

REGULAR MEETING – APRIL 10, 2018

The regular meeting of the Common Council of the City of Marshall was held April 10, 2018 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 Robert 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: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Karla Drown, Finance Director; Marc Klaith, Fire Chief; Ilya Gutman, Plan Examiner; Jason Anderson, Assistant City Engineer and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

Approval of Agenda:

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'approve agenda'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Consider approval of the minutes of the Work Session of the Local Board of Appeal and Equalization held on March 13, 2018; the minutes of the regular meeting held on March 27, 2018 and the minutes of the Local Board of Appeal and Equalization held on April 2, 2018:

Member **Craig Schafer** 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 March 13, 2018; the minutes of the regular meeting held on March 27, 2018 and the minutes of the Local Board of Appeal and Equalization held on April 2, 2018 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**

Sounds of Summer -- Public Hearing for Private Use of Public Streets and Parking Lots for Sounds of Summer – August 17-19, 2018:

The Sounds of Summer Committee requesting permission for the following: -Entire Celebration: Closure of West College Drive (TH 19) from Main Street to Saratoga Street, and also closure of Marvin Schwan Memorial Drive from West College Drive (TH 19) to South 1st Street on Friday, August 17, 2018 from 3:00 p.m. to approximately 10:00 pm, and again on Saturday, August 18, 2018 from 6:00 am to Sunday, August 19, 2018 to approximately 3:00 am. to allow adequate time for clean up after the Saturday evening activities. "Exhibit A". -Parade Line-Up: Closure of East Lyon Street from Jewett Street to South Bruce Street on Saturday, August 18, 2018 starting at approximately 1:00 pm to approximately 5:00 pm. Line-up would begin at 2:00 pm. "Exhibit B". -Parade: Closure of East Lyon Street from South Bruce Street to Main Street and closure of Main Street from East Lyon Street to North 6th Street Saturday, August 18, 2018 from 3:00 pm to approximately 6:00 pm. Parade would start at 4:00 pm with an estimated 5:30 pm end time. "Exhibit B". In accordance with Section 62-6 of the Marshall City Code, any private use of public streets and parking lots on either a temporary or permanent basis should be considered by the Marshall City Council. Due to the magnitude of the proposed event and potential impact to the businesses adjacent to the areas that are being requested to be blockaded, City Staff would recommend that the City Council hold a public hearing on this request prior to granting final approval. In the past, the City's Public Safety and Public Works Departments have been worked

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with applicants on the issues and public safety concerns that would have to be addressed as part of this request. In addition, it would be City Staff's intent to have a representative from the Committee present at the hearing to provide a brief overview of the activities and events that are going to occur during the celebration.

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

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'that the Council close the public hearing regarding the private use of public streets and parking lots for Sounds of Summer (August 17-19, 2018)'. 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 'that the Council approve the private use of public streets and parking lots for Sounds of Summer (August 17-19, 2018) as requested. '. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Member **David Sturrock** Moved, Member **James Lozinski** Seconded to approve the **NEW** motion 'that the Council approve the Sounds of Summer Parade to be held Saturday, August 18, 2018, subject to Mn/DOT approval. '. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Project Z66: Marguerite Avenue/South Bend Avenue Reconstruction Project -- 1) Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds; 2) Resolution Accepting Bid (Award Contract):

This project consists of the following: Reconstruction and utility replacement on Marguerite Avenue and South Bend Avenue between Camden Drive and Southview Drive. All utilities will be replaced, including watermain, sanitary sewer, and storm sewer. On April 4, 2018, bids were received for the above referenced project. The above-referenced project, or a portion thereof, may be financed by the sale of bonds with repayment coming from assessments and Debt Service Fund Levy. It is required that action be authorized by City Council via Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax Exempt Bonds. The "Resolution Accepting Bid" awarding the contract to R&G Construction Co. of Marshall, Minnesota, in the amount of \$679,458.65. The engineer's estimate was \$793,967.50.

Director of Public Works/City Engineer Glenn Olson provided information to Council. There was further discussion by Council.

Member **John DeCramer** Moved, Member **David Sturrock** Seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4491 SECOND SERIES, which provides for Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z66: Marguerite Avenue/South Bend Avenue Reconstruction Project.'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed. 5 - 1** with Lozinski voting no.

