

REGULAR MEETING – MAY 9, 2017

The regular meeting of the Common Council of the City of Marshall was held May 9, 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; 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 20, which is to Consider a Resolution Approving Property Acquisition and Interfund Loan between the City of Marshall and Housing Redevelopment Authority.

CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 25, 2017:

Member (**Craig Schafer**) Moved, Member (**James Lozinski**) Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on April 25, 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**

PUBLIC HEARING AND ADOPTION ON ORDINANCE AMENDING CHAPTER 86, SEC. 86-104, B-3 GENERAL BUSINESS DISTRICT; SEC. 86-106, I-1 LIMITED INDUSTRIAL DISTRICT; SEC. 86-107, I-2 GENERAL INDUSTRIAL DISTRICT:

This was the date and time set for a public hearing on the request to revise the City Ordinance to include kennels among listed uses to make it possible to build one in town. Glenn Olson, Director of Public Works/City Engineer, indicated that the current Ordinance does not list kennels as permitted or conditional use in any zoning district. In researching other cities, it was noticed that many 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. Unless a kennel accepts impounded or stray animals, a State License is not required so the reference to license was removed. A definition of a kennel will be added to the ordinance as follows: Any place where five or more dogs and/or cats are commercially boarded, bred and/or offered for sale, excluding veterinary clinic.

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on the ordinance amending Chapter 86, Sec. 86-104, B-3 general business district; Sec. 86-106, I-1 limited industrial district; Sec. 86-107, I-2 general industrial district.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Steven Meister**) Moved, Member (**John DeCramer**) Seconded to approve the **NEW** motion 'the adoption of ORDINANCE NUMBER 719, SECOND SERIES, which is an

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Ordinance Amending Chapter 86, Sec. 86-104, B-3 general business district; Sec. 86-106, I-1 limited industrial district; Sec. 86-107, I-2 general industrial district'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

PUBLIC HEARING AND ADOPTION ON ORDINANCE AMENDING CHAPTER 86, SEC. 86-96 A - AGRICULTURAL DISTRICT FOR SHRIMP FARM USE:

This was the date and time set for a public hearing on the request to revise the City Ordinance to include shrimp farm among listed uses to make it possible to build one in town. Glenn Olson, Director of Public Works/City Engineer, indicated that the 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. 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 (**James Lozinski**) Moved, Member (**Craig Schafer**) Seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on the ordinance amending Sec. 86-96 A - Agricultural District to include Shrimp Growing in Enclosed Facilities as a Permitted Use'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Steven Meister**) Moved, Member (**David Sturrock**) Seconded to approve the **NEW** motion 'the adoption of ORDINANCE NUMBER 720, SECOND SERIES, which is an Ordinance Amending Sec. 86-96 A - Agricultural District to include Shrimp Growing in Enclosed Facilities as a Permitted Use'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

2017 TAX ABATEMENT - 1) PUBLIC HEARING ON TAX ABATEMENT; **2) CONSIDER RESOLUTION APPROVING THE TAX ABATEMENT:**

This was the date and time set for a public hearing on utilizing Tax Abatement Bonds that will be used to finance the improvements of the final segment of the Bike Trail (County Shop to Channel Parkway) and the Independence Park Parking Lot. City staff and Springsted, the City's financial consultant, have worked with bond counsel to prepare documents for approval. Mikaela Huot, Vice President and Terri Heaton, Senior Vice President Representatives from Springsted provided a power point presentation on the Tax Abatement Bonds. Items reviewed included:

Abatement: What it is? How does it work?

Tax Abatement Basics, Eligible Costs and Constraints. Project Examples, Bond Specifics
Proposed Tax Abatement areas

Proposed Abatement Bonds Debt Schedule.

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Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that City Council close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Craig Schafer**) Moved, Member (**John DeCramer**) Seconded to approve the **NEW** motion 'the adoption of RESOLUTION NUMBER 4381, SECOND SERIES, which is the Resolution Approving the Tax Abatement'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Lozinski voting no.

2017 STREET RECONSTRUCTION BONDING - 1) PUBLIC HEARING ON STREET RECONSTRUCTION BONDS; 2) CONSIDER RESOLUTION ADOPTING THE STREET RECONSTRUCTION PLAN AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION STREET RECONSTRUCTION BONDS:

This was the date and time set for a public hearing on the Street Reconstruction Bonds that will be used to finance the improvements of the intersection of Highway 68 & Michigan Road as well as the commonly known "Kmart Entrance Road". Terri Heaton, representative from Springsted's indicated that a city can use bonds for street reconstruction projects if it meets certain conditions. These conditions include that the street projects are constructed according to a five-year city plan, that a public hearing is held on the matter, and the construction plan is approved by a unanimous vote of the council.

