

REGULAR MEETING – NOVEMBER 14, 2017

The regular meeting of the Common Council of the City of Marshall was held November 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: Sheila Dubs, Interim City Administrator, Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/ City Engineer; Karla Drown, Finance Director; Scott VanDerMillen, Director of Community Services; Jim Marshall, Interim Director of Public Safety; Ilya Gutman, Plan Examiner; Bob VanMoer, Wastewater Superintendent; Cal Brink, Executive Director, Marshall Area Chamber of Commerce; Darin Rahm, Convention & Visitor's Bureau Director; Jane DeVries, City Clerk and Kyle Box, City Clerk effective December 1, 2017.

The Pledge of Allegiance was recited at this time.

APPROVAL OF AGENDA:

Member (**Steven Meister**) Moved, Member (**James Lozinski**) Seconded to approve the **ORIGINAL** motion 'approve agenda'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

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

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on October 24, 2017 be approved and that the reading of the same be waived.'. 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.

PUBLIC HEARING FOR ICE AND SNOW REMOVAL AND WEED ELIMINATION FROM PRIVATE PROPERTY IN THE CITY OF MARSHALL – 1. PUBLIC HEARING ON ASSESSMENT; 2. CONSIDER RESOLUTION ADOPTING ASSESSMENT:

City shall conduct public hearing to consider approving of special assessment to be levied against City property to allow for collection of costs incurred by the City to remove ice and snow and to mow lawns-eliminate weeds on private property. Minnesota Statutes Chapter 429.101 does set forth the various types of City charges that can be assessed against property taxes pursuant to the special assessment process. Minnesota Statutes §429.101 subd. 1(1) indicates that snow, ice, or rubbish removal from sidewalks may be assessed against property owners. §429.101 subd. 1(2) indicates that “weed elimination from streets or private property” may be assessed against property owners. The procedure by which those types of costs incurred by the City may be assessed against private property owners is outlined in Minnesota Statute §429.061 and procedures further outlined in a Minnesota Court of Appeals decision Sykes v. Rochester City Council Court of Appeals case A13-2421. The Sykes decision does require full compliance with §429.061, when levying those costs as assessments against private property. §429.061 does require public hearing to be held before those amounts can be assessed. The City Council has previously passed a resolution declaring the costs to be assessed as required by Minnesota Statute §429.061 and further that a second resolution has been passed calling for a public hearing regarding those costs to be assessed. Notice of public hearing has been sent to property owners

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and has been published in the Marshal Independent as required by Statute. Public hearing is to be held as scheduled.

Jane DeVries, City Clerk, presented the item to Council followed by further discussion. Dr. Leroy Affolter asked how the fees were calculated in Ice and Snow Removal. Glenn Olson, Director of Public Works/City Engineer, discussed that the City uses the dollar amount that the Contractor bills the City plus an administration fee (\$50.00). Jane DeVries, City Clerk, added that a statement is mailed to the property owner and it is indicated that interest will be added monthly to the unpaid balance. If the balance is not paid an additional interest is added in the amount of 3.87%, which is the amount adopted for all special assessments for 2017. That total is the amount added to the property owner's taxes. There was further discussion on the item.

Member (**Steven Meister**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing on assessments for ice and snow removal and for weed elimination from private property in the City of Marshall.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4443, SECOND SERIES, which is the "Resolution Adopting Assessment" for ice and snow removal and for weed elimination from private property in the City of Marshall. '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

AWARD OF PROPOSAL FOR SNOW REMOVAL SERVICES AT TALL GRASS LIQUOR AND MERIT CENTER FOR THE 2017/2018 THROUGH 2018/2019 WINTER SEASONS:

Proposals were received for Snow Removal Services at the MERIT Center and Tall Grass Liquor on October 31, 2017. Two scenarios were bid as follows: 2"-4" of snow per occurrence > 4" of snow per occurrence. These services will be funded from the MERIT Center Fund #455 and the Liquor Store Fund #609.

