

REGULAR MEETING – FEBRUARY 14, 2017

The regular meeting of the Common Council of the City of Marshall was held February 14, 2017 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, Steven Meister, Glenn Bayerkohler, John DeCramer, David Sturrock and James Lozinski. 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; Scott VanDerMillen, Director of Community Services; Ilya Gutman, Plan Examiner; Bob VanMoer, Wastewater Facility 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 with the deletion of item number 15, which is to consider approval of the MERIT Center Lease with the Department of Public Safety for Performance of Commercial Driver's License Skills Testing.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 24, 2017:

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'the minutes of the regular meeting held on January 24, 2017 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 AUTHORIZATION TO PURCHASE JET/VAC MACHINE AND SEMI FOR WASTEWATER DEPARTMENT:

Bob VanMoer, Wastewater Superintendent, indicated that the Wastewater Facility has budgeted for a new Jet/Vac Truck for 2017. This will replace the existing 2005 Jet/Vac. The Surface Water Management Utility needs a Jet/Vac Truck to maintain the storm sewer system and has budgeted \$50,000 for the purchase of the existing Wastewater 2005 Jet/Vac Truck. This will also give the WWTF a good backup machine in the event of a breakdown.

Both the Chassis and the Jet/Vac Machine are available for purchase on the State Contracts. The staff at the Wastewater Department had four different vendors demonstrate their machines this past summer. The Camel that City staff is recommending is the best machine for the department and also was the most economical. The Western Star Chassis was coordinated with the Jet/Vac supplier to make sure all functions of both units are compatible. Harrison Truck Center of Marshall would be the supplier of the chassis, with a quote less than the state contract. At their meeting on January 19, 2017, the Equipment Review Committee reviewed and approved the specifications.

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Member (**Craig Schafer**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council authorize the purchase of a Camel Jet/Vac Machine from Elliott Sanitation Equipment of Grimes, Iowa, in the amount of \$278,504.00'. 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 authorize the purchase of the 2018 Western Star Semi from Harrison Truck Center of Marshall, Minnesota, in the amount of \$127,622.51, including tax and license, and the purchase of an additional five years 250,000 mile extended warranty on the chassis engine from Western Star in the amount of \$5,735.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

APPROVAL OF CONSENT AGENDA:

Item no. 6 – Consider adoption of a Resolution approving the appointment of Commissioners to the Housing and Redevelopment Authority and Item no. 7 – Consider adoption of a Resolution approving the re-appointment of a Commissioner to the Housing and Redevelopment Authority were pulled from the consent agenda.

Member (**John DeCramer**) moved, Member (**Steven Meister**) 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**

Approval for Marshall Municipal Utilities Commission to change their regular meeting time from 4:30 p.m. to 5:30 p.m. and from the third Wednesday to the third Tuesday of the month.

Approval for the Adult Community Center Commission to change the monthly meeting to quarterly.

The approval of a Temporary On-Sale Liquor License for Holy Redeemer Church to use on April 22, 2017 at Carlin Hall, 503 West Lyon Street, Marshall, Minnesota.

BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to the Marshall Golf Club, to hold a raffle on May 4, 2017 at the Marshall Golf Club, 800 Country Club Drive, 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 On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at Advanced Eye Care, 1305 East College Drive, Marshall, Minnesota on March 23, 2017.

Approval for street closure for the annual St. Patrick's Day Parade on Friday, March 17, 2017 at 5:30 p.m. Line-up will begin at 5:15 p.m. The parade will start at South 1st Street (Casey's corner) and proceed down Main Street to the North 5th Street (Wooden Nickel corner). The

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request to Mn/DOT for street closure will be from 4:30 p.m. to 6:15 p.m. allowing the Street Department to set up and take down the detour

That the Council call for public hearing to be held on February 28, 2017 on the Preliminary Plat of Reed Addition.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 100992 through 100994; 100996; 100998 through 100999; 102380 through 102424; 102426 through 102612 and Draft No. 216 through 226; 236 through 244.

Consider approving the MERIT Center Lease with Department of Public Safety for Performance of Commercial Driver's License Skills Testing was removed from the agenda.

