

REGULAR MEETING – DECEMBER 13, 2016

The regular meeting of the Common Council of the City of Marshall was held on December 13, 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: Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Karla Drown, Finance Director; Rob Yant, Director of Public Safety; Scott VanDerMillen, Director of Community Services; Marc Klaith, Fire Chief; Sheila Dubs, Human Resource Manager; and Jane DeVries, City Clerk. Others in attendance included: Cal Brink, CEO Marshall Area Chamber of Commerce and Darin Rahm, CVB Director.

The Pledge of Allegiance was recited at this time.

**CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 15, 2016; THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 22, 2016, THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 22, 2016 AND THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 29, 2016:**

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the minutes of the work session held on November 15, 2016; the minutes of the regular meeting held on November 22, 2016, the minutes of the work session held on November 22, 2016 and the minutes of the work session held on November 29, 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**

**CONSIDER AWARD OF BID FOR THE PICKUP OF GARBAGE AND TRASH FOR VARIOUS CITY LOCATIONS:**

One bid was received on December 1, 2016 for the removal of garbage and trash from numerous municipal locations within the City of Marshall from:

Southwest Sanitation  
Marshall, Minnesota  
\$25,425.76

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'award the contract for the pick-up of garbage and trash to Southwest Sanitation Inc., for 2017-2018 in the amount of \$25,425.76'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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

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Approve the renewal of Taxi Cab Licenses for Downtown DD LLC dba Marshall Taxi; Rugama's and Southwest Minnesota Services for January 1, 2017 through December 31, 2017 contingent upon all requirements being completed.

The approval of the On-Sale Intoxicating Liquor Licenses, Sunday On-Sale Liquor Licenses, Wine Licenses, Brewer Taproom License, 3.2 Malt Liquor Beverage On-Sale License, 3.2 Malt Beverage Off-Sale License, Micro/Small Brewer Off-Sale Liquor License (Growlers) and Tobacco License for 2017 contingent upon all requirements being completed.

The approval of the Under 21 Exemption for Applebee's and the Hitching Post as per Ordinance Number 646, Second Series, Section 6-215 (c) for January 1, 2017 through December 31, 2017.

That the following bills and project payments be authorized for payment; ACCOUNTS PAYABLE Voucher No. 100969 through 100972; 101499; 101531 through 101790 and Draft No. 147 through 155.

**APPROVAL OF ITEMS PULLED FROM CONSENT**

**2017 UNITED COMMUNITY ACTION PARTNERSHIP TRANSPORTATION AGREEMENT:**

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'Approval of the 2017 United Community Action Partnership Transportation Agreement'. 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.

**CONSIDER APPROVAL OF AMENDED 2017 WAGE SCHEDULE FOR TEMPORARY AND SEASONAL EMPLOYEES:**

On an annual basis, the Council reviews the wage schedule for temporary/seasonal employees. The approved schedule is then implemented on a date that includes January 1st of the upcoming calendar year. Department Supervisors and Division Directors have taken the opportunity to review the existing wage schedule. The Personnel Committee met on November 28<sup>th</sup> and unanimously approved to recommend approval of the amended 2017 wage schedule for implementation on 12/26/16, the first day of the pay period that includes January 1, 2017.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approves the 2017 Wage Schedule for Temporary/Seasonal employee's effective December 26, 2016, the first day of the pay period that includes January 1, 2017'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARSHALL AND AVERA MARSHALL REGARDING THE INCREASED POLICE STAFFING AND "ENHANCED PRESENCE" AT THE AVERA MEDICAL FACILITY IN MARSHALL:**