Glenn Olson, Director of Public Works/City Engineer presented the item. There was further discussion by Council on snow plow responsibility. Council Member, Lozinski, asked why this is contracted out and not left up to City staff to remove snow from these locations. Glenn Olson responded stating that the timeline involved with removing snow from these facilities does not work with City Staff. The Street department is working on streets and alleyways and the Parks department is working on parks. The Liquor Store and MERIT Center require the lots cleared by a specific time. Olson mentioned that a way around contracting this out is to hire more City staff to complete all projects on time. Council Member, Bayerkohler, clarified with Glenn Olson that the respected bidders were OK with having one assignment each and not both and that payment was being used from each respective facility funds. There was further discussion by Council.

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Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that the Council award the proposal for Snow Removal Services at MERIT Center to Andrew DeSaer of Marshall, Minnesota for the 2017/2018 through 2018/2019 winter seasons at the rate of \$150.00 for 2"-4" of snow per occurrence and \$150.00 for >4" of snow per occurrence in accordance with the Project Scope.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion (**Passed**). 6 - 1 with Lozinski voting no.

Member (**John DeCramer**) Moved, Member (**Craig Schafer**) Seconded to approve the **NEW** motion 'that the Council award the proposal for Snow Removal Services at Tall Grass Liquor to Action Company, LLC of Marshall, Minnesota for the 2017/2018 through 2018/2019 winter seasons at the rate of \$100.00 for 2"-4" of snow per occurrence and \$150.00 for >4" of snow per occurrence in accordance with the Project Scope.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion (**Passed**). 6 - 1 with Lozinski voting no.

MUNICIPAL BUILDING PROJECT - CONSIDER AWARD OF PROPOSAL FOR ARCHITECT/ENGINEERING SERVICES:

The project entails the A/E services for the redevelopment of City Hall at the current location. The project may include incorporation of the adjacent Marshall Hotel as well, depending upon final concept development and project cost. On November 9, 2017, proposals were presented to the Municipal Building Project Committee by representatives of the following firms: TSP of Sioux Falls, South Dakota, CTS Group of St. Louis, Missouri, and Engan Associates of Willmar, Minnesota. Evaluations were completed by each of the Committee members utilizing a proposal score sheet based upon requirements of the Invitation for Proposal. Each Committee member was asked to complete the evaluation sheet and provide a ranking of the three firms. The rankings were compiled, and the compensation proposals of the top two ranking firms were opened and evaluated. After discussion, based upon the performance evaluations, Engan Associates was selected as the firm to be recommended to the City Council for the project. The A/E firm will be responsible for all services from planning through project completion. The fees to be paid will be as follows:

Phase I-Pre-Design/Schematic Design: Lump Sum of \$49,000.00

Phase II-Design Development, Construction Documents, Bidding and Award: 4.75% of Construction Cost

Phase III-Project Construction Observation: 1.40% of Construction Cost (including Shop Drawing Reviews and Approvals)

Close-Out Documents and Warranty Work Follow-Up: 0.01% of Construction Cost

Glenn Olson, Director of Public Works/City Engineer, presented the item to Council. Council Member, DeCramer, who was the committee chair, further discussed the item. Council members DeCramer, Sturrock and Bayerkohler served on the Municipal Building Project Committee. There was further discussion by Council. Council Member, DeCramer, asked that if the Architectural and Engineering proposal passes that the Municipal Building Project Committee be dissolved.

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Member (**David Sturrock**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that the Council award the Architectural and Engineering (A/E) proposal for comprehensive design, engineering, and consultant services for the Municipal Building Project to Engan Associates of Willmar, Minnesota.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

APPROVAL OF CONSENT AGENDA:

Council Member, Bayerkohler, requested that item number 8, Consider approval of the Second Amendment to the Contract for Deed regarding the City's purchase of the Ralco Nutrition property located at South 8th Street in Marshall, be removed for discussion.

