The regular meeting of the Common Council of the City of Marshall was held April 25, 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, Glenn Bayerkohler, John DeCramer, David Sturrock and James Lozinski. Absent: Steven Meister. 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; Sheila Dubs, Human Resource Director; Ilya Gutman, Plan Examiner; Bob VanMoer, Wastewater Treatment Facility Superintendent; Cal Brink, CEO Marshall Area Chamber of Commerce and Jane DeVries, City Clerk.

The Pledge of Allegiance was recited at this time.

It was the general consensus of the Council that the agenda be approved with the deletion of item number 13, which is to consider request regarding Article V Section 22 of the Marshall Code of Ordinances being repealed.

CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION OF THE LOCAL BOARD OF APPEAL AND EQUALIZATION HELD ON APRIL 11, 2017; THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 11, 2017 AND THE MINUTES OF THE WORK SESSION HELD ON APRIL 11, 2017:

Member (James Lozinski) Moved, Member (John DeCramer) Seconded to approve the ORIGINAL motion 'that the minutes of the Work Session of the Local Board of Appeal and Equalization held on April 11, 2017; the minutes of the regular meeting held on April 11, 2017 and the minutes of the Work Session held on April 11, 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: 6 Nay: 0. The motion Carried 6 - 0

VACATION OF UTILITY EASEMENT IN DEAUSTIN ADDITION - 1) PUBLIC HEARING ON RESOLUTION GRANTING PETITION TO VACATE UTILITY EASEMENTS; 2) CONSIDER RESOLUTION GRANTING PETITION TO VACATE UTILITY EASEMENTS:

This was the date and time set for a public hearing to Vacate Utility Easement in DeAustin Addition. Glenn Olson, Director of Public Works/City Engineer, reviewed the petition from The Church of the Holy Redeemer for vacation of a 10-foot utility easement located on Lots 1, 2, & 3 of Block 3 of DeAustin Addition, with the exception of the portion of the easement that is located adjacent to Lot 1, Block 6 of Nuese Addition, and extending 10 feet past the south property line. The purpose of the vacation is for the construction of a columbarium, which is a room or building with niches for funeral urns to be stored.

Member (Craig Schafer) Moved, Member (James Lozinski) Seconded to approve the ORIGINAL motion 'that the Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

Member (Craig Schafer) Moved, Member (David Sturrock) Seconded to approve the NEW motion 'that the Council adopt RESOLUTION NUMBER 4376, SECOND SERIES, which is the

Resolution Granting a Petition for Vacation of a Utility Easement in the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

VACATION OF UTILITY EASEMENT IN VIKING ADDITION PLAT NO. 6 AND VIKING ADDITION PLAT NO. 7 - 1) PUBLIC HEARING ON RESOLUTION GRANTING PETITION TO VACATE UTILITY EASEMENTS; 2) CONSIDER RESOLUTION GRANTING PETITION TO VACATE UTILITY EASEMENTS:

This was the date and time set for a public hearing to vacate a utility easement in Viking Addition Plat No. 6 and Viking Addition Plat No. 7. Glenn Olson, Director of Public Works/City Engineer, reviewed the petition from Thomas & Barbara Vanderwerf and Karen I. Peters Hays Trust for vacation of a utility easement on the north side of Lot 1, Block 1, Viking Addition Plat No. 7 and on the south side of Lot 6, Block 1, Viking Addition Plat No. 6 from DeSchepper Street west to the north-south drainage and utility easement. The purpose of the vacation is for the elimination of the utility easement as no utilities are located within the easement.

Member (John DeCramer) Moved, Member (David Sturrock) Seconded to approve the ORIGINAL motion 'that the Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

Member (Craig Schafer) Moved, Member (David Sturrock) Seconded to approve the NEW motion 'that the Council adopt RESOLUTION NUMBER 4377, SECOND SERIES, which is the Resolution Granting a Petition for Vacation of a Utility Easement in the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

CONSIDER REQUEST FOR STREET CLOSURE FROM REINHART FOODSERVICE FOR COMPANY TRUCK RODEO EVENT ON MAY 6, 2017 – 1. PUBLIC HEARING; 2. APPROVAL OF APPLICATION FOR PRIVATE USE OF PUBLIC STREETS:

This was the date and time set for a public hearing on the request from Reinhart Foodservice (Reinhart) requesting street closure for a company truck rodeo event proposed from 7:00 a.m. to 12:00 noon on Saturday, May 6, 2017. The purpose of the closure is to enable Reinhart to provide an employee competition and fun event utilizing the private property and a portion of the street for a track for Reinhart's equipment rodeo. The street closure does not include Mn/DOT right-of-way. Alter Metal Recycling is not open for business on Saturday, including the date of this event. Reinhart is responsible for all traffic control as required by the Minnesota Manual of Uniform Traffic Control Devices (MMUTCD). Reinhart is also responsible for personally contacting adjacent businesses informing them of the closure.

Member (Craig Schafer) Moved, Member (John DeCramer) Seconded to approve the ORIGINAL motion 'that the Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

Member (Craig Schafer) Moved, Member (James Lozinski) Seconded to approve the NEW motion 'that the Council approves the closure of West Fairview Street from just east of Ace Hardware's north driveway to just west of the Burlington Northern Railroad tracks from 7:00

a.m. to 12:00 noon on Saturday, May 6, 2017'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

APPROVAL OF CONSENT AGENDA:

The following items were removed from the consent agenda: consider approval of Unlicensed Maintenance Electrician Inspection Agreement between the City of Marshall and Mike Meier dba Meier Electric Inc.; consider approval of two (2) Temporary 3.2 Percent Malt Liquor License for the Marshall Baseball Association; and consider Waiving the Fee for two (2) Special Vehicle Permits for AVERA.

The following consent agenda item was removed from the agenda and not voted on: request regarding Article V Section 22 of the Marshall Code of Ordinances being Repealed.

Member (Craig Schafer) Moved, Member (James Lozinski) 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

Approval of a Temporary On-Sale Liquor License for Marshall Area Chamber of Commerce to use at Kinetico Parking Lot, 421 South Highway 23, Marshall, Minnesota on June 7, 2017.

The adoption of RESOLUTION NUMBER 4378, SECOND SERIES Declaring the Sounds of Summer as a Community Festival.

The adoption of RESOLUTION NUMBER 4379, SECOND SERIES, calling for a public hearing on the proposed Street Reconstruction Bonds to be held on May 9, 2017.

The adoption of RESOLUTION NUMBER 4380, SECOND SERIES, calling for a public hearing on the proposed Tax Abatement Bonds to be held on May 9, 2017.

That the following bills and project payments be authorized for payment: ACCOUONTS PAYABLE Voucher No. 103366 through 103600 and Draft No. 285 through 293.

APPROVAL OF ITEMS PULLED FROM CONSENT:

CONSIDER APPROVAL OF UNLICENSED MAINTENANCE ELECTRICIAN INSPECTION AGREEMENT BETWEEN THE CITY OF MARSHALL AND MIKE MEIER DBA MEIER ELECTRIC INC:

The City currently has an existing Unlicensed Maintenance Electrician Inspection Agreement with Meier Electric, Inc. until May 31, 2017. The new updated agreement is for two years, from January 1, 2017 to December 31, 2018. Several City employees do routine and emergency electrical work as part of their job duties. The Department of Labor and Industry requires any employee doing electrical maintenance for the City on the City premises needs to be registered with the State of Minnesota as an "Unlicensed Maintenance Electrician" and have the work inspected by a Master Electrician. Mike Meier has agreed to do the supervision and inspection for the registered City employees on an hourly rate as needed to ensure the work meets the National Electric Code.

Council Member Bayerkohler was concerned that the rate schedule was not attached and the wrong name was on the agreement. Staff indicated that these items have been resolved.

Member (Glenn Bayerkohler) Moved, Member (John DeCramer) Seconded to approve the ORIGINAL motion 'that the Council approve the Unlicensed Maintenance Electrician Inspection Agreement between the City of Marshall and Mike Meier dba Meier Electric, Inc. for January 1, 2017 through December 31, 2018'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

CONSIDER APPROVAL OF TWO (2) TEMPORARY 3.2 PERCENT MALT LIQUOR LICENSES FOR THE MARSHALL BASEBALL ASSOCIATION:

Marshall Baseball Association is requesting a Temporary 3.2 Percent Malt Liquor License for Legion Field from May 1, 2017 to August 31, 2017 and for a Temporary 3.2 Percent Malt Liquor License for the Softball Complex from May 1, 2017 to May 31, 2017.