On October 25, 2016, Council met in work session to discuss ongoing budget issues and staffing issues. It was agreed that Marshall Police department would add two additional full time patrol

officers to its staffing needs. The City of Marshall would fund the first of the additional positions. So long as City of Marshall continues to fund the additional position, Avera Marshall would fund the second additional position. City Council has requested that a Memorandum of Understanding be drafted regarding the agreement between the parties. That MOU has been drafted and has been approved and signed by Mary Maertens, CEO of Avera Marshall. It is understood that Avera Marshall will completely fund one patrol officer position. The initial commitment is \$80,000 for the year 2017. This is a three-year commitment for funding 2017, 2018 and 2019. The Avera funded patrol position is not intended to serve exclusively at Avera. The police department and Avera hope for an enhanced presence by law enforcement at the Avera facility, but there is no obligation and no expectation by Avera that an additional officer will serve exclusively at the medical facility. Significant time and resources are already spent at the Avera facility. The MOU does set forth expectations for an enhanced presence, but there is no mandatory or obligated time provided for the Avera medical facility.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Consider and approve the Memorandum of Understanding between the City of Marshall and Avera Marshall regarding increased police staffing and enhanced presence at the Avera facility in Marshall'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried-7 - 0**

**CITY STAFF RECOMMENDS THAT THE MARSHALL CITY COUNCIL APPROVE THE SPORTS MEDICINE/ATHLETIC TRAINING SERVICE AGREEMENT FOR SERVICES TO BE PROVIDED AT THE RED BARON™ ARENA & EXPO BY BIG STONE THERAPIES, INC:**

Dennis Simpson, City Attorney, indicated that the Sports Medicine/Athletic Training Service Agreement for services to be provided at the Red Baron™ Arena & Expo with Big Stone Therapies, Inc., was tabled at the November 22, 2016 Council meeting. The agreement had several minor changes. First, the Exhibit A has been completed and the tournaments to be conducted at the facility late 2016-early 2017 has been included. Those tournaments will have the sports medicine/athletic training services available at the facility at no cost to the City. In addition to the schedule, several minor changes and clarifications were made to paragraph 3b on page 3. These changes have been approved by Big Stone Therapies and Avera Marshall. Both entities have signed the agreement. Individual MAHA games and individual high school games are still subject to pay for fee services by the sponsoring entity.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'To remove from the table for discussion as an old business agenda item'. 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 'Review and approve Sports Medicine/Athletic Training Services Agreement between the City of Marshall, Avera Marshall and Big Stone Therapies, Inc. to provide services at Red Baron™ Arena & Expo'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**VACATION OF DRAINAGE EASEMENT, UTILITY EASEMENT AND STREET IN PROPOSED MENARD SECOND SUBDIVISION - RECEIPT OF PETITION TO VACATE AND CALL FOR PUBLIC HEARING.**

Glenn Olson, Director of Public Works/City Engineer, indicated that the purpose for all of the vacations is to allow expansion of the building materials yard on the northerly and easterly side of the Menards building as presented on the proposed plat of Menard Second Subdivision. STREET VACATION - A request for petition for vacation of the eastern portion of Boyer Drive was submitted from the sole owner(s) of all of the abutting properties of the section of street proposed to be vacated. DRAINAGE EASEMENT VACATION - A request for petition for vacation of a portion of the existing drainage easement was submitted from the sole owner(s) of all of the abutting properties of the portion of the drainage easement to be vacated. This vacation petition is a result of the dedication of the new right of way for relocated Boyer Drive and is not necessary within a public right of way. UTILITY EASEMENT VACATION - A request for petition for vacation was submitted from the sole owner(s) of all of the abutting properties of the utility easements to be vacated. This is for the vacation of the utility easements along and adjacent to both sides of the eastern portion of Boyer Drive. In addition, the vacation of a portion of utility easement just north of existing Boyer Drive and westerly of the existing drainage easement located within the proposed new relocated Boyer Drive. Prior to the public hearing and adoption of the resolution granting a petition for vacation, all utility companies will be contacted. The Resolution Granting Petition for Vacation of a Portion of Drainage Easement, Utility Easement and Street should be recorded prior to the recording of the Final Plat of Menard Second Subdivision.

