

REGULAR MEETING – SEPTEMBER 11, 2018

The regular meeting of the Common Council of the City of Marshall was held September 11, 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: Steven Meister, John DeCramer (5:32 P.M.), David Sturrock and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Public Works Director/City Engineer; Karla Drown, Finance Director; Rob Yant, Director of Public Safety; Bob VanMoer, Wastewater Treatment Facility Superintendent; Sheila Dubs, Human Resource Manager; Scott VanDerMillen, Director of Community Services; and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a general consensus to operate under the new agenda

Consider approval of the minutes from the regular meeting held on August 28, 2018 and the council work session on August 30, 2018.

Member **Steven Meister** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on August 28, 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: **4** Nay: **0** Abstain: **2**. The motion **Passed. 4 - 0 - 2** with Schafer and Bayerkohler abstaining.

Member **James Lozinski** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that the minutes of the council work session held on August 30, 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: **5** Nay: **0** Abstain: **1**. The motion **Passed. 5 - 0 - 1** with Schafer abstaining.

Council member John DeCramer joined the meeting.

Vacation of Utility Easement in Broadmoor Valley First Addition - 1) Public Hearing on Resolution Granting Petition to Vacate Utility Easement; 2) Consider Resolution Granting Petition to Vacate Utility Easement.

A request for petition for vacation of a portion of a utility easement on the southerly portion of Lot 1, Block One in Broadmoor Valley First Addition was submitted from the sole owner of the property proposed to be vacated. The purpose of the vacation is to allow the size of the new dwelling proposed to be constructed on the lot. All utility companies have been contacted for input prior to the public hearing.

Director of Public Works/City Engineer Glenn Olson presented the item to Council. David Legatt of 711 Scott St., Marshall, discussed the item with Council and Staff. Director Olson provided information on easements with Mr. Legatt. After further discussion Council agreed to table the public hearing for further clarification on the item from staff.

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Member **David Sturrock** Moved, Member **Craig Schafer** Seconded to table the public hearing until the next regular council meeting on September 25, 2018. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Project Z71: Street Department Parking Lot Project - Consider Resolution Accepting Bid (Award Contract).

This project consists of the following, but is not limited to: aggregate base, site excavation and grading, sanitary sewer, storm sewer structure removal, concrete paving, bituminous paving, and miscellaneous work for construction of a parking lot and entrance road at the Street Department located at 901 Oak Street. On September 6, 2018, bids were received for the above referenced project. Four bids were received as shown on the attached resolution awarding contract. The project had a base bid and an alternate bid. The base bid consisted of paving the entrance road that runs in front of United Community Action Partnership (UCAP) Transit with bituminous pavement, replacing the Street Department sanitary sewer service line, installing a 30-ft. concrete slab around the Street Department buildings, and replacing the remainder of the Street Department parking lot with bituminous surfacing. The alternate bid consisted of the same bituminous entrance road and sanitary sewer service line replacement but included paving the entire Street Department parking lot with concrete. After review of the bids, it is recommended that the alternate bid be awarded utilizing concrete for the entire parking lot. We believe that additional \$15,296 to construct the Street Department parking lot entirely with concrete is worth the extra initial investment in materials cost. The "Resolution Accepting Bid" awarding the contract to Towne & Country Excavating, LLC of Garvin, Minnesota, in the amount of \$277,479.25. The engineer's estimate was \$344,553.00.

Director of Public Works/City Engineer Glenn Olson provided information on the item. Council member Lozinski discussed using asphalt compared to concrete and using potential savings to put towards city parking lots. There was further discussion by Council and Staff.

Member **Glenn Bayerkohler** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'that the Council adopt Resolution Number 4540, Second Series which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with Towne & Country Excavating, LLC of Garvin, Minnesota, in the amount of \$277,479.25 for the alternate bid for Project Z71: Street Department Parking Lot Project. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed. 5 - 2** with Meister and Lozinski voting no.

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 the Light Up the Night Parade – Consider the request of Prairie Home Hospice & Community Care for a Parade on November 30, 2018.