CONSIDER ADOPTION OF A RESOLUTION APPROVING THE APPOINTMENT OF COMMISSIONERS TO THE HOUSING AND REDEVELOPMENT AUTHORITY;

The Commissioners of the City of Marshall Housing and Redevelopment Authority have been the same members as the City Council. As a result of the General Election on November 8, 2016, Steven Meister and James Lozinski were elected to the City Council. Mr. Meister will replace Larry Doom and Mr. Lozinski will replace Ellayne Conyers. Their terms will expire on January 11, 2021 which is the date the term as a Council member expires.

Council Member Sturrock questioned the date the terms will expire. He indicated that the terms of the Council Members expire at the end of the calendar year; therefore these terms should also expire at the end of the calendar year.

Member (**David Sturrock**) moved, Member (**James Lozinski**) seconded to approve the **SUBSTITUTE** motion 'the adoption of RESOLUTION NUMBER 4347, SECOND SERIES, which is a resolution Approving the Appointment of Commissioners to the Housing and Redevelopment Authority in and for the City of Marshall to expire on December 31, 2020, which is the date their term on the Council expires'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER ADOPTION OF RESOLUTION APPROVING THE RE-APPOINTMENT OF A COMMISSIONER TO THE HOUSING AND REDEVELOPMENT AUTHORITY:

Member (**David Sturrock**) moved, Member (**John DeCramer**) seconded to approve the **SUBSTITUTE** motion 'the adoption of RESOLUTION NUMBER 4348, SECOND SERIES, which is a resolution Approving the Re-appointment of Glenn Bayerkohler and Robert J. Byrnes to the Marshall Housing and Redevelopment Authority for a term to expire on December 31, 2020, which is the date their term on the Council expires'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPOINTMENT TO THE PLANNING COMMISSION:

The council interviewed Bill Archbold for the Planning Commission on December 13, 2016. Because staff was waiting for a change in the ordinance which allowed members of the Fire Department and CAT Team to be eligible to apply for boards and commissions no appoint was made at that time. Bill Archbold serves on the Fire Department. That ordinance has been changed and approved by Council on January 24, 2017.

Per the recommendation of the Mayor, Member (**Craig Schafer**) moved, Member (**Steven Meister**) seconded to approve the **ORIGINAL** motion 'approval of appointment to the Planning Commission'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 – 0**

Planning Commission – Bill Archbold be appointed to an unexpired term to expire on May 31, 2018.

**CONSIDER THE REQUEST OF GRACE LIFE CHURCH, MARSHALL, MN FOR A
CONDITIONAL USE PERMIT FOR A DAY CARE FACILITY SERVING 120
INDIVIDUALS AT 601 EAST COLLEGE DRIVE IN AN R-1 ONE FAMILY
RESIDENCE DISTRICT:**

Glenn Olson, Director of Public Works/City Engineer, reviewed the request by Grace Life Church for a Conditional Use Permit to operate a daycare facility serving 120 individuals at 601 East College Drive, the former East Side Elementary School building. This building is located in R-1 One Family Residence district. A daycare facility serving more than 14 individuals is a conditional use in this district requiring a conditional use permit. This building is owned by Grace Life Church which leases a part of it out for Head Start Daycare. Another part of the building is leased out to Marshall Area Christian School which has its own daycare program. There is a Conditional Use Permit that Grace Life Church has now for daycare operations for 100 kids. A new conditional use permit is necessary because the total number of children in all daycare facilities in the building will exceed that number. The conditions applied are the same that were applied to the 2011 Conditional Use Permit. Location of the daycare on the first floor is dictated by the Building Code. In order to avoid a need for more Conditional Use Permits in the future in case the number of kids increases (original Conditional Use Permit was issued in 2006 for 54 kids), the staff suggested a reference to permitted number of kids rather than specific number. There are no complaints on file for current operations. The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49. The Planning Commission is recommending approval 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 Conditional Use 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 repair such default. 3) That the property is maintained to conform to the Housing Code, Zoning Code, Building Code, and not cause or create negative impacts to adjacent existing or future properties. 4) The use must be licensed by the State of Minnesota. 5) The use is limited to serving no more than 140 individuals combined. 6) The permit is not transferrable to any other person. 7) This permit expires within two years of the approval date if the business is not in

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operation or the business is suspended for two years. 8) All daycare facilities are located on main floor to allow exiting without use of stairs

Dennis Simpson, City Attorney, questioned condition number 7 which states that the permit will expire within two years of the approval date if the business is not in operation or the business is suspended for two years.