Member (**Larry Doom**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council acknowledge receipt of the Petition to Vacate, order the petition to be filed for record with the City Administrator, order hearing on such petition, and set the hearing date for December 27, 2016'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF SPECIFICATIONS FOR A RESCUE TRUCK FOR THE MARSHALL FIRE DEPARTMENT:**

The Equipment Review Committee met on Wednesday, December 7, 2016 to review the plans and specifications for the proposed rescue truck. The chassis is being purchased locally through Olson and Johnson while the body is being purchased separately from Rosenbauer South Dakota LLC. There is no one locally that builds bodies for fire trucks. This will be the fourth truck that the City has purchased from Rosenbauer and the department is very satisfied with the finished product along with their customer service. Rosenbauer South Dakota LLC is the NJPA (National Joint Powers Alliance) contract holder for this piece of equipment. The Committee recommended approval of the specifications.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to approve specifications for the rescue truck'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **NEW** motion 'to approve the purchase of the heavy duty rescue body from Rosenbauer in the amount of \$189,667.00 and the IHC 7400 Cab & Chassis from Olson & Johnson in the amount of \$102,250.00 for a total purchase price of \$291,917.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER AND APPROVE THE CONSENT TO TERMINATION OF MINIMUM ASSESSMENT AGREEMENT BY AND BETWEEN HRA, CITY OF MARSHALL AND MARSHALL SQUARE SHOPPING CENTER LIMITED PARTNERSHIP:**

Dennis Simpson, City Attorney, indicated that the redevelopment of the Marshall Square Shopping Center has not proceeded as scheduled. The Redeveloper has requested that the Minimum Assessment Agreement (MAA) be terminated as the development of outlots, sale to the hotel and apartment complex have not occurred as anticipated. The delay in the redevelopment of the property is the justification for terminating this agreement regarding minimum assessments. The property has not been developed in a timely fashion and as such, the property values do not exist as anticipated. Dennis indicated that he has prepared the consent to termination agreement as anticipated by Minnesota Statutes §469.177 subd. 8. Mr. Pellowski has signed said consent agreement.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'Consider and approve the Consent to Termination of Minimum Assessment Agreement by and between HRA, City of Marshall and Marshall Square Shopping Center Limited Partnership'. 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 ORDER: 1) CHANGE ORDER NO. 6 (0610.006) FOR CONTRACT #0610 CARPENTRY WITH ROBERT L. CARR CO:**

This change order has been prepared, reviewed, and recommended for approval by the City's Construction Manager, Wenck.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 6 (0610.006) for Contract #0610 Carpentry with Robert L. Carr Co. of Marshall, Minnesota resulting in a contract increase of \$1,557.00'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed 5 – 2** with Sturrock and Bayerkohler voting no.

**PROJECT Z19: PARK AVENUE RECONSTRUCTION / EAST COLLEGE DRIVE WATERMAIN REPLACEMENT PROJECT - 1) CONSIDER CHANGE ORDER NO. 1; 2) CONSIDER CHANGE ORDER NO. 2 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 5:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Project Z19 Park Avenue Reconstruction / East College Drive Watermain Replacement. This project involved the replacement of sanitary sewer, the replacement of watermain on Park Avenue from Marshall Street to East College Drive, the replacement of watermain on East College drive from Walnut Street to approximately 150 feet east of Park Avenue, and the reconstruction of Park Avenue

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from Marshall Street to East College Drive, as well as some sidewalk replacement work in Liberty Park. The items on Change Order No. 1 are the result of repairing curb and gutter caused by an incorrect elevation and an incorrect measurement by contractor. The total cost of this repair is equally cost shared. The items on the Change Order No. 2 (Final Reconciling Change Order) are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$2,088.75'. 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 Council approve Change Order No. 2 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$12,752.21 and acknowledge Final Pay Request (No. 5) in the amount of \$23,694.38'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z22: MARGARET AVENUE IMPROVEMENT PROJECT / PROJECT Z30: WINDSTAR STREET IMPROVEMENT PROJECT - 1) CONSIDER CHANGE ORDER NO. 2; 2) CONSIDER CHANGE ORDER NO. 3 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 5:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Project Z22 Margaret Avenue Improvement Project / Project Z30 Windstar Street Improvement Project. This project consists of the construction of streets and utilities on Margaret Avenue from Boyer Drive to Windstar Street and Windstar Street from Margaret Avenue to T.H. 59 and turn lanes on T.H. 59. Items of work included in the project are sanitary sewer, watermain, and storm sewer placement, curb and gutter placement, sidewalk placement, bituminous surfacing, aggregate base, grading and other minor work. The items on Change Order No. 2 are the result of liquidated damages, placement of concrete pavement in cold weather, and reductions in payment for pipe that did not meet all specifications. The items on the Change Order No. 3 (Final Reconciling Change Order) are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. The additional contract payments were due to additional pavement removal, replacement and miscellaneous items required by MnDOT for the intersection of Windstar Street and TH 59. All work has been completed in accordance with the specifications.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract decrease in the amount of \$7,170.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **NEW** motion 'that Council approve Change Order No. 3 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$36,340.70 and