Approval to declare vehicles as surplus property for the Police Department.

Approval of the bills/project payments.

Consider Appointment of a Director of Public Safety.

Staff are recommending the appointment of James Marshall to the Director of Public Safety position effective December 1, 2018 and recommend approval of the Employment Agreement between the City and James Marshall. On August 6, 2018, Director of Public Safety, Rob Yant submitted his notice of intent to retire from his position to Administrator Hanson and the Council with an effective date of November 30, 2018. Following this notification, the Director position was opened to internally qualified candidates. On September 4th, interviews were conducted by a panel representing community stakeholders from SMSU and Avera Marshall Regional Medical Center, two members of the Personnel Committee (Craig Schafer and Steven Meister), a member of the Police Advisory Board, Administrator Hanson, Director Yant, and HR Manager Dubs. The panel recommended James (Jim) Marshall for the Director position. Jim Marshall has served the Marshall Police Department for 24 years. He earned a Bachelor of Science degree in Law Enforcement from Mankato State University and has worked in a variety of capacities within our Department. He has performed as a Police and D.A.R.E Officer, School Resource Officer, Corporal, Assistant Police Chief, Interim Police Chief, and has served in his current position as Sergeant since 2010. He has also successfully completed the Emergency Management Professional Certification through the State of MN. Staff will review the terms of the Employment Agreement at the meeting. Jim has reviewed and agreed to the terms of the agreement. In accordance with Ordinance and Personnel Policy, the Administrator is responsible for the hiring and selection process for division directors, subject to final Council approval. The director of public safety is appointed by the Council. Staff recommend appointment of James Marshall to the position of Director of Public Safety and approval of the Employment Agreement.

Human Resource Manager Sheila Dubs provided information on the item. Council member Bayerkohler commented on the internal candidate search. Human Resource Manager Sheila Dubs responded that there were qualified candidates already within the organization. There was further discussion by Council.

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'appoint James Marshall as the City's Director of Public Safety effective December 1, 2018'. 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 'approval of the Employment Agreement between the City and James Marshall'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Potential Special Assessments to Jackson Acquisition Corp. dba BH Electronics, INC.

City Administrator Sharon Hanson provided information on the item. Brian Stucke of BH Electronics was ask Council to revisit Special Assessments for Commercial Properties to Council. Council member Bayerkohler commented on special assessments in other Cities. There was a consensus by Council to have the Ways and Means Committee to meet on the item.

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Member **James Lozinski** Moved, Member **Steven Meister** Seconded to have the Ways and Means Committee meet on Special Assessments. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed. 6 - 0 -1** with DeCramer abstaining.

Consider approval of Memorandum of Understanding with Marshall Amateur Hockey Association for Ice Rink fees

The City of Marshall has operated under a two-year agreement for ice time rental with MAHA since the opening of Red Baron Arena & Expo in 2016. Both parties wish to continue the agreement. Scott Mauch, current president of MAHA, will be present to provide Council a brief update on youth hockey in Marshall and the partnership of working with the City.

Director of Community Services Scott VanDerMillen provided information on the item. Council member Bayerkohler discussed the MOU with Director of Community Services Scott VanDerMillen.

Scott Mauch President of MAHA discussed the relationship between MAHA and the City of Marshall.

Council member Craig Schafer provided discussion from the Southwest Amateur Sports Center Board. There was further discussion by Council.

Member **Craig Schafer** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'Staff recommends approval of MOU with MAHA.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Consideration of approval for a Food Services Agreement with Marshall Amateur Hockey Association, a Minnesota non-profit corporation (MAHA).

The City of Marshall and MAHA is recommending renewing the current Food Services Agreement at the Red Baron Arena & Expo. Events will be staffed with volunteer workers by MAHA. MAHA has been providing services for one calendar year (2017/2018 agreement is attached) and is interested in continuing services pursuant to terms of the agreement. The renewal has been drafted and is provided for Council review. Please note that staff is recommending that all commissions due by operator be waived during the 2018/2019 year of the agreement. City supports to have MAHA continue as its food service provider and believes that the waiver of commission will assist MAHA in continuing growth in its youth programs and can benefit the community as a service provider.

