

## REGULAR MEETING – DECEMBER 19, 2017

The regular meeting of the Common Council of the City of Marshall was held December 19, 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: Sharon Hanson, 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 Manager and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

### **APPROVAL OF AGENDA:**

Recommendation to table agenda item #7, Consider acceptance of financial donation from the John and Esther McLaughlin Foundation and item #18, Consider appointment to the Public Housing Commission, to a later date.

Member (**Steven Meister**) Moved, Member (**Craig Schafer**) Seconded to approve the **ORIGINAL** motion 'Recommendation to table agenda item #7, Consider acceptance of financial donation from the John and Esther McLaughlin Foundation and item #18, Consider appointment to the Public Housing Commission, to a later date'. 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 DECEMBER 12, 2017:**

Member (**Craig Schafer**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on December 12, 2017 be approved 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**

### **APPROVAL OF CONSENT AGENDA**

Member (**Steven Meister**) Moved, Member (**Craig Schafer**) 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 2018 wage schedule for temporary and seasonal employees.

Approval of the bills/project payments.

### **CONSIDER ADOPTION OF RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY FOR THE MARSHALL FIRE DEPARTMENT:**

A resolution accepting the donation of personal property for the Marshall Fire Department. Per Marc Klaith this donation will be used by the Marshall Fire Department for equipment.

Member (**James Lozinski**) Moved, Member (**Craig Schafer**) Seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4456, SECOND SERIES



Accepting the Donation of Personal Property to be used by the Marshall Fire Department for equipment.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried**. 7 - 0

**CONSIDER RESOLUTION AUTHORIZING TRANSFER AND CLOSURE OF WASTEWATER DEBT SERVICE FUND 616:**

Wastewater Debt Service Fund 616 is the related fund to the 2009A General Obligation Utility Bond Series that was called for repayment by resolution number 4421 on August 8, 2017. The 2009A General Obligation Bond Series was paid in full on September 5, 2017. The remaining balance in Fund 616 is \$49,387.09 after payment in full of the bond.

Karla Drown, Finance Director, presented the item to Council. There was further discussion by Council.

Member (**Craig Schafer**) Moved, Member (**James Lozinski**) Seconded to approve the **ORIGINAL** motion 'the adoption of Resolution Number 4457, Second Series authorizing transfer and closure of Wastewater Debt Service Fund 616'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried**. 7 - 0

**PROJECT Z31: INDEPENDENCE PARK POND SEDIMENT REMOVAL PROJECT-- 1) CONSIDER CHANGE ORDER NO. 2 (FINAL); 2) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 9 WITH A&C EXCAVATING, LLC:**

The items on Change Order No. 2 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications. The original contract amount was \$390,711.25. The final contract amount is \$420,192.17, resulting in a total net contract increase of \$29,480.92.

The final payment in the amount of \$25,279.61, including the final change order and release of retainage, will be paid from Account #630-90661-5530 (Surface Water Management Utility-Improvements other than Buildings).

Glenn Olson, Director of Public Works/City Engineer, provided information on the item. Olson stated that the increase was due to the vast amount of sludge in the bottom of the pond.

Member (**John DeCramer**) Moved, Member (**David Sturrock**) Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 (Final) with A&C Excavating, LLC of Marshall, Minnesota, resulting in a contract increase in the amount of \$405.00 and acknowledge Final Pay Request (No. 9) in the amount of \$25,379.61 for the above-referenced project.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion (**Carried**). 6 - 1 with Meister voting no.

**PROJECT Z59: OUTLOT A, CARR ESTATES POND SEDIMENT REMOVAL & IMPROVEMENT PROJECT (MAJESTIC POND) -- 1) CONSIDER CHANGE ORDER NO. 1 (FINAL); 2) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 2 WITH A&C EXCAVATING, LLC:**



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The items on Change Order No. 1 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications. Change Order No. 1 (Final) results in a net decrease in the amount of \$400.00.

The original contract amount was \$108,465.00. The final contract amount is \$108,065.00, resulting in a total net contract decrease of \$400.00.