Council Members Meister and Lozinski indicated that according to the League of Minnesota Cities Conference they attended conditional use permits stay with the property as long as the conditions are met.

Ilya Gutman, Plan Examiner, indicated that Grace Life Church is applying to the state for a license for 120 children, but staff is recommending to approve the conditional use permit for 140 children so they do not need to come back.

Following further discussion, the Council and Attorney Simpson requested additional time to research this.

Member (**Craig Schafer**) moved, Member (**James Lozinski**) seconded to approve the **SUBSTITUTE** motion 'that the request for a Conditional Use Permit for Grace Life Church, 601 East College Drive be tabled until February 28'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

INTRODUCE THE ATTACHED ORDINANCE TO REZONE 512 FAIRGROUNDS ROAD FROM A – AGRICULTURAL DISTRICT TO I-1 LIMITED INDUSTRIAL DISTRICT:

Glenn Olson, Director of Public Safety/City Engineer, reviewed the request from Lyon County to rezone property at 512 Fairgrounds Road from A-Agricultural District to I-1 Limited Industrial District. The building located at 512 Fairground Road was housing an ice rink but now Lyon County has purchased this building and will be using a part of it as a mattress recycling facility. Recycling is not a permitted use in an A Agricultural District but is a conditional use in an I-1 Limited Industrial District. To make recycling facility possible, Lyon County requests to rezone this area to I-1 Limited Industrial District, matching zoning of a nearby Public Works Building. To provide continuity of the zoning district, the staff suggest similar rezoning of property at 510 Fairground Road and surrounding area along with the rest of outlot 10 to include parking across the road. Additionally, the staff recommends rezoning City property located directly north of the County's maintenance garage, and which is currently used as a driving range, from I-1 Limited Industrial District to A-Agricultural District; it seems that at some point it was shown to be in I-1 Limited Industrial District by mistake. Requirements for I-1 Limited Industrial District can be found in Section 86-106. Rezoning procedures are described in Section 86-30 Amendments

Member (**Craig Schafer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'that the Council introduce an ordinance rezoning the property located at 510 and 512 Fairgrounds Road from A Agricultural District to I-1 Limited Industrial District and parcel 27-603018-0 (no address) from I-1 Limited Industrial District to A Agricultural District'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z56/ SAP 139-129-002: NORTH 7TH STREET RECONSTRUCTION
PROJECT -- CONSIDER RESOLUTION RECEIVING REPORT AND CALLING FOR
HEARING ON IMPROVEMENT:**

Glenn Olson, Director of Public Works/City Engineer, reviewed Project Z56 / S.A.P. 139-129-02 North 7th Street Reconstruction. This project consists of the reconstruction of North 7th Street from the North 7th Street Diversion Channel north to CSAH 33. There will also be watermain replacement on a portion of the project, as well as revisions to the storm sewer system. The project is eligible for MSAS funding, and the City's special assessment process allows reduction of special assessments through use of the MSAS. The east portion of the project is located outside of the city limits and is not available for special assessments. The area is considered industrial and is special assessed in accordance with the City's current special assessment policy as 100% of the allocated costs. There has been discussion concerning a review of the allocation of special assessment costs for industrial/commercial properties. As you are aware, State law indicates the assessment cannot exceed the increase in market value of the property assessed. This law is difficult to comply with as it requires a pre project valuation and a post project valuation which, typically, does not have a relationship to the costs involved with the project. Alternatives to this procedure are to identify the costs involved and go through the special assessment process and see whether or not the costs assessed to the properties seem reasonable and are not protested by the affected property owner. The City receives approximately \$700,000 per year for its allocation of MSAS funding. The City is allowed to advance up to 5 times the annual allocation for expenditures on MSAS routes. The City currently has a negative balance and has approximately \$2,500,000 of available advance funding. However, staff is also planning to request additional MSAS funds for previously unpaid State project requirements (potentially \$200,000), as well as to partially fund a reconstruction of Saratoga Street from South 4th Street to "C" Street in 2018. The intent is to proceed with the project as a special assessment project. City staff intends to schedule a public informational meeting, inviting property owners adjacent to the project that may potentially be assessed for a portion of the work. This Feasibility Report as authorized by the City Council covers the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule. The proposed improvements as described in the report are necessary, cost-effective, and feasible from an engineering standpoint.