At a previous council meeting, Council Member Bayerkohler voted against the Development Agreement with Furn USA MN-Marshall, LLC regarding the \$360,000 of improvements to the road on their property (commonly known as the "Kmart property"). It was his position that the owners of the property should help to pay for a portion of the cost of the improvements and not have the City of Marshall pay for 100% of the cost. That agreement was approved by the rest of the council. Council Member Bayerkohler indicated that he would like the minutes for this meeting to show that he is still opposed to the payment terms of that agreement. However, in order to get the lowest cost financing for the project, a unanimous council vote in favor of the resolution approving the Street Reconstruction Plan and issuance of bonds is required. Therefore, in order to save the City of Marshall money, Bayerkohler indicated that he would vote in favor of the Street Reconstruction Plan and issuance of bonds.

Member (**Craig Schafer**) Moved, Member (**James Lozinski**) Seconded to approve the **ORIGINAL** motion 'that the City Council close the public hearing'. 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 'the adoption of RESOLUTION NUMBER 4382, SECOND SERIES, which is the Resolution approving the Street Reconstruction Plan and issuance of bonds'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER ADOPTION OF THE RESOLUTION PROVIDING FOR THE ISSUANCE OF SERIES 2017A BONDING:

The City of Marshall is considering the issuance of general obligation bonds to finance the following projects: Final Segment of the Bike Trail, Independence Park Parking Lot, "Kmart

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Entrance Road", Highway 68 & Michigan Road Intersection, Outlot A, Carr Estates "Majestic Pond", Equipment Purchases. City staff and Springsted, the City's financial consultant, have worked with bond counsel to prepare documents for approval. Representatives from Springsted will be in attendance to discuss the financing in detail and answer questions.

Member (**Craig Schafer**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4383, SECOND SERIES, which is a resolution providing for the Issuance and Sale of the City's General Obligation Bonds Series 2017A, in the approximate aggregate principal amount of \$1,165,000'. 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 (FAIRVIEW TO CSAH 33) - 1) RESOLUTION DECLARING OFFICIAL INTENT REGARDING THE REIMBURSEMENT OF EXPENDITURES WITH THE PROCEEDS OF TAX-EXEMPT BONDS; 2) RESOLUTION ACCEPTING BID (AWARDING CONTRACT):

Glenn Olson, Director of Public Works/City Engineer, reviewed North 7th Street Reconstruction Project Z56/S.A.P. 139-129-002 (Fairview to CSAH 33). Mr. Olson indicated that there will also be watermain replacement on a portion of the project under a separate contract through MMU, as well as revisions to the storm sewer system. Bids were received for this project on May 4, 2017 from:

R & G Construction Company
Marshall, Minnesota
\$1,074,602.15

Duininck, Inc.
Prinsburg, Minnesota
\$1,090,376.90

D & G Excavating, Inc.
Marshall, Minnesota
\$1,132,244.75

States Borders Construction, Inc.
Graceville, Minnesota
\$1,509,794.60

Member (**Steven Meister**) Moved, Member (**Craig Schafer**) Seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4384, SECOND SERIES, which is a Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z56/ SAP 139-129-002: North 7th Street Reconstruction Project (Fairview To CSAH 33)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Craig Schafer**) Moved, Member (**David Sturrock**) Seconded to approve the **NEW** motion 'the adoption of RESOLUTION NUMBER 4385, SECOND SERIES which is a Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with R&G Construction Co. of Marshall, Minnesota, in the amount of \$1,074,602.15 for Project Z56/ SAP 139-129-002: North 7th Street Reconstruction Project (Fairview To CSAH 33)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

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APPROVAL OF CONSENT AGENDA:

Member (**Craig Schafer**) Moved, Member (**David Sturrock**) 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**

The adoption of RESOLUTION NUMBER 4386, SECOND SERIES, which is a resolution Authorizing the Grant of Utility Easement for Commerce Industrial Park Addition to the Housing and Redevelopment Authority and City of Marshall.

The property City personnel be authorized to enter into a Memorandum of Understanding between the Southwest Crisis Center and the City of Marshall, Marshall Police Department.

Authorization be granted to the Department of Public Safety to dispose of five (5) vehicles considered as surplus. These vehicles will be auctioned on-line at the state site or will be taken to Alter Metal Recycling for disposal.

The 2008 Chevrolet Impala VIN # is 2G1WS583281247691 be declared as surplus property for the City of Marshall.