Director of Community Services Scott VanDerMillen provided information on the item to Council. Council member Bayerkohler discussed the agreement with MAHA indicating that he is in favor of the agreement but is opposed to the waiver of the commissions. Bayerkohler feels that MAHA should pay something to cover the wear and tear of the equipment. Scott Mauch commented they were in favor of a fee assessment in the future. There was further discussion from Council and Staff.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'Staff recommends approval of the agreement as presented.'. Upon a roll

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call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed. 5 - 2** with Bayerkohler and Lozinski voting no.

Consider approval of a Wine License and On-Sale 3.2 Percent Malt Liquor License for Marshall Daily Grind, LLC. DBA Mainstay Café & Coffee Co.

City Clerk Kyle Box provided information on the item to Council. There was further discussion from Council.

Member **John DeCramer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'the approval of a Wine License at a fee of \$200.00 for Marshall Daily Grind LLC., 316 West Main St., Marshall, MN to be effective September 12, 2018 and will expire on December 31, 2018 pending all requirements have been met.'. 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 approval of an On-Sale 3.2 Percent Malt Liquor License at a fee of \$83.34 for Marshall Daily Grind LLC., 316 West Main St., Marshall, MN to be effective September 12, 2018 and will expire on December 31, 2018 pending all requirements have been met.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Member **Steven Meister** Moved, Member **James Lozinski** Seconded to approve the **NEW** motion 'the introduction of an ordinance granting Marshall Daily Grind LLC., intoxicating malt liquor on-sale license '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Project Z47: Commerce Industrial Park/Michigan Road Improvement Project – Consider Change Order No. 1 with Midwest Contracting LLC.

Change Order No. 1, results in a contract increase in the amount of \$26,544.00. Geotextile fabric is standard in City of Marshall street design typical sections. Geotextile fabric was not included in the original plans for this project. Staff brought this item before the City Council at the August 30, 2018 budget meeting and received general consensus from the Council that staff should move forward with a change order to add geotextile fabric to the project.

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

Member **Craig Schafer** Moved, Member **David Sturrock** Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 with Midwest Contracting, LLC of Marshall, Minnesota, resulting in a contract increase in the amount of \$26,544.00.'. Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion **Passed. 5 – 2** with Meister and Lozinski voting no.

Consider Resolution Adopting Preliminary Levy for 2018, Collectable in 2019.

The request in tax levy for 2018, collectable in 2019 is \$6,785,471; a 6.43% increase from 2018. The General Fund Levy has been increased by \$158,837 for 2019. Of this amount \$18,899 is an

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increase attributable to the Library. The Special Levy (EDA) has been increased by \$5,000 for 2019. The Debt Service Levy increased by \$196,160 for 2019.

City Administrator Sharon Hanson provided information on the Preliminary Tax Levy for the 2018, collectable in 2019. Council member Glenn Bayerkohler discussed the item.

Member **Steven Meister** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'to approve Resolution No. 4541, Second Series Approving the Preliminary Tax Levy for 2018, Collectable in 2019 for a total levy of \$6,785,471'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed. 6 – 1** with Bayerkohler voting no.

Consider Resolution Adopting the Preliminary 2019 Budget.

The preliminary 2019 budget are \$12,134,168 in revenues, this is an increase of \$41,353 from \$12,092,815 in 2018. The expenses are \$12,267,144; which is an increase of \$129,318 from \$12,137,826 in 2018. The revenue is currently under expenses by \$132,976 for 2019. There are expenses that have been levied for in prior years that will be expended in 2019, as well as some one-time expenses that will be considered for utilizing reserves. Staff will continue to work on the 2019 budget to provide a balanced budget. The 2019 budget and levy will be discussed and public input allowed at the December 11, 2019 Regular Council Meeting, held at the Professional Development Room, Middle School at 6:00 P.M.