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acknowledge Final Pay Request (No. 5) in the amount of \$45,728.70'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z49: EAST MAIN STREET SIDEWALK REPLACEMENT PROJECT - 1) CONSIDER CHANGE ORDER NO. 1; 2) CONSIDER CHANGE ORDER NO. 2 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 4:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Project Z49 East Main Street Sidewalk Replacement. This project consisted of the sidewalk and driveway improvements along East Main Street from Southview Drive to First Street. The improvements were constructed along the both sides of East Main Street (T.H. 59) and meet ADA guidelines for wheelchair accessibility. The items on Change Order No. 1 are the result of removal and installation of a concrete block retaining wall and tree pruning. The items on the Change Order No. 2 (Final Reconciling Change Order) are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. The majority of the additional quantities were the result of additional sidewalk removal and replacement that was necessary due to slope conditions of the sidewalk. These amounts were included in the assessments for the project. All work has been completed in accordance with the specifications.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 with Hisken Construction, Inc. of Marshall, Minnesota, resulting in a contract increase in the amount of \$2,906.25'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Doom voting no.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'that Council approve Change Order No. 2 (Final) Hisken Construction, Inc. of Marshall, Minnesota, resulting in a contract increase in the amount of \$19,186.85 and acknowledge Final Pay Request (No. 4) in the amount of \$31,232.32'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 - 1** with Doom voting no.

**PROJECT Z51: BITUMINOUS OVERLAY PROJECT -- 1) CONSIDER CHANGE ORDER NO. 2 (FINAL); 2) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 2:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 2 for Project Z51 Bituminous Overlay. The items on Change Order No. 2 (Final Reconciling Change Order) are the result of final measurements and changes in item quantities during construction. Each individual line item is shown on the spreadsheet attached to the change order. All work has been completed in accordance with the specifications.

Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 (Final) with Duininck, Inc. of Prinsburg, Minnesota, resulting in a contract increase in the amount of \$26,612.19 and acknowledge Final Pay Request (No. 2) in the amount of \$59,404.99 for Project Z51 Bituminous Overlay'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z54: BRAU BROTHERS AREA STORM SEWER PROJECT – CONSIDER CHANGE ORDER NO. 1 WITH THOMPSON EXCAVATING:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 for Project Z54 Brau Brothers Area Storm Sewer. This change order is the result of labor for lowering of power cable and placement of material from an existing stockpile.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 Thompson Excavating of Taunton, Minnesota, resulting in a contract increase in the amount of \$790.00 for Project Z54 Brau Brothers Area Storm Sewer'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER AND APPROVE WAIVING OF RESOLUTION NO. 3290, SECOND SERIES AND AUTHORIZING THE RECORDING OF THE 14 FOOT PARCEL FOR PROPERTY LOCATED AT LOT 2, BLOCK 2, NWAKAMA ADDITION:**