Approve the request of the Marshall Downtown Business Association for street closure for Crazy Days on Thursday, July 20, 2017, contingent on Mn/DOT approval of the permit.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 103601 through 103788 and Draft No. 294 through 304.

CONSIDER REQUEST REGARDING ARTICLE V SECTION 22 OF THE MARSHALL CODE OF ORDINANCES BE REPEALED:

Article V Section 22 of the Marshall City Code deals with the regulation of taxi cabs operating within the City of Marshall. Section 22-111 is the definitional section of that article. Sections 22-126 through 22-131 set forth the requirements for the issuance of taxi cab license, payment of fee, display of markings, insurance, rates and mechanical conditions of the vehicles. The City of Marshall currently has issued taxi cab licenses to three separate businesses. However, several of those businesses have complained that there are other non-licensed taxi cab operators within the City of Marshall. The taxi cab/ride for hire business is changing rapidly. The innovation of the Uber/Lyft type businesses has upset the traditional type taxi cab business model. Marshall Police Department continues to receive complaints of unauthorized taxi cab businesses and ride for hire businesses and the complainants have asked that Police Department and the City Attorney's office to enforce the existing regulations. It is, however, difficult to enforce the current taxi cab ordinances. The alleged unlicensed operators are not forthcoming with information and their clients refuse to provide information as to whether or not they are paying for rides.

Representatives from the Marshall Police Department, Marshall City Attorney's office and City Administrator met with two representatives of the licensed taxi cab businesses. While numerous complaints are alleged, proof of those complaints and enforcement of the ordinances is difficult

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at best. At the conclusion of the meeting, City staff did discuss and recommend to L&O Committee that the City ordinance for regulation of taxi cabs be eliminated.

A review of Minnesota Statutes does not obligate municipalities to regulate taxi cab businesses operated within their jurisdiction. Minnesota Statutes §221.091 subd. 2(a) does indicate that the City “may” regulate taxi cabs, and if so, the City must provide ordinances for driver qualifications, insurance, vehicle safety and periodic vehicle inspections. The current City ordinances address all of the requirements of State statutes.

City staff continues to recommend that taxi cab regulation be repealed. The L&O committee did meet and discuss this matter. L&O committee is recommending that taxi cab regulation ordinances be repealed. It is recommended that the repeal be effective June 1, 2017 and that a pro-rata portion of the license fee paid for 2017 be refunded to the taxi cab businesses after the effective date of June 1, 2017. Marshall City Charter Section 3-12 does allow for the City Council to repeal City ordinances.

The action recommended is that the ordinance repealing taxi cab regulation be introduced and that public hearing and final ordinance approval occur at the Council meeting scheduled for May 9, 2017.

There was considerable discussion on whether to repeal the ordinance or not. Further council discussion and public input will be provided at the public hearing.

Member (**James Lozinski**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that the council call for a public hearing to be held on May 23, 2017 regarding Article V Section 22 of the Marshall Code of Ordinances be repealed'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried 7 - 0**

CONSIDER THE REQUEST OF JUSTIN MCKINNEY FOR A CONDITIONAL USE PERMIT TO HAVE A KENNEL IN A B-3 GENERAL BUSINESS DISTRICT AT 204 MUSTANG TRAIL:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from Justin McKinney, for a Conditional Use Permit to have a kennel in a B-3 General Business District. The Council has adopted Ordinance Number 719, Second Series allowing kennels in certain districts. By revised Ordinance, kennels will be a Conditional Use Permit in a B-3 General Business District where this building is located. Mr. Olson briefly reviewed the conditions.

Council Member Lozinski questioned the height of the fence. He suggested that the fence be changed from a 7-foot solid fence to a 6-foot solid fence.

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **NEW** motion 'Planning Commission recommends a motion to approve the request of Justin McKinney for a Conditional Use Permit to have a kennel in a B-3 General Business District at 204 Mustang Trail subject to this property rezoning approval with the following conditions applied: 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

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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. Install a 6-foot-high solid fence around area used for dogs outside. 5. That the dogs are allowed outside between the hours of 9 am to 9 pm'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed 6 – 0 – 1** with Lozinski abstaining.

PROJECT Z39/MINNESOTA DNR PARKS AND TRAILS LEGACY PROGRAM
PROJECT NO. L025-13-4B: DIVERSION CHANNEL BIKE TRAIL PROJECT
(DIVERSION CHANNEL TO T.H. 19) – CONSIDER CHANGE ORDER NO. 1 WITH
D&G EXCAVATING, INC.:

Glenn Olson, Director of Public Works/City Engineer, reviewed Change Order No. 1 for Project Z39/Minnesota DNR Parks and Trails Legacy Program Project No. L025-13-4B: Diversion Channel Bike Trail Project (Diversion Channel to T.H. 19). The contract increase relates to the installation of 220 LF of 12-inch tile and installation of 2 tile inlets with tile inlet removal incidental to tile inlet installation. This contract is funded from Account #462-60211-5530 (2017 Public Improvement Fund-Streets-Other Improvements).