Council Member Bayerkohler indicated that there are now two (2) softball complexes and wanted to know which complex the application is for. The application is for the old softball complex located along Channel Parkway.

Member (John DeCramer) Moved, Member (Craig Schafer) Seconded to approve the ORIGINAL motion 'the approval of a Temporary 3.2 Percent Malt Liquor License for the Marshall Baseball Association to use at Legion Field from May 1, 2017 to August 31, 2017 at a fee of \$200.00'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

Member (Craig Schafer) Moved, Member (John DeCramer) Seconded to approve the NEW motion 'the approval of a Temporary 3.2 Percent Malt Liquor License for the Marshall Baseball Association to use at the Softball Complex located along Channel Parkway from May 1, 2017 to May 31, 2017 at a fee of \$50.00'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

CONSIDER WAIVING THE FEE FOR TWO SPECIAL VEHICLE PERMITS FOR AVERA:

Monica Amaya, Avera Morningside Heights Care Center, has applied for two Special Vehicle Permits. Per section 74-265 of the Marshall City Code "Permits shall be granted by the Director of Public Safety for a period of one year and may be renewed annually January 1, to December 31. Rob Yant, Director of Public Safety has approved two Special Vehicle Permits for Avera Morningside Heights Care Center to expire on December 31, 2017. Monica Amaya, Avera Morningside Heights Care Center, is requesting that the fee for these two permits be waived.

Council Member Lozinski requested that the City consider allowing non-profit organizations be granted Special Vehicle Permits with no fee required. This will need to go the Ways and Means Committee for further review.

Member (Craig Schafer) Moved, Member (James Lozinski) Seconded to approve the SUBSTITUTE motion 'that the Special Vehicle Permit fee of \$35.00 per permit be waived for

the two Special Vehicle Permits that have been approved by the Director of Public Safety, Rob Yant and the special permit fees for non-profit organizations be reviewed by the Ways and Means Committee'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

17. EDA Annual Report

Cal Brink, CEO Marshall Area Chamber of Commerce, reviewed the 2016 Annual Report. Mr. Brink provided information on:

New Businesses

Business Development

Building Permit Activity

Retail Trade Analysis

Demographic Analysis

Workforce Analysis

Educational Analysis

Housing Analysis

Development Opportunities

CONSIDER APPROVAL OF A WASTEWATER SENIOR MAINTENANCE OPERATOR CLASSIFICATION, POINTING, AND PAY RANGE TO THE 2017 AND 2018 WAGE SCHEDULES:

Sheila Dubs, Human Resource Manager, indicated that staff is recommending Council consideration and approval of a Wastewater Senior Maintenance Operator classification, pointing, and pay range to the 2017 and 2018 wage schedules. The Council Personnel Committee reviewed this request on March 8, 2017 and recommended approval. Currently there are three (3) Maintenance Operators on the collections side of the wastewater operation. Staff is proposing to add a Senior Maintenance Operator classification to the wage schedule. Staff are not proposing additional staff, rather the ability to advance existing staff who meet the minimum qualifications of the senior level position. This senior level position would be distinguished in minimum qualifications by the addition/achievement of 5 years of experience and achievement of a State of MN Class C Wastewater Operator Certification. The promotion of staff who achieve advancements in their fields is a recruitment and retention strategy to keep employees engaged and helps to reduce turnover of qualified staff. With this proposal, staff can offer existing employees advancement potential and greater diversity of responsibilities. This benefits the employee as well as the Wastewater facility. Similar positions within the Public Works division, as well as an existing position at the Wastewater facility already include the distinction in titles to allow for movement to the more "senior" level when an employee advances in skills and/or certifications. These include: Wastewater Plant Operator I, Wastewater Plant Operator II, Maintenance Worker Senior, Maintenance Worker, Engineering Technician, Engineering Specialist, Senior Engineering Specialist, Building Inspector I, and Building Inspector II. Staff submitted the proposed position for Hay pointing with the City's Hay Consultant, with a result of 238 points. The current compensation structure is comprised of pay bands; this position's pointing corresponds to an existing pay band (237-247 points) on the 2017 and 2018 schedules. If the Council approves the addition of the Senior Maintenance Operator classification, this will result in an amendment to the existing AFSCME labor agreement by Memorandum of Agreement (MOA). The AFSCME union has agreed to the amendment by MOA.

