, and the Marshall Country Club have all been considered and incorporated as part of the plans. The plans and specifications have been prepared by City staff.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4312, SECOND SERIES, which is the “Resolution Approving Plans and Specifications and Ordering Advertisement for Bids” for Project Z39: Diversion Channel Bike Trail Project (Diversion Channel to T.H. 19), subject to any requirements from Burlington Northern Permit Services and the Grant Program and Environmental Review'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0. The motion **Carried 5 - 0**

COMMISSION/BOARD LIAISON REPORTS:

- Schafer Marshall Area Transit Committee reviewed improvements that are being made to the bus stops and the snow removal process.
- Doom Convention and Visitors Bureau the Governor’s Pheasant Opener will be held in Marshall next year. Southwest Minnesota Amateur Sports Center work is continuing to complete the concession area. Personnel Committee items were acted on earlier in the meeting.
- Bayerkohler Planning Commission item was acted on earlier in the meeting.
- DeCramer EDA working on their strategic plan.
- Sturrock Police Advisory Board reviewed the hiring procedure for the openings in the Police Department.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Bayerkohler provided information from the League of Minnesota Cities in regard to the removal of weeds and the requirement for public hearings to special assess these costs. City Attorney Simpson will follow up on this. Council Member Sturrock provided an update on Highway 23.

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CITY ADMINISTRATOR:

Nick Johnson, City Administrator, indicated that staff met with Reinhart's in regard to the concession area at the Red Baron™ Arena and Expo Center. There will be a budget work session on October 6th and October 11th. There will be a walk-through of the Marshall Hotel to determine if it is structurally sound.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, indicated that in order to hold concerts at the Red Baron™ Arena and Expo Center there needs to be an additional door added going into the main rink. This would allow the occupancy to be increased. Mr. Olson indicated that his department will be going ahead with adding this additional door.

Glenn also provided information on the drainage area by Brau Brothers.

CITY ATTORNEY:

Dennis Simpson, City Attorney, indicated that Reinhart's has provided an updated list of the equipment for their Sponsorship agreement at the Red Baron™ Arena and Expo Center.

PENDING ITEMS:

There were no questions on the pending items.

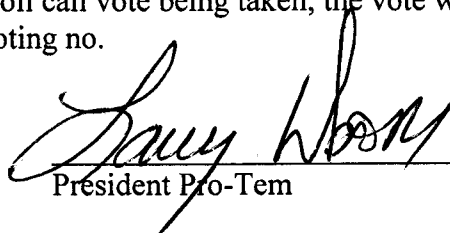
INFORMATION:

There were no questions on the information items.

UPCOMING MEETINGS

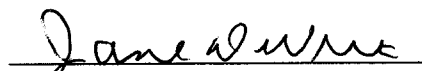
There were no questions on the upcoming meeting list.

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: 4
Nay: 1. The motion **Passed 4 - 1** with Schafer voting no.



President Pro-Tem

ATTEST:



City Clerk