Member (**Steven Meister**) 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**

Approval of an Engagement Letter with Van Iwaarden Associates for an actuarial valuation of post employment benefits in the amount of \$1,800.00 for 2018.

Adoption of RESOLUTION NUMBER 4444, SECOND SERIES, designating the polling locations for 2018. The polling locations will be:

Ward 1	Recreation/Athletic (RA) Facility at SMSU, 400 Mustang Trail.
Ward 2	Gymnasium at the Marshall Middle School located at 401 South Saratoga Street.
Ward 3	Multi purpose room at Marshall Area YMCA located at 200 South "A" Street.

Adoption of RESOLUTION NUMBER 4445, SECOND SERIES, Authorizing the Transfer and Closure of Capital Project Fund 498.

Approval of farm lease agreements with Bossuyt Farms at a rate of \$180 per acre and Ron Verly at a rate of \$100.00 per acre for a new three-year term.

Authorization to declare bikes as surplus property for the Police Department. These bikes will be sold in Marshall, donated or will be taken to Alters for disposal.

Approval of a LG220 Application for Exempt Permit for Avera Marshall for December 22, 2017. BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Avera Marshall, to hold a raffle on December 22, 2017, at Avera Marshall, 300 South Bruce St., 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.

Approval of the bills/project payments.

CONSIDER APPROVAL OF THE SECOND AMENDMENT TO CONTRACT FOR DEED REGARDING THE CITY'S PURCHASE OF RALCO NUTRITION PROPERTY LOCATED AT SOUTH 8TH STREET IN MARSHALL:

City staff is recommending that the second amendment to contract for deed be executed by the City regarding the City's purchase of the 8th Street property from Ralco. Contract for deed does indicate that final payment due from the City to Ralco is to be made on November 15, 2017, or upon Ralco vacating the north half of the property, whichever events occurs first. Ralco has not vacated the property. Former City Administrator Nicholas Johnson had initiated discussions with Ralco recommending that the final payment of \$240,000 be extended until November 15, 2018. Ralco has agreed to that recommendation and has signed second amendment to contract for deed. Final payment of \$240,000, minus real estate taxes due by the City is due on the earlier of Ralco vacating the 8th Street property or on November 15, 2018. City continues to require that Ralco pay all utility services associated with property until such time as they vacate the premises. Additionally, Ralco is not charging the City interest on the unpaid \$240,000 balance. It is recommended that the business arrangement/financial transaction be continued as is with the extension of the final payment due November 15, 2018. This matter will also assist in the City's budget as it prepares for the final payment of approximately one year from now.

Council Member, Bayerkohler, discussed the item with Council. Dennis Simpson, City Attorney discussed the Contract with Council.

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'Consider and recommend approval and authorize proper City officials to sign the Second Amendment to Contract for Deed regarding the City's purchase of Ralco Nutrition property located at S. 8th Street in Marshall. This amendment is to extend the final payment date until November 15, 2018.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CITY STAFF IS RECOMMENDING THAT CITY COUNCIL APPROVE AND EXECUTE THE FOOD SERVICES AGREEMENT BETWEEN THE CITY OF MARSHALL AND THE MARSHALL AREA HOCKEY ASSOCIATION, A MINNESOTA NON-PROFIT CORPORATION (MAHA):

After review and consideration, and at the request of Council Member Schafer, the MAHA Food Services Agreement has been amended slightly to clarify that MAHA is providing "concession" services only at the Red Baron Arena and Expo™. MAHA is providing concession services at MAHA sponsored events, Marshall School sponsored events and City sponsored events. The changes are requested to clarify that other events hosted by business or wedding events, etc. will have their own caterer and those events are not hosted by MAHA.

