

REGULAR MEETING – OCTOBER 25, 2016

The regular meeting of the Common Council of the City of Marshall was held on October 25, 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: none. Council Member Schafer arrived late. Staff present included: Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Jason Anderson, Assistant City Engineer; Karla Drown, Finance Director; Marc Klaith, Fire Chief; Ilya Gutman, Plan Examiner; Preston Stensrud, Parks Superintendent; Mary Tate, Community Services Administration Assistant and Jane DeVries, City Clerk. Rob Yant, Director of Community Services arrived late.

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 item number 14, which is the request for approval to modify the Tobacco-Free Parks Policy from May 17, 2014, to be moved to the first item under new business.

**CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON OCTOBER 6, 2016; THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 11, 2016 AND THE MINUTES OF THE WORK SESSION HELD ON OCTOBER 11, 2016:**

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'the minutes of the work session held on October 6, 2016, the minutes of the regular meeting held on October 11, 2016 and the minutes of the work session held on October 11, 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

**PROJECT Z54: BRAU BROTHERS AREA STORM SEWER PROJECT – AWARD OF BIDS:**

Jason Anderson, Assistant City Engineer, indicated that the City of Marshall has been made aware of a storm sewer drainage issue in the area referred to as the Brau Brothers Area Storm Sewer. The problems include extreme slopes from the paved areas adjacent to the storage garages located on the Mosch property, eroding away the slope and undermining the existing pavement slabs. In addition, stormwater discharges from the adjacent areas of the mini mall and Brau Brothers have created ponding on the commercial property, development of cattails, scrub trees and weeds and tall grass that is unable to be mowed. Bids were received, opened and read on October 18, 2016, for Project Z54 Brau Brothers Area Storm Sewer Project from:

Thompson Excavating  
Taunton, Minnesota  
\$25,191.00

Rogge Excavating, Inc.  
Ghent, Minnesota  
\$27,127.50

R & G Construction Company  
Marshall, Minnesota  
\$33,150.00

D & G Excavating, Inc.  
Marshall, Minnesota  
\$39,872.00

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council award the contract for Project Z54, Brau Brothers Area Storm Sewer Project to Thompson Excavating of Taunton, Minnesota, in the amount of \$25,191.00, subject to agreement to pay from all affected properties'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

**APPROVAL OF CONSENT AGENDA:**

Member (**John DeCramer**) moved, Member (**Larry Doom**) 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**

The introduction of an ordinance to rezone 114 South 5<sup>th</sup> Street from R-4 Higher Density Multiple Family Residence District to B-2 Central Business District.

The approval of a Temporary On-Sale Liquor License for the American Legion Post 113 to use at Marshall Armory, 500 Timmerman Drive, Marshall, Minnesota on December 10, 2016.

That the following bills and project payments be authorized for payment ACCOUNTS PAYABLE, Voucher No. 100793 through 100934.

**AWARD BID FOR NEW UTILITY VEHICLE FOR THE AMATEUR SPORTS BALLFIELDS:**

Preston Stensrud, Parks Superintendent, indicated that at the October 11, 2016 Council meeting the bid for New Utility Vehicle was awarded to Schuneman Equipment of Marshall, MN in the amount of \$10,800.00. Upon further review, staff discovered that the vehicle awarded did not meet minimum specifications. Specification was not met for #19 - power steering.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council rescind the bid previously awarded to Schuneman Equipment and award bid to Kesteloot Enterprises, Inc. of Marshall, Minnesota in the amount of \$12,700.00'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed 5 – 1**, with Bayerkohler voting no.

**REQUEST FOR APPROVAL TO MODIFY TOBACCO-FREE PARKS POLICY FROM MAY 17, 2004:**

Mary Tate, Community Services Administrative Assistant, introduced Brooke Chesley and Madison Schumacher members of the Marshall Youth Acting Against Alcohol Chemicals Tobacco and Substances (ACTS). ACTS is requesting to dedicate the Red Baron<sup>TM</sup> Arena and Expo Center as tobacco free. They would like to do this on November 22, 2016 in conjunction with a Marshall High School Hockey Scrimmage. The Marshall Community Services Department is also recommending to update the policy with current park names as several have changed since 2004.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Tobacco-Free Parks Policy be amended as presented'. Upon a roll

call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **passed 5 – 1**, with Sturrock voting no.

**COALITION OF GREATER MINNESOTA CITIES 2016 CITY VISIT AND LEGISLATIVE UPDATE:**

Marty Seifert, Lobbyist from Flaherty-Hood was in attendance at the meeting to provide the City of Marshall with a legislative update related to the Coalition of Greater Minnesota Cities of which they provide services for and the City of Marshall are members. Councilmen Sturrock is a Board member of the Coalition of Greater Minnesota Cities as well.