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Member **David Sturrock** Moved, Member **Craig Schafer** Seconded to approve the **NEW** motion 'that the Council adopt RESOLUTION NUMBER 4492 SECOND SERIES, which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with R&G Construction Co. of Marshall, Minnesota, in the amount of \$679,458.65 for Project Z66: Marguerite Avenue/South Bend Avenue Reconstruction Project. '. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1**. The motion **Passed. 5 – 1** with Lozinski voting no.

Approval of Consent Agenda:

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**

Adoption of RESOLUTION NUMBER 4493, SECOND SERIES Declaring the Sounds of Summer as a Community Festival.

Vacation of Utility Easement in Carr Subdivision I -- Receive Petition for Vacation of Utility Easement to Vacate and Call for Public Hearing.

Declaring Public Works Equipment as Surplus Property.

Approval of a Temporary On-Sale Intoxicating Liquor License for Marshall Area Chamber of Commerce for June 7, 2018.

Approval of the bills/project payments

Ziegenhagen Addition – Consider Resolution Adopting the Final Plat:

As the property has not been platted before, the property needs to be subdivided prior to the subdivision and sale of a portion of the property. The property includes warehouse storage and retail use. Separately, the owner has made application for a rezone of the property from an I-2 General Industrial District to a B-3 General Business District and this rezone ordinance was adopted on March 13, 2018. Attached please find a copy of the Final Plat Checklist for Ziegenhagen Addition. The title opinion has been provided by Paul Stoneberg of Stoneberg, Giles & Stroup, P.A. and reviewed and recommended for approval by City Attorney Simpson in the attached memo dated March 30, 2018.

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

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **AMENDED** motion 'that the Council adopt RESOLUTION NUMBER 4494, SECOND SERIES, which is the Resolution Approving the Final Plat of Ziegenhagen Addition subject to Attorney review.'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Introduction of Ordinance Amending Sec. 86.247 - Landscaping and Call for Public Hearing:

The development of Sec. 86-247 Landscaping was initiated by City Administration in 2012. The ordinance was adopted in 2014. The purpose of this ordinance is to encourage the incorporation of vegetation, trees, and other visually pleasing landscaping elements into the design of new development and major re-development projects in the City of Marshall. Further, a landscaping ordinance is one criteria for being considered as a GreenStep Community in Minnesota and further aligns the city as being a Tree City USA community. The Landscaping Ordinance has recently come into question from some in the local contracting and development community. A Building Task Force was created in winter 2017-2018 to advise on issues with the perception that it is difficult to build in Marshall. According to this group, the perception that building is difficult is, in part, related to local ordinances such as this. After three meetings to discuss building topics and local ordinances, the Building Task Force concluded that the specific paragraphs of Sec. 86-247 Landscaping ordinance should be repealed. The repealed language included Sec. 86-247 (a)(2), (b), (b)(1), (b)(3), and (d). The Building Task Force presented its recommendation to the Planning Commission at its regularly scheduled March 14, 2018 meeting. The Planning Commission motioned to approve the Building Task Force recommendation to amend the ordinance as presented by the Task Force. At a March 20, 2018 L&O Committee meeting, the Committee discussed the Task Force and Planning Commission recommendations and motioned to re-work the language in Sec. 86-247 (a)(2), (b), (b)(1), (b)(3), (b)(4), (b)(5), and (d). The Committee discussed each item in the ordinance and was reluctant to repeal the language as recommended by the Task Force. The discussion revolved around how the language could be reworded to represent a slightly lesser requirement while still encouraging some landscaping standards. City staff's recommendation is based on the suggestion of the L&O Committee. Staff's concern in this ordinance is item (a)(2) which addresses the impact that trees in the right-of-way have on surrounding street, curb and gutter, sidewalk, and utilities. The amendments to the ordinance include a reference to a City Tree Policy that would govern tree planting requirements on city property (right-of-way). City staff has amended the language in a manner that we believe complies with the recommendation of the L&O Committee.