Member (**James Lozinski**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4349, SECOND SERIES, which is the Resolution Receiving Feasibility Report and Calling Hearing on improvement for Project Z56 / S.A.P. 139-129-02 North 7th Street Reconstruction and setting the public hearing on improvement for March 14, 2017. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**PROJECT Z46 / SP 4210-55: COMMERCE INDUSTRIAL PARK-TED
(TRANSPORTATION ECONOMIC DEVELOPMENT) PROJECT – APPROVE PLANS
& SPECIFICATIONS AND AUTHORIZE ADVERTISEMENT FOR BIDS:**

Glen Olson, Director of Public Works/City Engineer indicated that at the March 8, 2016 City Council meeting they awarded the Professional Engineering Services Agreement for Project Z46 / SP 4210-55 Commerce Industrial Park Transportation Economic Development to Short Elliott Hendrickson, Inc. of Mankato, Minnesota, for design and construction engineering

services. The City of Marshall was awarded grant funding from the 2015 Economic Development (TED) from the 2015 Transportation Economic Development (TED) program to construct a new intersection and turn lanes at 240th Avenue and TH 68. This project includes the installation of turning lanes and an acceleration lane at the intersection of T.H. 68 and 240th Avenue, including the 240th Avenue approach and truck acceleration lane on T.H. 68. The improvement will include excavation and embankment, drainage, gravel base, asphalt surfacing, traffic control, and miscellaneous items. These improvements will provide access from the newly developing industrial park (Commerce Industrial Park) on the northwest side of Marshall to T.H. 68. The purpose of the project is to provide both car and significant truck traffic in and out of the industrial park for newly developing businesses. The improvement will enable a much safer intersection as much of the traffic will be semi-truck traffic. There is a significant amount of commuter traffic on T.H. 68 during the morning and evening rush hour. Bypass lanes and left turn lanes on T.H. 68 will allow free traffic movements through the intersection. The acceleration lane for westbound traffic will provide a much safer merging situation for both cars and heavy trucks. This new roadway access from the newly developing industrial park to T.H. 68 will provide access to approximately 150 acres of industrial property. The City of Marshall is currently engaged with business entities seeking to develop industrial property along with associated office development. This will provide additional jobs and investment within the city of Marshall.

Member (**Craig Schafer**) moved, Member (**Steven Meister**) seconded to approve the **ORIGINAL** motion 'that the Council approve the plans and specifications as prepared by Short Elliott Hendrickson, Inc. of Mankato, Minnesota, and authorize advertisement for bids for Project Z46 / SP 4210-55 Commerce Industrial Park Transportation Economic Development with bids to be received on March 16, 2017'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER ADOPTION OF A RESOLUTION AUTHORIZING THE SUBMISSION OF A BDPI (BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE) GRANT PROGRAM APPLICATION:

The City of Marshall has been in the process of developing a new space for industrial development (Commerce Industrial Park). The land has been acquired, plats have been developed and filed, and engineering plans and specifications for infrastructure installation have been completed. The final component before construction is solidifying financing. The State of Minnesota administers the Business Development Public Infrastructure Grant Program (BDPI) through the Department of Employment and Economic Development (DEED). The purpose of the BDPI program is to assist eligible applicants with the development of public infrastructure for eligible business improvement projects and industrial parks. The City of Marshall with Commerce Industrial Park is an eligible applicant. The City has participated in the BDPI program before with the development of the Sonstegard Industrial Park which was a large success. The City is looking to capitalize on the success of Sonstegard with DEED to receive more grant funding for Commerce Industrial Park. The resolution for consideration of adoption does not obligate the City to move forward with the project. If the grant application were successful, the City would need to execute a master grant agreement with the State prior to receiving the funding and commencing the project. The BDPI grant award of \$2,000,000 would

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pay for 36.4% of the project. The remaining project costs would be split between MMU and the City per the industrial development agreement.