Be it noted the arrival of Council Member Schafer.

**ADOPT 2017 FIRE RELIEF ASSOCIATION CONTRIBUTION RESOLUTION AMENDING THE BY-LAWS:**

Nick Johnson, City Administrator, reviewed the request from the Fire Relief Association for an increase in their pension benefit level for 2017. Based upon previous conversations with City Council it was recommended to have the benefit level increase (by percentage) at the same rate of non-union wage increases to city employees. Non-union city employee wages will go up 2.5% for 2017. The Fire Relief Association benefit level is currently at \$5,665.00. A 2.5% increase would raise the benefit level to \$5,807.00 (\$142.00 difference).

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'adopt RESOLUTION NUMBER 4317, SECOND SERIES approving the by-laws of the Marshall Volunteer Firefighters Relief Association. This resolution provides for the annual pension benefit to increase from \$5,665.00 to \$5,807.00 paid per year of service and to be effective January 1, 2017'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**CONSIDER REQUEST OF DUAINE BREYFOGLE FOR A VARIANCE ADJUSTMENT PERMIT TO OMIT REQUIRED EXTERIOR FINISHES AND LANDSCAPING AT 1311 CANOGA CIRCLE:**

Jason Anderson, Assistant City Engineer, reviewed the request from Duaine Breyfogle for a Variance Adjustment Permit to omit required exterior finishes and landscaping. The owner wants to build a new building on this property and requests a variance adjustment permit to allow the exterior finishes required by Exterior Standard Ordinance and landscaping required by Landscaping Ordinance be omitted. The property is located in a B-3 General Business District and Section 86-260 Exterior appearance standards require that all exterior walls visible from the public right of way (Canoga Circle in this case) be finished with at least 70% of Class I or II materials which are brick, stone, EIFS, etc. However, existing building built in 2013 (before Exterior appearance standards were adopted) is finished with two colored metal panels. Considering that the new building is located on the other side of Canoga Circle from the existing building, the Owner's request to finish this building to match existing seems reasonable. Section 86-247 Landscaping requires that 30% of the properties located in business districts is landscaped with half of the landscaped area being grass. Additionally, the Ordinance requires planting 10 trees based on the lot area. Considering that this parcel is located next to the pond surrounded by trees, it makes sense to at least reduce the landscaping requirements. The City

staff recommendation was to provide 2,000 SF of green area and 5 trees which is half of the Ordinance requirements.

Member (**John DeCramer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council approve a Variance Adjustment Permit to omit required exterior finishes and landscaping with the following conditions: 1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with. 2) That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default. 3) That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant. 4) The new building finishes to match existing building on the other side of Canoga Circle. 5) Plant five (5) trees in the front along south property line and provide 2,000 S.F. of landscape green area'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed 5 – 2** with Sturrock and Doom voting no.

**CONSIDER REQUEST BY JOHN AND CAROLYN CARLSON FOR A VARIANCE ADJUSTMENT PERMIT TO BUILD A GARAGE ADDITION THAT PROTRUDES 3.5 FEET INTO REQUIRED FRONT YARD AT 313 JEAN AVENUE:**

Jason Anderson, Assistant City Engineer, reviewed the request from John and Carolyn Carlson for a variance adjustment permit to build a garage addition that protrudes 3.5 feet into required front yard along Jean Avenue. The house is located on a corner lot so there are two front yards, 25 feet each. The house meets the front yard requirements but the existing attached garage is projecting in front of the house and therefore is protruding 3.5 feet into required front yard. The owner wants to add a 1,000 to 1,200 SF space to the west of the existing garage. They can push it back and meet the ordinance; however, they want to line it up with the existing garage which means protruding into required front yard. The adjacent house also looks to be protruding a couple feet into the required front yard and it seems that no harm will be done by building an addition as the owner requests. The Ordinance states that the owner “shall prove that the literal enforcement of the provisions of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration...” After reviewing the Ordinance, and definition of “practical difficulties”, the staff concluded this variance request should be approved.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council approve a Variance Adjustment Permit to build a garage addition that protrudes 3.5 feet into required front yard along Jean Avenue with the following conditions:

1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with. 2) That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default. 3) That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant'. 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 SMSU REGARDING THE RED BARON™ ARENA & EXPO:**