Member (Craig Schafer) Moved, Member (John DeCramer) Seconded to approve the ORIGINAL motion 'that the Council approves amendments to the 2017 and 2018 wage schedules with the addition of a Wastewater Treatment Facility Senior Maintenance Operator

classification'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 2. The motion **Passed 4 - 2** with Bayerkohler and Lozinski voting no.

Motion #2

Member (John DeCramer) Moved, Member (Craig Schafer) Seconded to approve the NEW motion 'that the Council approves the Memorandum of Agreement with AFSCME Council 65'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 2. The motion Passed 4-2 with Bayerkohler and Lozinski voting no.

CONSIDER THE REQUEST OF DANIEL AND KIMBERLY FIXEN, FOR A VARIANCE ADJUSTMENT PERMIT TO BUILD A GARAGE LARGER THAN PERMITTED BY CITY ORDINANCE. THE PROPERTY IS LOCATED AT 411 NORTH 4TH STREET:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from Daniel and Kimberly Fixen for a Variance Adjustment Permit to allow building a detached garage exceeding maximum area permitted by the City Ordinance. The owner wants to build a 30' x 36' garage in the back yard. This garage will have an area of 1080 SF. The ordinance requires accessory building area not to exceed 60% of the main building area footprint. The existing house located on this parcel has the area of 1088 SF which will result in 653 SF permitted accessory building area. The city staff intends to revise the City Ordinance to allow garages up to 80% of the building footprint area which would allow 870 SF garage. Considering this, the presence of oversized garages in the neighborhood, and that the garage is an exact reconstruction of a building recently destroyed by fire the staff considers this request reasonable. Regulations for accessory buildings can be found in Section 86-163. The variance regulations and procedures are found in Section 86-29.

Council Member Lozinski indicated that when he attended the League of Minnesota Cities training for new council members it was stated that if a building was damaged or destroyed it could be replaced on the same footprint without a variance. He requested that City Attorney Simpson verify this.

Member (Craig Schafer) Moved, Member (James Lozinski) Seconded to approve the ORIGINAL motion 'Planning Commission recommends to approve the request for a Variance Adjustment Permit for a 30' x 36' detached garage to Daniel and Kimberly Fixen at 411 North 4th Street'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

INTRODUCTION OF ORDINANCE AND CALL FOR PUBLIC HEARING SEC. 86-104, B-3 GENERAL BUSINESS DISTRICT; SEC. 86-106, I-1 LIMITED INDUSTRIAL DISTRICT; SEC. 86-107, I-2 GENERAL INDUSTRIAL DISTRICT:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request to revise the City Ordinance to include licensed kennels among listed uses to make it possible to build one in town. Current Ordinance does not list kennels as permitted or conditional use in any zoning district. In researching, other cities, it was noticed that practically all of them have kennels as either permitted or conditional use in commercial and industrial districts. After further research and consideration, the City's staff concluded that kennels may be a permitted use in both Industrial

Districts (I-1 and I-2) and a conditional use in a General Business District (B-3) with possible conditions requiring fencing and noise control. It may be noted that kennels include both boarding and breeding so both uses should be considered.

Member (Craig Schafer) Moved, Member (James Lozinski) Seconded to approve the ORIGINAL motion 'that the Council introduce the ordinance amending Sec. 86-104, B-3 general business district; Sec. 86-106, I-1 limited industrial district; Sec. 86-107, I-2 general industrial district and call for public hearing to be held on May 9, 2017'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

INTRODUCTION OF ORDINANCE AND CALL FOR HEARING ON ORDINANCE AMENDING SEC. 86-96 A - AGRICULTURAL DISTRICT FOR SHRIMP FARM USE:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request to revise the City Ordinance to include shrimp farm among listed uses to make it possible to build one in town. Current Ordinance does not list shrimp farms as permitted or conditional use in any zoning district. Shrimp farming is a relatively new industry in America in general and in Minnesota in particular. There are several shrimp farms in Illinois and Iowa and a couple in Minnesota. Most of them are very small and many are located outside of municipality in rural areas; generally, they combine growing shrimp with selling them to retail customers or local merchants. Ralco is contemplating building a large commercial shrimp growing and processing complex. Shrimp processing may be done in one of an existing abandoned processing building and any new processing facility would be built in an Industrial District. The shrimp growing facility is planned to be built first. Shrimp farms operate like agricultural facilities where harvest is picked several times a year. Based on this information, the staff's opinion is that Agricultural District is the right place for this facility