The final payment in the amount of \$5,403.25, including the final change order and release of retainage, will be paid from Account #630-90661-5530 (Surface Water Management Utility-Improvements other than Buildings).

Per the agreement with the City, \$80,000.00 was assessed to the Majestic Pond Association. This entire amount has been paid by the Association resulting in a net cost to the City of \$28,065.00 for the construction of the project.

Glenn Olson, Director of Public Works/City Engineer, provided information on the item. There was further discussion by Council.

Member **(Steven Meister)** Moved, Member **(David Sturrock)** Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 (Final) with A&C Excavating, LLC of Marshall, Minnesota, resulting in a contract decrease in the amount of \$400.00 and acknowledge Final Pay Request (No. 3) in the amount of \$5,403.25 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 Z56 / SAP 139-129-002: NORTH 7TH STREET RECONSTRUCTION**  
**PROJECT (FAIRVIEW TO CSAH 33) -- 1) CONSIDER CHANGE ORDER NO. 2;**  
**CONSIDER CHANGE ORDER NO. 3 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL**  
**PAY REQUEST NO. 6 WITH R&G CONSTRUCTION CO:**

The items on Change Order No. 2 for the above project are for additional dowel bars on the project. The items on Change Order No. 3 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications. Change Order No. 1 results in a net increase of \$3,660.00.

Change Order No. 2 (Final) results in a net decrease in the amount of \$4,400.55.

The original contract amount was \$1,074,602.15. The final contract amount is \$1,078,480.60, resulting in a total net contract increase of \$3,878.45. The final payment in the amount of \$57,724.36, including the final change order and release of retainage, will be paid from Account #462-60211-5570 (2017 Public Improvements-Streets-Infrastructure).

Glenn Olson, Director of Public Works/City Engineer presented the item. There was further discussion by Council about the difference in bids. There was additional discussion on change orders and how the City of Marshall compares to other similar sized cities.



Member (**Craig Schafer**) Moved, Member (**John DeCramer**) Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$3,660.00 for the above-referenced project.' Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion (**Carried**). **6 - 1** with Meister voting no.

Member (**Steven Meister**) Moved, Member (**James Lozinski**) Seconded to approve the **NEW** motion 'that Council approve Change Order No. 3 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract decrease in the amount of \$4,400.55 and acknowledge Final Pay Request (No. 6) in the amount of \$57,724.36 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 Z46 / SP 4210-55: COMMERCE INDUSTRIAL PARK – TED PROJECT (INTERSECTION OF TH 68 AND PACIFIC AVENUE) -- 1) CONSIDER CHANGE ORDER NO. 1; 2) CONSIDER CHANGE ORDER NO. 2 (FINAL); 3) ACKNOWLEDGEMENT OF FINAL PAY REQUEST NO. 6 WITH R&G CONSTRUCTION CO:**

The items on Change Order No. 1 for the above project are for bituminous pavement incentive per Mn/DOT specifications, traffic control and flagging. The items on Change Order No. 2 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications. Change Order No. 1 results in a net increase of \$3,294.80.

Change Order No. 2 (Final) results in a net decrease in the amount of \$10,484.78.

The original contract amount was \$862,401.65. The final contract amount is \$855,411.47, resulting in a total net contract decrease of \$7,189.98.

The final payment in the amount of \$47,792.56, including the final change order and release of retainage, will be paid from Account #462-60211-5570 (2017 Public Improvements-Streets-Infrastructure).

Member (**John DeCramer**) Moved, Member (**David Sturrock**) Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 with R&G Construction Co. of Marshall, Minnesota, resulting in a contract increase in the amount of \$3,294.80 for the above-referenced project.' Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion (**Carried**). **6 - 1** with Meister voting no.