The food operator at the Arena for the past year (Chartwells) was asked to renew their contract and provide food service operations at the Arena. Chartwells has elected not to provide food services at the Arena. As a result of that decision, City staff did approach other food operators within the City and asked for interest in providing food service. Various companies and individuals were approached, but there was no interest in providing food services at the Arena. Finally, the Marshall Area Hockey Association (MAHA) was approached and has expressed interest. MAHA has been operating the food service operations at the prior Lockwood Arena as

previously located at the Lyon County Fairgrounds facility. MAHA is interested in providing the food service operations at the Arena and will be staffed with volunteer help. MAHA, Schwan's and City have reviewed food preparation and presentation requirements at the facility. MAHA has been providing services on an interim basis and is interested in proceeding pursuant to terms of food service agreement. Please note that the City is recommending that all commissions due by operator be waived during the first year of operations. Prior food service operator was not interested in providing service because they believe they lost money and could not make money serving in that capacity at the facility. City hopes to have MAHA continue as its food service provider and believes that the waiver of commission will help MAHA be successful in its operation and will then want to renew for future years. The City does reserve the right to charge and collect a commission in future years. The City desires to have successful food service operations and believes that MAHA is capable of doing so. City staff believes that a waiver of commission fees is necessary and important to the success of the facility operations.

Darin Rahm, CVB, presented the item to Council. Council Member, Bayerkohler, discussed charging for the use of the equipment and requesting to review MAHA's expenses and revenue in regard to collecting a percentage of the concession profits in future years. This was followed by further discussion from Council.

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'City staff is recommending that City Council approve and execute the Food Services Agreement between the City of Marshall and the Marshall Area Hockey Association, a Minnesota non-profit corporation (MAHA) from October 15, 2017 through September 30, 2018 with no commission fees.'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion (**Passed**). **6 – 1** with Bayerkohler voting no.

CONSIDER THE REQUEST OF ISLAMIC SOCIETY OF MARSHALL, FOR A VARIANCE ADJUSTMENT PERMIT TO PROVIDE LESS PARKING THAN REQUIRED BY CITY ORDINANCE AT 110 SOUTH 10TH STREET:

This is a request by the Islamic Society of Marshall for a Variance Adjustment Permit to provide 16 parking spaces for the new mosque in lieu of required 32. The Islamic Society is moving from its current location at 911 West Main Street to a new building at 110 South 10th Street that they have recently purchased. This building used to house a Taekwondo studio and it had the required number of parking spaces for that use. The mosque, an assembly space without seating, needs twice as many parking spaces as the exercise/fitness space, according to the Table 86-230 of the City Zoning Ordinance. There is no room to add any parking spaces on site. According to the Zoning Ordinance, a variance should be granted if "the literal enforcement of the provisions of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration." Considering the size of the site, it is the staff's opinion that this condition is met and, therefore, a variance should be granted. At the Planning Commission meeting on November 8, 2017. A motion was made by Archbold, second by Labat to recommend denial of the request to provide 16 parking spaces in lieu of the required 32 for the new mosque to the City Council because of safety concerns. All voted in favor of the motion.

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Based upon the federal application of the RLUIPA law, staff recommends that no action be taken as a variance request is not necessary. That the Islamic Society be allowed to operate the mosque without the need to provide more onsite parking then presently exists.

Glenn Olson, Director of Public Works/City Engineer, presented the background information on the item to Council. Dennis Simpson, City Attorney, provided a legal outlook on the item and spoke to the potential for a subsequent lawsuit if this Variance is denied. There was further discussion on the item by Council and Staff. Comments made:

Bayerkohler: There are different requirements (parking) for different entities based on customer needs. The idea of the ordinance is not to have your worshipers parking on the street, because of lack of parking spaces, infringing on the rights of adjacent property owners. The State Law refers to having the applicant prove to the City that they meet the practical difficulties test not having the City do that test for the applicant. They have not met the three-factor test and that the variance should be denied.

Schafer: Clarified the reason Planning Commission denied the variance was because of the safety concern of on street parking. Mentioned the possibility of including parking spaces along the street that are not occupied by homeowners, a city sidewalk that services the area, the addition to a supplementary side walk to service the east side of said road and dedication from said organization to remove snow from the sidewalks.