Assistant City Engineer Jason Anderson, presented the item to Council.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'Staff recommends, based on L&O Committee input, that the Council introduce the amendments to City Ordinance Section 86-247 Landscaping and call for public hearing to be held on April 24, 2018.'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Introduction of Ordinance Repealing Sec. 86.260 - Exterior Appearance Standards and Call for Public Hearing:

The development of Sec. 86-260 Exterior Appearance Standards was initiated by City Administration in 2012. The ordinance was adopted in 2014. The purpose of this ordinance is to encourage specific types of new development and major redevelopment to meet certain aesthetic standard. The ordinance agrees with statements from the "Design Standards" section of the 1996 City of Marshall Comprehensive Plan that refer to aesthetic standards. The guidance was to ensure that the ordinance wasn't overly restrictive or complicated. To accomplish the creation of

this ordinance, City staff investigated relevant ordinances from other cities. The cities of Woodbury, Eagan, Northfield, Albert Lea, and Duluth were all reviewed. The new ordinance was based on typical language from these other cities, but the requirements of the City of Marshall ordinance were reduced as compared to the other cities' ordinances. It should be noted that many of our regional comparable cities do not have a similar exterior standards ordinance. However, Worthington is currently in the process of researching and implementing a similar ordinance for its major commercial corridor. The Exterior Appearance Standards Ordinance has recently come into question from some in the local contracting and development community. A Building Task Force was created in winter 2017-2018 to investigate issues with the perception that it is difficult to build in Marshall. According to this group, the perception that building is difficult is, in part, related to local ordinances such as this. After three meetings to discuss building topics and local ordinances, the Building Task Force concluded that the entire Sec. 86-260 Exterior Appearance Standards ordinance should be repealed. The Building Task Force presented its recommendation to the Planning Commission at its regularly scheduled March 14, 2018 meeting. The Planning Commission struggled with the fact that they want the city to have a nice look, but some on the Commission did not feel well-equipped to make these types of decisions. The Planning Commission motioned to approve the Building Task Force recommendation to repeal the ordinance. At a March 20, 2018 L&O Committee meeting, the Committee discussed the Task Force and Planning Commission recommendations and voted to forward the ordinance to the entire City Council. After some discussion of individual items within the Exterior Appearance Standards ordinance, the Committee decided it would be best to open the ordinance up for public comment at a public hearing in front of the Council. City staff does not have a specific recommendation for this ordinance. These types of ordinances are purely aesthetic in nature, and do not impact State of Minnesota Building Code requirements or City of Marshall utility or right-of-way requirements or considerations.

Assistant City Engineer Jason Anderson, presented the item to Council.

Member **James Lozinski** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'Staff has no recommendation. Planning Commission recommendation is to repeal the entire Exterior Appearance Standards ordinance, Sec. 86-260. L&O Committee motioned to bring the ordinance to City Council with no recommendations.'. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Project Z67: Michigan Road/Superior Road Reconstruction Project – Consider Resolution Receiving Report and Calling for Hearing on Improvement:

This project consists of the following: Reconstruction and utility replacement on Michigan Road between Hahn Road and Superior Road and on Superior Road between Michigan Road and Ontario Road. All utilities will be replaced, including watermain, sanitary sewer, and storm sewer. This Feasibility Report as authorized by the City Council covers the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule. The proposed improvements as described in the report are necessary, cost-effective, and feasible from an engineering standpoint.

Director of Public Works/City Engineer presented the item to Council. There was further discussion by Council.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4495, SECOND SERIES, which is the Resolution Receiving Feasibility Report and Calling Hearing on Improvement for the above-referenced project and setting the public hearing on improvement date for April 24, 2018.'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed. 5 - 1** with Lozinski voting no.

Project Z64 / SAP 139-111-006: Saratoga Street Reconstruction Project – Consider Resolution Approving Plans and Specifications and Ordering Advertisement for Bids:

This project consists of the following: Reconstruction and utility replacement on Saratoga Street from the bridge on Saratoga Street (between South 4th Street and West College Drive) to Southview Drive; Sanitary sewer replacement and watermain replacement on the abandoned South 1st Street from Marvin Schwan Memorial Drive to Saratoga Street; Sanitary sewer replacement on South "A" Street from Marvin Schwan Memorial Drive to Saratoga Street; Sanitary sewer replacement on Greeley Street from Saratoga Street southerly approximately 200 feet. At the March 27, 2018 City Council meeting, the public improvement hearing was held and the City Council ordered the improvement and the preparation of plans and specifications. The plans and specifications have been prepared by City staff for the above-referenced project. If the City Council decides to proceed with this project, a resolution has been prepared approving the plans and specifications and ordering advertisement for bids.