Dennis Simpson, City Attorney, indicated that a group of local citizens and business owners formed a business entity known as Sleep Inn of Marshall, LLC. That business was developed for the purpose of the development of Sleep Inn facility as located in Marshall. That business entity acquired all of Lot 1 and a part of Lot 2 Nwakama Addition, City of Marshall. The property was acquired, financing was put in place and the facility was constructed. After the fact, it was determined that an additional 14 feet of property was required for additional parking as needed at the Sleep Inn. The Sleep Inn business entity did negotiate with and did acquire the additional necessary 14 feet of property from property owner 6 CHIS Company, LLC. In August 2009, Marshall City Council approved Resolution No. 3290, Second Series, to allow the City to be involved in and regulate the splitting of parcels of property. Any split of a piece of a larger parcel of property does now require City staff approval. In addition to the City approval, Minnesota Statutes also require that all current real estate taxes for the larger parcel of property be paid in full prior to the recording of a split. The 14-foot parcel split was submitted to the City for approval of the split. Deed was submitted to the City December 23, 2015. Because of the provisions of Resolution No. 3290, Second Series the split was not approved. Approval was not provided because the 14-foot parcel would be a “stand-alone” “undevelopable” piece of property. That 14-foot parcel of property could not be combined with the other Sleep Inn property because of the differences in descriptions between the deed and the mortgage on the property. Federal agency Small Business Administration does have two mortgages against the original developed property. The Sleep Inn of Marshall has attempted to have the SBA amend its mortgage to include the additional 14 feet, but SBA is unwilling to amend its documents. The City of Marshall would prefer to see that the existing Sleep Inn property and the 14-foot addition be consolidated into one tax parcel number. However, the two parcels cannot be combined because of a difference in descriptions between land owned and the existing mortgages. City Attorney, however, does believe that it is in the best interest of both the seller and the buyer to approve the split of property and authorize City staff to sign the deed approving the 14 foot split. Real estate transfer has been effective between the seller and buyer. The deed should now be recorded. While the transfer will technically create a 14-foot unbuildable lot, it seems to the City Attorney’s office that the City Council should approve and authorize the recording of the deed. The recording will create a separate 14-foot tax parcel but will allow for the remainder of Lot 2 (owned by 6 CHIS Company, LLC) to be taxed at agricultural classification. City Attorney



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believes that the requirements of Resolution No. 3290, Second Series be waived as in this particular case compliance would create an unnecessary hardship for both buyer and seller and failure to comply would not interfere with the purpose of City's subdivision ordinance. This situation is unique to this parcel of property. All real estate taxes due and payable in 2016 have been paid and it is now the appropriate time to approve this transfer and authorize the recording of the deed.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4329, SECOND SERIES, which is a Resolution authorizing the division of land and City Council approval of a Certain Conveyance'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

### **MENARD SECOND SUBDIVISION -- INTRODUCTION OF PRELIMINARY PLAT AND CALL FOR PUBLIC HEARING:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the preliminary plat of Menard Second Subdivision in Marshall, Minnesota. ISG of Mankato, Minnesota, the surveyor and engineer for Menard, Inc., has submitted the Menard Second Subdivision plat in the city of Marshall. The purpose for the plat is to allow expansion of the building materials yard on the northerly and easterly side of the Menards building. Included in the new plat is a partial relocation of Boyer Drive and its rights of way, retention of utility easements for existing utilities installed in Boyer Drive, new utility easements along and adjacent to the relocated portions of Boyer Drive, and revisions to Outlot B of Menard Subdivision. Copies of the proposed subdivision have been sent to the local utility companies for their review and comments. At the Planning Commission meeting on August 10, 2016, Edblom made a motion, second by Fox to recommend approval of the preliminary plat to the City Council and to call for public hearing to be held on September 13, 2016. All voted in favor. At the August 23, 2016 City Council meeting, the Council called for a public hearing on the Preliminary Plat of Menard Second Subdivision to be held at the September 13, 2016 City Council meeting, as per the recommendation of the Planning Commission. As the First Development Contract for Menard Second Subdivision was not yet prepared nor reviewed by the developer, the public hearing was not placed on the September 13, 2016 agenda. The First Development Contract has now been prepared and has been reviewed by the developer and the City Attorney. Therefore, City staff recommends calling for the public hearing on the Preliminary Plat of Menard Second Subdivision to be held at the December 27, 2016 City Council meeting, as per the recommendation of the Planning Commission.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the Council call for public hearing on the Preliminary Plat of Menard Second Subdivision to be held at the December 27, 2016 City Council meeting'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

### **CONSIDERATION OF APPOINTMENT OF CITY ATTORNEY:**

In accordance with Section 3.03 of the City Charter the Mayor shall nominate to the City Council the City Attorney. The term shall be two years beginning at the first meeting in January 2017, and he shall continue in office until the first meeting in 2019. The Mayor has recommended the re-appointment of Mr. Simpson. The Council must approve by majority vote.