Council Member Bayerkohler indicated he is not in favor of the city providing land to Ralco Nutrition for their expansion. He does not approve of the City subsidizing certain businesses and not others.

Mayor Byrnes and City Administrator Johnson indicated that the grant application is the first step and several other things need to happen before the industrial park development or any incentives can move forward.

Member **(David Sturrock)** moved, Member **(Craig Schafer)** seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4350, SECOND SERIES, which Authorizes the Submission of a Business Development Public Infrastructure (BDPI) Grant Program Application'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed 6 – 1** with Bayerkohler voting no.

COMMISSION/BOARD LIAISON REPORTS:

- Byrnes Fire Relief Association held their annual meeting on February 7th; Regional Development Commission is not meeting in February
- Schafer Library Board discussed staffing realignment and the hiring of new staff. The Foundation is contributing \$10,000 for the Children's Wing computers. MERIT Center their item on the agenda was tabled. SW MN Emergency Communication Board met last month. SW MN Amateur Sports Commission reviewed the Conference and event center proposal and hotel. Craig indicated that the Commission is moving from brick and mortar to events, heads and beds. Interested in having multi day events
- Meister Community Services Advisory Board discussed decreasing the number of meetings.
- Bayerkohler Public Housing Commission approved their non-smoking policy effective July 1, 2018. Planning Commission item was acted on earlier.
- DeCramer Utilities Commission item was acted on earlier.
- Sturrock Airport Commission discussed the Master Plan process.
- Lozinski No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Several council members thanked city staff for all their work in planning the Employee Recognition Event. Council Member Sturrock provided information and a brochure on Marshall Area Transportation Group. Council Member Schafer testified at the tax committee on sales tax being charges on materials for public projects. Craig also visited with the lead lobbyist for hospitality and indicated there is a lot of attention on Marshall. Council Member Meister attended the conference for newly elected officials. He stated that it was very informative. Council Member Bayerkohler received a request for information on the Surface Water Fees that have been collected since 1993. How much has been received and what these fees are used for. Glenn Olson was requested to respond and provide the same information to the council.

CITY ADMINISTRATOR:

Nick Johnson, City Administrator, thanked Cathy Lee for her work in planning the Employee Recognition Event. Nick will be testifying at Legislative hearings on February 15th. Staff met with representatives from Springsted's to discuss TIF and bonding for the City.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, indicated that they have received a petition from the Majestic Pond Association for removal of sediment in the pond. Briefly reviewed the discussion that the Planning Commission had in regard to additional children at Grace Life Church. He briefly reviewed the requirements for street lights and crossing signals.

CITY ATTORNEY:

Dennis Simpson, City Attorney, indicated that the purchase of the property located at 100 West Main Street and 102 West Main Street has been finalized. The City has assumed the existing lease for the property located at 100 West Main Street.

PENDING ITEMS:

There were no questions on the pending items.

INFORMATION ONLY:

There were no questions on the information items

Mayor Byrnes called for a 5-minute recess at 7:24 P.M.

DETERMINATION TO GO INTO CLOSED SESSION PURSUANT TO MINNESOTA STATUTE 13D.05 SUBD. 3 (b) PURSUANT TO ATTORNEY-CLIENT PRIVILEGE:

Member (**Steven Meister**) Moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'adjourn to closed session'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

The Council went into closed session at 7:28 P.M. Those present at the closed session included: Byrnes, Schafer, Meister, Bayerkohler, DeCramer, Sturrock and Lozinski. Staff present included: Nick Johnson, City Administrator; Dennis Simpson, City Attorney; Karla Drown, Finance Director and Jane DeVries, City Clerk.

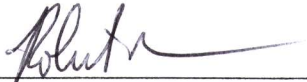
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The council came out of closed session at 7:37 P.M.

UPCOMING MEETINGS


There were no questions on the upcoming meeting list.

Meister moved, Schafer seconded, the meeting be adjourned. All voted in favor of the motion.



Mayor

ATTEST:



City Clerk