Member (John DeCramer) Moved, Member (Craig Schafer) Seconded to approve the ORIGINAL motion 'that the Council introduce the ordinance amending Sec. 86-96 A - Agricultural District to include Shrimp Growing in Enclosed Facilities as a Permitted Use and call for public hearing to be held on May 9, 2017'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion Carried 6 - 0

PROJECT BP6: SOUTHWEST MINNESOTA REGIONAL AMATEUR BALLPARK CONCESSIONS BUILDING – CONSIDER CHANGE ORDER NO. 6 WITH MOHS CONTRACTING, INC:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 6 for Southwest Minnesota Regional Amateur Ballpark Concessions Building Project BP6 with Mohs Contracting, Inc., for a contract decrease due to the deduct of Section 09 97 27 Acrylic Floor Sealer from the contract as this work is to be completed by the City.

Member (John DeCramer) Moved, Member (James Lozinski) Seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 6 for Southwest Minnesota Regional Amateur Ballpark Concessions Building Project BP6 with Mohs Contracting, Inc. resulting in a contract decrease of \$2,723.55'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

CONSIDER LG220 APPLICATION FOR EXEMPT PERMIT FOR PHEASANTS FOREVER LYON COUNTY CHAPTER 6:

Member (Craig Schafer) Moved, Member (John DeCramer) Seconded to approve the ORIGINAL motion 'BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Pheasants Forever Lyon County Chapter 6 to hold a raffle on October 13, 2017, at SMSU Conference Center, 1501 State Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 0 Abstain: 1. The motion Passed 5 – 0 – 1 with Bayerkohler abstaining

CONSIDER APPOINTMENT TO VARIOUS BOARDS AND COMMISSION:

Per the recommendation of Mayor Byrnes, Member (**Craig Schafer**) Moved, Member (**David Sturrock**) Seconded to approve the **ORIGINAL** motion 'approval of appointment to the various boards and commissions'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0. The motion **Carried 6 - 0**

Adult Community Center – Jim Tate be appointed to an unexpired term to expire on May 31, 2020

Public Housing Commission – Matthew Walker be reappointed to a 5-year term to expire on May 31, 2022

Public Housing Commission – Jana Reilly be reappointed to a 5-year term to expire on May 31, 2022

COMMISSION/BOARD LIAISON REPORTS:

Byrnes Regional Development Commission held a 2-day planning retreat.

Schafer No report.

Bayerkohler Ways and Means Committee discussed the 2017 Tax Abatement Bonds and 2017

Street Reconstruction Bonds.

DeCramer EDA reviewed their annual report. Utilities Commission reviewed their audit and

they are moving forward with Advanced Metering Infrastructure (AMI).

Sturrock Convention and Visitors Bureau met last week.

Lozinski No report.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member Lozinski indicated that he read an article about how expensive houses are to build. He suggested that Marshall look at what these costs are locally. Council Member Sturrock indicated that the Transportation Committee is working on getting a list of projects and priorities. Sturrock asked if the new baseball fields will have lights. Scott VanDerMillen, Community Services Director, indicated that the two championship fields will have lights.

CITY ADMINISTRATOR:

Nick Johnson, City Administrator, indicated that representatives from Springsteds and Gatehouse will be in attendance at the May 2, 2017 Work Session and the Council's goals and priority discussion will be moved to a future date. Council Member Bayerkohler indicated that the motel owners would like to receive the information prior to the May 2nd meeting.

DIRECTOR OF PUBLIC WORKS

Glenn Olson, Director of Public Works/City Engineer provided a brief update on the bike path, Majestic Pond and the overlay projects from 2016.

CITY ATTORNEY:

No report.

PENDING ITEMS:

There were no questions on the pending items.

INFORMATION ONLY:

There were no questions on the information items.

UPCOMING MEETINGS

There were no questions on the upcoming meeting list.

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

Mayor

ATTEST:

City Clerk