Director of Public Works/City Engineer Glenn Olson presented the item to Council. Council member Lozinski asked Fire Chief Marc Klaith about the apron in front of the Fire Hall. Chief Klaith addressed the issue of equipment being damaged because of the angle from the apron from the fire station. There was further discussion by Council.

Member **Craig Schafer** Moved, Member **David Sturrock** Seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4496 SECOND SERIES, which is the "Resolution Approving Plans and Specifications and Ordering Advertisement for Bids" for Project Z64 / SAP 139-111-006: Saratoga Street Reconstruction Project.'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 1. The motion **Passed. 5 - 1** with Lozinski voting no.

Consider Resolution Authorizing Execution of Mn/DOT Construction Agreement No. 1030363 for City Maintenance of Sidewalk and Lighting for S.P. 4203-54:

Mn/DOT Construction Agreement No. 1030363 provide maintenance for sidewalk and lighting construction and other associated construction to be performed under State Project 4203-54, which is the construction of a J-turn at the intersection of Highway 23 and Lyon Street. A restricted left turn lane will also be constructed at Highway 23 and Clarice Avenue as part of the overall project. Funds for the project were secured from the Highway Safety Improvement Program (HSIP). The project is a result of the work done during the summer of 2016 as part of the Highway 23 Marshall Area Safety Assessment. The Minnesota Department of Transportation – District 8, City of Marshall, The Marshall Area Transportation Group and Lyon County worked together as a team with the purpose of evaluating existing conditions, facilitating

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discussions, establishing priorities and developing a common vision to identify, prioritize and design future safety improvement to manage the Highway 23 corridor now and into the future.

Director of Public Works/City Engineer Glenn Olson presented the item to Council. There was further discussion by Council. Council member Lozinski made a recommendation to not include the pedestrian crossing across Truck Highway 23.

Member **James Lozinski** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion that the Council adopt RESOLUTION NUMBER 4497 SECOND SERIES, which is the “Resolution Authorizing Execution of Mn/DOT Construction Agreement No. 1030363 for Mn/DOT Project S.P. 4203-54”. Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **0**. The motion **Carried. 6 - 0**

Commission/Board Liaison Reports:

Byrnes No Report

Schafer No Report

Bayerkohler Public Housing Commission met on April 9, 2018 and discussed a new HVAC system being installed. The Public Housing Commission will not be purchasing washers and dryers as previously discussed.

DeCramer No Report

Sturrock No Report

Lozinski No Report

Councilmember Individual Items:

Council member Lozinski discussed the road condition on Main Street. Member Lozinski commented on the Hospice event held at the Red Baron and an event the Marshall High School organized.

Council member Sturrock discussed an informational meeting for property owners in the Parkway II addition. Member Sturrock discussed the latest snow storm and coordination of snow removal with staff.

Council member Schafer commented on staff's efforts on snow removal. Member Schafer mentioned the Marshall RV, Boat & Outdoor Show taking place at the Red Baron Arena and Expo this coming weekend.

Council member Bayerkohler discussed the Red Baron Arena and Expo and its yearly operation costs.

Mayor Byrnes discussed past, present and future Red Baron Arena and Expo events. Mayor Byrnes commented on snow removal and that Studio One will be documenting City Staff and the

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snow removal process. Mayor Byrnes discussed the Corridors of Commerce program and mentioned that staff will be revisiting the MERIT Center Commission and its Ordinance.

City Administrator:

City Administrator Sharon Hanson, commented on snow removal and the difficulties all citizens can have associated with it. Administrator Hanson mentioned that a Public Hearing scheduled for April 24 regarding TIF District No. 5-1 will be moved to May 22, 2018.

Director of Public Works:

Director of Public Works/City Engineer discussed that Mn/DOT will be hosting a meeting on April 11, 2018 regarding two bridge projects in Marshall this summer. Director Olson addressed the street condition on Main Street and will contact Mn/DOT for the issue to be addressed.

City Attorney:

City Attorney Dennis Simpson mentioned different projects he was reviewing with City Staff.

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

At 6:38 PM, Member (**Craig Schafer**) 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