Member (**John DeCramer**) Moved, Member (**Steven Meister**) Seconded to approve the **NEW** motion 'that Council approve Change Order No. 2 (Final) with R&G Construction Co. of Marshall, Minnesota, resulting in a contract decrease in the amount of \$10,484.78 and acknowledge Final Pay Request (No. 6) in the amount of \$47,792.56 for the above-referenced project. '. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried**. **7 - 0**



**CONSIDER RESOLUTION AUTHORIZING ENTERING INTO MN/DOT AGREEMENT NO. 1029971 REGARDING AGENCY DELEGATED CONTRACTING PROCESS (DCP) AGREEMENT:**

An agreement and resolution authorizing entering into Mn/DOT Agreement No. 1029971 regarding Agency Delegated Contracting Process Agreement between the City of Marshall and Mn/DOT. This agreement supersedes Agreement No. 99901 adopted by the City Council in 2011. The agreement allows Mn/DOT to act as the City's agent in accepting federal aid. This agreement will remain in force and intended to cover any federally funded projects that the City of Marshall is awarded until revisions are needed to the agreement by Mn/DOT. A copy of this contract has been provided to the City Attorney for his review and approval.

Glenn Olson, Director of Public Works/City Engineer, presented the item to Council.

Member **(David Sturrock)** Moved, Member **(Craig Schafer)** Seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4458, which is the "Resolution Authorizing Entering into Mn/DOT Agreement No. 1029971 Regarding Agency Delegated Contracting Process (DCP) Agreement," contingent upon City Attorney review and approval.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**CONSIDER APPROVAL OF RESOLUTION IN SUPPORT OF US HIGHWAY 212:**

The Minnesota Department of Transportation is asking for stakeholder and public input on the use of \$400 million in funding authorized by the legislature for highway projects through the Corridors of Commerce program. The Coalition is asking member organization to approve the attached resolution of support for US Highway 212 work that will expand the corridor and improve safety and the flow of freight movement which the Corridors of Commerce program was designed to facilitate.

Council Member, David Sturrock, provided information on the item.

Member **(David Sturrock)** Moved, Member **(Craig Schafer)** Seconded to approve the **ORIGINAL** motion 'Adopt RESOLUTION NUMBER 4459, SECOND SERIES that will support the inclusion of funding from the Corridors of Commerce program to support the \$110 million of needed improvements that will complete the highway to a continuous four-lane highway to Norwood Young America and that any maps or lists of Corridors of Commerce highways include US Highway 212.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Council agreed to move an agenda item, CONSIDER APPROVAL FOR A TRANSIENT MERCHANT LICENSE FOR TAQUERIA EL GUERRERITO, ahead as there were members of the public who wished to speak.

**CONSIDER APPROVAL FOR A TRANSIENT MERCHANT LICENSE FOR TAQUERIA EL GUERRERITO:**

A Transient Merchant License for Taqueria El Guerrerito to operate a Food Truck in Marshall is up for renewal. The current license will expire on December 31, 2017.



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Kyle Box, City Clerk, presented the item to Council. There were questions presented to Council from El Rancho of Marshall, MN, whether this food truck was licensed and if there are paying local taxes. Box confirmed that this food truck is license with the City of Marshall until 12/31/2017. The City of Marshall does not monitor a business to verify they are paying local sales tax. This is done through the State of Minnesota and confirmed when a business files its taxes.

Judy, from El Rancho of Marshall, has been contacted by the health department thinking this food truck was operated by El Rancho. Their concerns are that to make sure this food truck is licensed and paying taxes to the City of Marshall. El Rancho expressed to the City Council not to allow this food truck to operate in the City of Marshall. It was added by Council that Taqueria El Guerrerito has previously met the requirements to operate in the City of Marshall and if an applicant meets all requirements set forth by the City we cannot deny a license.

Sharon Hanson added that Department of Health (Southwest Health and Human Services) has been notified to follow up on this business. There was further discussion by Council.

Member **(David Sturrock)** Moved, Member **(Glenn Bayerkohler)** Seconded to approve the **ORIGINAL** motion 'the approval of a Transient Merchant License for Taqueria El Guerrerito to operate a Food Truck in Marshall with the restriction that they operate on private property with permission from the owner, from January 1, 2018 through December 31, 2018 contingent upon all requirements being completed.'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **(Carried)**. 5 - 2 with Lozinski and Meister voting no.