Lozinski: Addressed the need for parking, signage and markings in this area to allow trucks and trailers to pull in and out of the adjacent road.

Member (**Glenn Bayerkohler**) Motioned that the Council approve the Planning Commission recommendation to deny the Variance request based on the fact that the applicants have not met the three-factor test that is required to show that there are practical difficulties in complying with the ordinance. The motion died due to a lack of a Second.

Council Member, Lozinski, stated that there may not need be a motion according to City Attorney, Dennis Simpson. But rather work with the organization and compromise on parking.

Sturrock: By not doing anything on the issue is effectively denying the Variance. State language directly governs variance law in regard to practical difficulties.

Member (**David Sturrock**) Motioned, Member (**Craig Schafer**) Seconded that the Variance be granted. Council Member, Lozinski, added a friendly amendment that the City add parking spaces and markings to the street. This was accepted by Council Member, Sturrock and Council Member Schafer. Council Member, Sturrock, restated his original motion that City Staff develop appropriate parking regulations, limitations, restrictions and parking spaces to address the safety concerns of parking for the Islamic Society of Marshall, 110 S. 10th Street, Marshall, MN. This was accepted by Council Member, Schafer.

There was a comment from the public that the parking situation with the Islamic Society of Marshall is not currently working in the location they are at now. The question from the gallery was how is the City going to prevent the Islamic Society of Marshall from parking on, or blocking private property and parking illegally in the street?

Glenn Olson, Director of Public Works/City Engineer, interpreted the Council's discussion in that markings and signage would be put in place to designate legal parking spaces.

Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1** Abstention: **1**. The motion **Carried. 5 – 1 – 1** with Bayerkohler voting no and Lozinski Abstaining.

TO CONSIDER RESOLUTION, AUTHORIZING PROPERTY CITY OFFICIALS TO EXECUTE GRANT AGREEMENT FROM MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED) IN THE AMOUNT OF \$2,000,000 FOR CONSTRUCTION INFRASTRUCTURE IN COMMERCE INDUSTRIAL PARK:

City Council and HRA have previously authorized Economic Development Authority (EDA) on behalf of the City of Marshall to submit an application for \$2,000,000 BDPI grant through the Minnesota Department of Employment and Economic Development (DEED). The City of Marshall has been awarded the \$2,000,000 grant and the terms of that grant agreement have been submitted and negotiated between the City representatives and DEED and Minnesota Management and Budget (MMB). The parties have reached an agreement as to the terms of the DEED BDPI Grant Agreement. The Grant Agreement itself is the first 43 pages of a 151 page document. DEED and MMB are circulating the document for signature. It was anticipated and hoped that the final signed agreement would be submitted for signature by Mayor and City Clerk. The signed agreement has not yet been received, but staff is recommending that Council approve the agreement subject to minor non-substantive changes which may be recommended by City Attorney. City Attorney is not anticipating any changes to the agreement.

Dennis Simpson provided the item to Council. There was discussion on the item by Council Member, Bayerkohler, to clarify that changes to the document have been agreed to.

Member (**Craig Schafer**) Moved, Member (**David Sturrock**) Seconded to approve the **ORIGINAL** motion The adoption of RESOLUTION NO. 4446, SECOND SERIES, Authorizing Property City Officials to Execute Grant Agreement from Minnesota Department of Employment and Economic Development (DEED) in the amount of \$2,000,000 for construction infrastructure in Commerce Industrial Park.'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried. 7 - 0**

**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) – 1) CONSIDER CHANGE ORDER NO. 2; 2)
CONSIDER CHANGE ORDER NO. 3 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL
PAY REQUEST NO. 4 WITH D&G EXCAVATING, INC:**

Change Order No. 2 is the result of additional 420 CY of topsoil borrow for the project. Change Order No. 3 (Final Reconciling Change Order) items are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Glenn Olson discussed the item with Council. Glenn Bayerkohler discussed the item further.