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Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'appoint Dennis Simpson of Quarnstrom & Doering, P.A as the City Attorney'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**2017 CITY/MACC SERVICE AGREEMENT FOR THE RED BARON™ ARENA:**

Nick Johnson, City Administrator, indicated that the Marshall Area Chamber of Commerce has submitted a proposal for services related to the Red Baron™ Arena for 2017.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the proper city personnel be authorized to enter into an agreement with the Marshall Area Chamber of Commerce to provide services related to the Red Baron™ Arena effective January 1, 2017'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 - 1** with Bayerkohler voting no.

Mayor Byrnes called for a 5-minute recess at 6:55 P.M.

**APPROVE SPRINGSTED POST ISSUANCE CONTRACT UPDATES:**

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the approval of Disclosure Services and Arbitrage Monitoring Services with Springsted Incorporated'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF 2017 CAPITAL EQUIPMENT PURCHASES UNDER CAPITAL IMPROVEMENT LEVY:**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'approval of the 2017 Capital Equipment Purchases under the Capital Improvement Levy'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDERATION OF 2016 TAX LEVY COLLECTIBLE IN 2017 AND THE 2017 BUDGET:**

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NO 4330, SECOND SERIES, which is a resolution adopting the 2016 Tax Levy Collectible in 2017'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **NEW** motion 'the adoption of RESOLUTION NO 4331, SECOND SERIES, which is a resolution adopting the 2017 Budget'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

**CONSIDER APPROVAL OF A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR MARSHALL AREA CHAMBER OF COMMERCE:**

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at Southwest Minnesota State University, 1501 State Street,

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Marshall, Minnesota on January 27, 2017'. 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 APPOINTMENTS TO VARIOUS BOARDS/COMMISSIONS:**

Per the recommendation of the Mayor Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'approval of appointments to the various boards and commissions'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Convention and Visitors Bureau – Chris Zent be appointed to a 3-year term to expire on December 31, 2019

**COMMISSION/BOARD LIAISON REPORTS:**

- Byrnes            Regional Development Commission reviewed year end items.
- Schafer           Library Board approved new policies, Tom Runholt and Will Thomas have completed their terms; and discussed traffic concerns.
- Doom              Southwest Minnesota Amateur Sports Center the Thanksgiving tournament went very well; the concession stand closed before the end of the last game due to the game going into overtime. Equipment Review items were acted on earlier in the meeting.
- Bayerkohler    Public Housing Commission met on December 12<sup>th</sup> but he was not able to attend.
- DeCramer       EDA met last week; Utilities Commission Electric rates will decrease and water rates will increase. They approved the PILOT Agreement with the City.
- Sturrock         Police Advisory Board will meet on December 15<sup>th</sup>.
- Conyers         Community Services Advisory Board met on December 7<sup>th</sup>.

**COUNCILMEMBER INDIVIDUAL ITEMS:**

There was a discussion on the Christmas decorations for downtown Marshall; Sturrock attended the annual contractors event last week; DeCramer is concerned about marketing the MERIT Center – CVB will no longer be the main contact. Legislative and Ordinance Committee met to discuss part-time employees being allowed to serve on the Boards and Commissions.

**CITY ADMINISTRATOR:**

No report.

**DIRECTOR OF PUBLIC WORKS:**

Glenn Olson, Director of Public Works/City Engineer, indicated that Kruse Motors has installed solar panels. It was indicated that Marshall Municipal Utilities has a policy on solar panels and if anyone is interested in installing solar panels they need to contact MMU.

REGULAR MEETING – DECEMBER 13, 2016

**CITY ATTORNEY:**

No report.

**PENDING ITEMS**

There were no questions on the pending items.

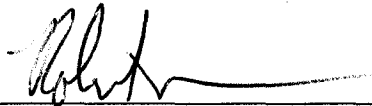
**INFORMATION:**

There were no questions on the information items.

**UPCOMING MEETINGS**


There were no questions on the upcoming meeting list.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the meeting be adjourned'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**



\_\_\_\_\_  
Mayor

ATTEST:

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