City Administrator Sharon Hanson provided information on the item. There was further discussion by Council whether or not to take action on the item. Council chose not to take action on the item unless staff recommended otherwise at an upcoming meeting.

Truth-in-Taxation for Payable 2019.

Counties, cities with a population over 500, school districts, and metropolitan special taxing districts are required to hold a meeting at which the budget and levy will be discussed and the public allowed to speak. The meeting must be after Nov. 24 and no later than Dec. 28 and held at 6:00 p.m. or later. This meeting may be part of a regularly scheduled meeting. If a regular meeting is not scheduled after Nov. 24 and no later than Dec. 28 at 6:00 p.m. or later, it will be necessary to schedule a special meeting for this purpose.

City Administrator Sharon Hanson provided information on the item. There was further discussion by Council on the item.

Member **Steven Meister** Moved, Member **David Sturrock** Seconded to table the agenda item until the September 25, 2018 regular council meeting. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Project Z71: Street Department Parking Lot Project - Consider Memorandum of Understanding with United Community Action Partnership Inc.

A Memorandum of Understanding (MOU) between the City of Marshall and United Community Action Partnership Inc. for the above referenced project. Per the MOU, this project will improve the drainage and road surface which is currently gravel between the west Kossuth entrance and the entrance to the salt shed. Re-grading of the road side and paving will help water to drain

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away from Community Transit Dispatch and Bus Facility's parking lot aprons and keep gravel from washing out during heavy rains causing rough surface conditions for buses. On September 6, 2018, the City received bids for the above referenced project. The low bidder was Towne & Country Excavating, LLC of Garvin, Minnesota, in the amount of \$277,479.25.

Director of Public Works/City Engineer Glenn Olson provided information on the item.

Member **Craig Schafer** Moved, Member **David Sturrock** Seconded to approve the **ORIGINAL** motion 'that the Council authorize the execution of the attached Memorandum of Understanding with United Community Action Partnership Inc. to fund 35% of the entrance road portion of the project, not to exceed \$35,000, for the above referenced project.'. 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.

Consider LG220 Application for Exempt Permit for Southwest Minnesota State University Foundation for December 11, 2018.

Member **John DeCramer** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Southwest Minnesota State University, to hold a raffle on December 11, 2018, at SMSU 1501 State Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Passed. 6 – 0 – 1** with Bayerkohler abstaining.

Consider approval of a Temporary On-Sale Intoxicating Liquor License for Marshall Area Chamber of Commerce for October 29, 2018.

Member **Steven Meister** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the Marshall Area Chamber of Commerce to use at Southwest Minnesota State University, 1501 State St., Marshall, MN on October 29, 2018.'. 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.

Consider an application for a Temporary On-Sale Intoxicating Liquor License for Southwest Minnesota State University for October 5-6, 2018.

Member **Craig Schafer** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for Southwest Minnesota State University to use at the SMSU Campus/RA Facility, 1501 State Street, Marshall, Minnesota on October 5-6, 2018.'. 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.

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Commission/Board Liaison Reports

Byrnes No Report

Schafer Library Board met and discussed the Plum Creek annual meeting. As well as meeting two new Librarians.

Meister No Report

Bayerkohler No Report

DeCramer No Report

Sturrock Airport Commission met on September 4, 2018 to discuss a few planning items.

Lozinski No Report

Councilmember Individual Items

Council member Schafer discussed vehicle speeds on North 3rd and High St. Member Schafer also commented on water drainage near the intersection on County Rd. 7 and Hwy 19.

Council member Bayerkohler asked for an update on the City Hall project. City Administrator Hanson provided a brief update on the project. Council member Bayerkohler also discussed special assessments and how other cities manage them.

Mayor Byrnes discussed the progress on the Saratoga Street project.

City Administrator

No report.

Director of Public Works

No Report.

City Attorney

No Report.

Administrative Reports

There were no questions on the administrative report.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

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Adjourn Meeting

At 7:32 PM, Member **James Lozinski** 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