### **CONSIDERATION OF 2017 TAX LEVY COLLECTIBLE IN 2018 AND THE 2018 BUDGET. THESE ARE THE SAME NUMBERS PROVIDED AT THE DECEMBER 12, 2017 MEETING:**

The information is as presented at the Council meeting on December 12, 2017. This will conclude actions of the City for the final budget. The detailed report is available upon request until the final is customarily printed in mid-February to include unaudited actuals through 2017 for comparative purposes.

City Administrator, Sharon Hanson, presented the item to Council with three (3) options regarding the Tax Levy for the Council to discuss; a 5% increase, a 4.3% increase or a 3.8% increase. There was additional discussion by Council.

Council Member, Schafer, thanked City Staff and was in favor of the 3.8% plan.

Council Member, DeCramer, discussed special assessments and didn't want a major increase to the tax payers in 2019 estimated at 10-13%. DeCramer, supported an increase at 5%.

Council Member, Lozinski, commented on the rate of inflation and the increase should match. Lozinski is in favor of compromising at 3.2%.

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Council Member, Meister, commented on special assessments and mentioned that a discussion should be held for the public to comment on. Meister is in favor of 3.2% but would be OK with a 3.8% increase.

Council Member, Sturrock is in favor of the 3.8%.

Member (**Craig Schafer**) Moved, Member (**Steven Meister**) Seconded to approve the **ORIGINAL** motion 'to approve the staff recommended RESOLUTION NO 4460, SECOND SERIES 2018 Tax Levy at a 3.8% increase.'. Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion (**Carried**). 4 – 3 with Bayerkohler, DeCramer and Lozinski voting no.

Council Member, Bayerkohler, agreed with a lot of what Council Member, Lozinski, spoke to and believes the City taxes too much as well as spends too much and is in favor of reducing both.

Member (**David Sturrock**) Moved, Member (**Craig Schafer**) Seconded to approve the Original motion 'to approve the staff recommended RESOLUTION NO 4461, SECOND SERIES 2018 Budget.'. Upon a hand vote being taken, the vote was: Aye: 5 Nay: 2. The motion (**Carried**). 5 – 2 with Bayerkohler and Lozinski voting no.

### Commission/Board Liaison Reports

Byrnes Regional Development Commission met on 12/14/17 and discussed its growth.

Schafer Southwest Minnesota Amateur Sports Commission had their Commission retreat on 12/13/17.

Meister No Report

Bayerkohler The Planning Commission met and referred a matter to the L&O Committee.

DeCramer No Report

Sturrock No Report

Lozinski No Report

### COUNCILMEMBER INDIVIDUAL ITEMS:

Council Member, Schafer, thanked staff for all their work and wished all a Merry Christmas and Happy New Year.

Council Member, Meister, thanked Council for all their discussion.

Council Member, Bayerkohler, wished all a Merry Christmas.

Council Member, Lozinski, reminded Council that the Building Task force meets on Friday, 12/22/17. Lozinski thanked Council for its discussion and staff for all their work.



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Council Member, Sturrock, wished a Merry Christmas to all.

Council Member, DeCramer, wished all a Merry Christmas.

Mayor, Byrnes, thanked Council for all its discussion.

**CITY ADMINISTRATOR:**

City Administrator, Sharon Hanson, presented a list of goals to focus on over the next year. Hanson also attended a Building Inspection Department meeting and provided her support for staff.

**DIRECTOR OF PUBLIC WORKS:**

Director of Public Works, Glenn Olson, provided an update on finalizing the Amateur Sports Center. Olson mentioned that Commerce Park construction will come to a close until spring.

**CITY ATTORNEY:**

City Attorney, Dennis Simpson, mentioned that he was finalizing year end items.

**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 (**Steven Meister**) 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: 1. The motion (**Carried**). 6 – 1 with Schafer voting no.

  
\_\_\_\_\_  
Mayor

Attest:

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