Member (**David Sturrock**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that the Council approves Change Order No. 1 with D & G Excavating, Inc. of Marshall, Minnesota resulting in a contract increase in the amount of \$4,570.00 and a total contract amount of \$318,779.75'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER RESOLUTION APPROVING PROPERTY ACQUISITION AND
INTERFUND LOAN BETWEEN THE CITY OF MARSHALL AND HOUSING AND
REDEVELOPMENT AUTHORITY:

This item was removed from the agenda.

CONSIDER RESOLUTION FOR MUNICIPAL STATE AID STREET FUNDS
ADVANCE:

On May 4, 2017, bids were received for Project Z56/SAP 139-129-002: North 7th Street Reconstruction Project (Fairview To CSAH 33). The 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 under a separate contract through MMU, as well as revisions to the storm sewer system. The estimated total project cost including 5% allowance for contingencies and 16% for engineering and administrative costs is \$1,308,865.42. This amount is eligible for MSAS funding and is included in the request for advance State Aid funding. The current MSAS account balance as of May 5, 2017 is \$(659,744.55). The 2017 Construction Allotment is included in the May 5, 2017 balance. The maximum MSAS advance, set by Minnesota Commissioner of Transportation is five (5) times the City annual apportionment. The 2017 City of Marshall annual apportionment is anticipated to be \$694,800.00, resulting in an available MSAS advance of \$3,474,000.00. This resolution is required in order to allow MSAS advance funding.

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Member **(Steven Meister)** Moved, Member **(John DeCramer)** Seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4387, SECOND SERIES, which is the Resolution for Municipal State Aid Street Funds Advance requesting an advance of Municipal State Aid System (MSAS) funding in the amount of up to \$1,968,609.97'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

CONSIDER APPOINTMENT TO VARIOUS BOARDS AND COMMISSION:

Per the recommendation of Mayor Byrnes, Member **(Steven Meister)** Moved, Member **(James Lozinski)** 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: 7 Nay: 0. The motion **Carried 7 - 0**

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

Police Advisory Board – Carole Kerkaert be reappointed to a 3-year term to expire on May 31, 2020.

COMMISSION/BOARD LIAISON REPORTS:

Byrnes No report.

Schafer Library Board met on Monday, May 8th. Discussion was held on the re-alignment of the Foundation and Friends of the Library. They are working on their budget request for 2018.
SW MN Amateur Sports Commission discussed naming rights for the new ball fields. Discussion on all Tournaments being held for three (3) days. Council Member Bayerkohler was concerned with selling naming rights.

Meister Community Services Advisory Board has set-up sub committees; the Summer Brochure has been mailed and they are working on a new logo.

Bayerkohler Public Housing Commission continues to work on their no-smoking policy.

DeCramer No report.

Sturrock Police Advisory Board will meet on May 15th.

Lozinski Adult Community Center Commission will meet next week; Marshall Area Transit will meet on May 17th.

COUNCILMEMBER INDIVIDUAL ITEMS:

Lozinski indicated that he and Nick met with a business owner that is having issues; Sturrock commented on the huge discussion in regard to the taxi issue; he also wants to encourage and promote new business owners to meet with the Chamber of Commerce. DeCramer commented on the payment made to Council Member Schaefer for traveling to pickup the trailer for the City. Schaefer stated that he enjoyed doing this and indicated that the city paid him a fair mileage rate. Meister asked why staff plowed the snow when the snow was not going to be on the streets very long. Mr. Olson indicated that if you don't move the snow the City receives several calls, but the City also receives several calls if you do move the snow.

CITY ADMINISTRATOR:

Nick Johnson, City Administrator, met with Council Member Lozinski to resolve issues and he attended the annual Minnesota Cities and County Management Conference. Nick also commented on the city communications web site; social media and the school strategic planning session.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, indicated that the Construction season has started; the 2016 project assessment hearings need to be finalized; the bike path when completed will be 14 plus miles.

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

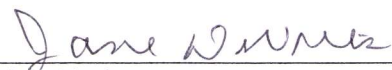
There were no questions on the upcoming meeting list.

Member (**Craig Schafer**) Moved, Member (**John DeCramer**) 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

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