Dennis Simpson, City Attorney, reviewed the sponsorship agreement between the City of Marshall and SMSU. SMSU has agreed to be a sponsor at the Red Baron™ Arena & Expo. The agreement is for a three year sponsorship with an additional right to renew for an additional two years. Financial commitment is \$3,500 per year for each of the three years.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the approval of the Sponsorship Agreement between the City of Marshall and SMSU regarding the Red Baron™ Arena & Expo'. 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 AND APPROVE SPONSORSHIP AGREEMENT BETWEEN CITY OF MARSHALL AND BREMER BANK, N.A. REGARDING THE RED BARON™ ARENA & EXPO:**

Dennis Simpson, City Attorney, reviewed the sponsorship agreement between the City of Marshall and Bremer Bank, N.A. Bremer Bank has agreed to be a sponsor at the Red Baron™ Arena & Expo. The annual commitment will be \$10,000 per year for a five year commitment. A portion of the first year commitment will be to provide support and funding of a youth hockey tournament with up-front costs of \$5,300 and additional cash contribution of \$4,700 during the year 2017. Exhibit A to the agreement describes the advertising value to Bremer. Sponsorship agreement is similar to other agreements entered into between the City and sponsors.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the approval of the Sponsorship Agreement between the City of Marshall and Bremer Bank, N.A. regarding the Red Baron™ Arena & Expo'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed 6 – 1** with Bayerkohler voting no.

**CONSIDER FEE RESOLUTION AMENDMENT FOR 2017:**

Nick Johnson, City Administrator, reviewed the proposed changes to the 2017 Fee Resolution. The full city council had reviewed the 2017 stormwater and wastewater rate and the Ways & Means reviewed these rate changes on October 24, 2016.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4318, SECOND SERIES, which is a resolution approving the Fee Resolution'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**SCHWAN REGIONAL AMATEUR SPORTS CENTER – CONSIDER CHANGE ORDERS: 1) CHANGE ORDER NO. 5 (0610.005) FOR CONTRACT #0610 CARPENTRY WITH ROBERT L. CARR CO.; 2) CHANGE ORDER NO. 10 (2200.010) FOR CONTRACT #2200 PLUMBING & HEATING WITH BISBEE PLUMBING & HEATING:**

These change orders have been prepared, reviewed and recommended for approval by the City's Construction Manager, Wenck.

REGULAR MEETING – OCTOBER 25, 2016

Member (Larry Doom) moved, Member (John DeCramer) seconded to approve the ORIGINAL motion 'that the Council approve Change Order No. 5 (0610.005) for Contract #0610 Carpentry with Robert L. Carr Co. of Marshall, Minnesota resulting in a contract decrease in the amount of \$8,739.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion Carried 7 - 0

Member (John DeCramer) moved, Member (Craig Schafer) seconded to approve the NEW motion 'that the Council approve Change Order No. 11 (2200.011) for Contract #2200 Plumbing & Heating with Bisbee Plumbing & Heating of Marshall, Minnesota resulting in a contract increase in the amount of \$3,928.00 '. 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 No report.

Schafer No report.

Doom EDA met on October 19<sup>th</sup>. Ralco is working on a shrimp farm expansion and there is a potential sale of lots in Parkway Addition.

Bayerkohler Planning Commission items acted on earlier in the meeting.

DeCramer Utilities Commission will have a public hearing on November 16<sup>th</sup>  
Ways and Means items acted on earlier in the meeting.

Sturrock Airport Commission will have a work session on October 31<sup>st</sup> to discuss the Airport Master Plan.

Conyers No report.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

The change order for the Red Baron<sup>TM</sup> Arena and Expo will be discussed at a work session.

**CITY ADMINISTRATOR:**

Nick Johnson, City Administrator, provided updates on:

Open enrollment for City employees was held on October 25<sup>th</sup>

City staff along with Ron Halgerson conducted a walk-through of the Marshall Hotel

The Partnership Agreement between MMU and the City of Marshall is being reviewed

**DIRECTOR OF PUBLIC WORKS:**

Jason Anderson, Assistant City Engineer, provided a brief update on current projects.

**CITY ATTORNEY:**

Dennis Simpson, City Attorney, provided an update on the sponsorship agreement with Reinhart.

**PENDING ITEMS:**

There were no questions on the pending items.

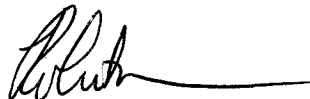
**INFORMATION:**

There were no questions on the information items.

**UPCOMING MEETINGS**

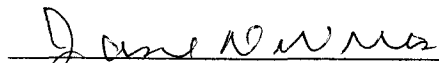
There were no questions on the upcoming meeting list.

Member (**Larry Doom**) moved, Member (**David Sturrock**) 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:

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