Change Order No. 2 results in a contract increase of \$7,560.00. Change Order No. 3 (Final) results in a contract increase in the amount of \$1,829.62. The final payment amount, including release of retainage, is \$23,590.47. The final contract amount is \$328,169.37. The original

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contract amount was \$314,209.75. This contract is funded from Account #462-60211-5530 (2017 Public Improvement Fund-Streets-Other Improvements).

Member (**John DeCramer**) Moved, Member (**David Sturrock**) Seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 2 with D&G Excavating, Inc. of Marshall, Minnesota, resulting in a contract increase in the amount of \$7,560.00.'. 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 Council approve Change Order No. 3 (Final) with D&G Excavating, Inc. of Marshall, Minnesota, resulting in a contract increase in the amount of \$1,829.62 and acknowledge Final Pay Request (No. 4) in the amount of \$23,590.47.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PROJECT Z57: BITUMINOUS CHIP SEALING ON VARIOUS CITY STREETS -- 1. CONSIDER CHANGE ORDER NO. 1 (FINAL); 2. ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 3:

The items on the Change Order No. 1 (Final Reconciling Change Order) for the above-referenced project are the result of final measurements and changes in item quantities during construction. At their meeting on June 13, 2017, the City Council awarded the project to Asphalt Surface Technologies Corporation of St. Cloud, Minnesota, in the amount of \$106,956.90; plus additional streets at the per unit rate up to the budgeted amount of \$145,000. This additional amount is reflected in this Change Order No. 1 (Final Reconciling). All work has been completed in accordance with the specifications.

Council Member, Lozinski, discussed the item with Council. Council Member, Meister, discussed the budget on the item. Glenn Olson, Director of Public Works/City Engineer, mentioned that the City would be \$13,000 under the amount approved by Council.

Change Order No. 1 (Final) results in a contract increase in the amount of \$40,197.40 and a total contract amount of \$147,154.30. The final change order and the final payment in the amount of \$7,357.72, including and release of retainage, will be paid from Account #101-60211-2227 (General Fund-Streets-Repair & Maintenance Other).

Member (**Craig Schafer**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 (Final) with Asphalt Surface Technologies Corporation of St. Cloud, Minnesota, resulting in a contract increase in the amount of \$40,197.40 and acknowledgement of Final Pay Request (No. 3) in the amount of \$7,357.72 for the above referenced project.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

PROJECT BP6: SOUTHWEST MINNESOTA REGIONAL AMATEUR BALLPARK CONCESSIONS BUILDING – ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 7 WITH MOHS CONTRACTING, INC:

All work has been completed in accordance with the specifications. The final payment, including release of retainage, will be funded from Account #413-70577-5530 (Ballparks Capital Fund -

Improvements other than Buildings). The final contract amount is \$877,278.43. The original contract amount was \$864,000.00.

Council Member, Lozinski, discussed the project budget and confirmed with Karla Drown, Finance Director that this project is under budget.

Member (**Steven Meister**) Moved, Member (**Craig Schafer**) Seconded to approve the **ORIGINAL** motion 'that Council acknowledge Final Pay Request (No. 7) in the amount of \$14,876.49 to Mohs Contracting, Inc of Owatonna, Minnesota.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

CONSIDER APPROVAL OF AMENDMENTS TO THE PERSONNEL POLICY MANUAL:

The Council Personnel Committee reviewed and recommended approval of the proposed amendments on October 11, 2017. Councilmember Meister was unable to be present for the committee meeting. Staff are recommending amendments to the Policy Manual—Travel and Training Policy and date amendments to Appendix B. The date changes in Appendix B would be effective, retroactive to October 1, 2017. No rate changes are being proposed. The other proposed amendments would be effective upon City Council approval. The language changes proposed serve to clarify the policy for implementation purposes. Background on Appendix B: Since August 2009, the City Council has established the City's maximum allowable reimbursement and per diem rates for non-local travel in accordance with the rates established by the U.S. General Services Administration (GSA) rate schedule. The GSA per diem rates are set by federal fiscal year, which begins on October 1 and ends on September 30 each year. The GSA schedule includes no rate adjustments for FY2018. Where employees receive authorization to travel out-of-state, the employee clicks on the web-link provided in this Appendix to find the designated per diem rates. A note relating to the Meal Per Diems: the Council will note that the Meal Per Diem column on the City's schedule reflects a decrease of \$5 from the GSA table (if you were to go to www.gsa.gov). Since August 2009, the Council has approved meal per diems consistent with the GSA schedule, minus the "Incidental Expenses", which equates to \$5 for all locations. Per the City's policy, any incidental or miscellaneous expenses require Division Director approval and submission of an itemized bill/receipt from the vendor. Examples of miscellaneous expenses may include but are not limited to: parking fees, taxi fare, internet access charges, fax charges, and business telephone charges. If approved by the City Council, staff would proceed with updating the cover page (date of revision) and table of contents (date of revision).

Sheila Dubs, Interim City Administrator/Human Resource Manager, presented the item to Council. There was further discussion by Council.

Member (**John DeCramer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'that the Council approves amendments to the Personnel Policy Manual.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

7:03 pm: A five-minute recess was called at this time.

CONSIDER AN APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR SMSU FOUNDATION FOR DECEMBER 8, 2017:

Member (**Steven Meister**) Moved, Member (**James Lozinski**) Seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for SMSU Foundation to use at Regional Event Center, 1501 State Street, Marshall, Minnesota on December 8, 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.

Commission/Board Liaison Reports

Byrnes No Report

Schafer Library Board met on 11/13/17. Council Member, Schafer, recapped the amnesty program and its success. There has been a lighting upgrade in some areas in the building. The Plum Creek agreement is thought to be signed by January 2018. Southwest Amateur Sports Commission met 11/14/17 and postponed its group retreat until December 13, 2017. There are two new members to the Commission. MERIT Center meets on 11/16/17 to discuss the possible growth of a railway training prop.

Meister No Report

Bayerkohler Comment that he was impressed with both the Housing and Planning Commission Members on the quality of work they are doing and their dedication.

DeCramer No Report

Sturrock Airport Commission met on 11/7/17 and reviewed the 5 year CIP and Mill overlay project on the runway. The Commission is now at full capacity.

Lozinski Adult Community Center Commission met and reviewed the contract for food preparation.

COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member, Meister, discussed the traffic on 4th Street in front of West Side Elementary School. He asked Glenn Olson, Director of Public Works/City Engineer to look into the issue of making that a safer area. Olson commented that area is included in the Safe Route to School Program.

Council Member, DeCramer, thanked the Municipal Building Committee members.

Council Member, Lozinski, discussed the decision by Ralco to open a new facility in Luverne, MN.

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CITY ADMINISTRATOR:

Sheila Dubs, Interim City Administrator/Human Resource Manager, reminded Council that, Sharon Hanson, City Administrator will start on 11/16/17. City Hall will be closed November 23 and 24 to observe the Thanksgiving Holiday.

DIRECTOR OF PUBLIC WORKS:

Glenn Olson, Director of Public Works/City Engineer, commented on the Commerce Industrial Park project and its rapids development.

Furniture Mart will be working with the City to discuss the process of development for their location in early 2018. City staff has also been working with Runnings on the redevelopment of their old building space by Tall Grass Liquors.

The owners of the Mall and Carr have been contacted to confirm availability for City Staff to occupy, if necessary, for the City Hall project.

2018-2019 projects are being developed.

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

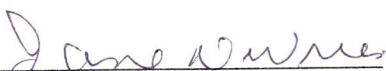
There were no questions on the upcoming meeting list.

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