

Regular Meeting – October 9, 2018

The regular meeting of the Common Council of the City of Marshall was held October 9, 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, 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, Public Works Director/City Engineer; Karla Drown, Finance Director; Jason Anderson, Assistant City Engineer/Zoning Administrator; Bob VanMoer, Wastewater Treatment Facility Superintendent; Sheila Dubs, Human Resource Manager; Dave Parsons, City Assessor; Rob Yant, Director of Public Safety 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 and council work session held on September 25, 2018.

Member **James Lozinski** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting and the council work session held on September 25, 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: 7 Nay: 0. The motion **Carried. 7 - 0**

Consider Award of Proposals for Track Skid Loader for the Wastewater Department.

Included in the proposed 2019 Wastewater Treatment Facility Budget is \$50,000 for the replacement of our wheeled skid loader for a track skid loader. We have the need for a tracked skid loader for our Biosolids drag line application to have the capability to move the hose in the fields after application without getting stuck or rutting up the field. We also use a skid loader daily at the treatment plant for all the snow removal, yard work, forklift, loading trucks, and many other projects. We received five proposals on October 3, 2018 as shown on the attached Proposal Tabulation. The proposal from Sterling Equipment & Repair, Inc. of Cottonwood, Minnesota, for Proposal A (new unit and trade-in) is the low proposal.

Director of Public Works/City Engineer introduced Bob VanMoer Wastewater Treatment Facility Superintendent who provided information on the item.

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'that the Council authorize purchase of a new Gehl VT320 Compact Track Skid Loader for the Wastewater Department from Sterling Equipment & Repair, Inc. of Cottonwood, Minnesota, in the amount of \$41,780.00, meeting all minimum specifications, including trade-in of the current 2007 John Deere 325 Skid Loader with 4 spare tires and rims.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Approval of Consent Agenda.

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

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Authorization for a rental agreement between the City of Moorhead and the City of Marshall for the Hazmat Training Trailer.

Approval of Final Certificate releasing Running Supply, Inc. from the Contract for Private Development Including Land Purchase and Business Subsidy Agreement, as all terms and conditions of said Agreement have been satisfied.

Approval of an application for a Temporary On-Sale Intoxicating Liquor License for Avera Marshall for an event held to be held November 15, 2018.

Approval of the bills/project payments

Commercial/Industrial Special Assessments.

At the City Council meeting of September 25, 2018, the City Council voted to continue the public hearing of the Project Z67: Michigan Road/Superior Road Reconstruction Project until the October 23, 2018 meeting and referred the discussion of the establishment of a maximum commercial/industrial rate to the Council Ways & Means Committee. The Council Ways & Means Committee held a meeting on October 3, 2018 and discussed several alternatives and methods of trying to establish a maximum commercial/industrial rate procedure. After significant review, the following procedure was recommended for a maximum commercial/industrial rate: Commercial/Industrial Lot Size divided by the median Residential Lot Size (10,000 SF) times the Maximum Residential Street Assessment (\$5,500.00) times a Street Width Factor times a Strength Factor (10-ton divided by 7-ton). The median Residential Lot Size was determined after discussions with the Assessing Department, investigating average and median lot sizes, reviewing weighted averages of the numbers of homes within certain area sizes and rounding to a most appropriate lot size. The Finance Department provided the impact on a previous industrial street assessment project had the maximum commercial/industrial street assessment been in place at the time A revised proposed assessment notice will be sent to affected property owners on the Michigan Road/Superior Road Reconstruction Project if a decision is made by Council that will amend their original proposed assessment notice prior to continuation of the assessment hearing on October 23, 2018.

Mayor Byrnes introduced the item to Council and introduced Sharon Hanson City Administrator who provided the proposed change of procedure for Commercial/Industrial.

Council member DeCramer provided discussion from the Ways and Means Committee.

Director of Public Works/City Engineer Glenn Olson provided discussion on the calculations on the proposed special assessments as well as provided options to consider. Administrator Hanson also introduced the option of having an appraisal done on the project.

Council member Schafer commented he was in favor of delaying the certification until the following tax year.

Council member Bayerkohler provided discussion from the Ways and Means Committee. Bayerkohler commented that if the project is going to be delayed then the entire special assessment policy should be revised for consistency, a long-term policy change, if needed.

Director of Finance Karla Drown provided financial impact on delaying the certification.

Member DeCramer discussed the preliminary appraisal, appraisal and costs. Administrator Hanson provided a 4-month time line at an estimated cost of \$10,000 for the appraisal.

Council member Lozinski asked City Assessor Dave Parsons to provide information on what an appraiser is looking for in these projects. There was further discussion by Council and Staff.

Council member Bayerkohler provided discussion on the “maximum” option policy being economical and efficient.

Member **James Lozinski** Moved, Member **Craig Schafer** Seconded to approve the **SUBSTITUTE** motion 'move forward with the appraisal on the project and delay of the certification of the project assessment.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 0 Abstain: 1. The motion **Carried. 6 - 0 - 1** with DeCramer abstaining.

Pete Halverson, of Pete, LLC. clarified the council's action and discussed the current assessment policy.

Permit for Private Use of Public Streets.

An application was received from MasterBuilt Homes, LLC of Colorado Springs, Colorado (represented by Paul Schierholz), and permit approved to close a portion of Scott Street at the intersection of Genesis for the private use of a public street for temporary placement of sections of a manufactured home from August 8 through August 31, 2018 adjacent to the lot for future permanent placement on 709 Scott Street. A second application was received, and a permit approved to close a portion of Iowa State Avenue for the private use of a public street for temporary placement of sections of a manufactured home from August 8 through August 31, 2018 adjacent to the lot for future permanent placement on 1404 Iowa State Avenue. A third application was received for private use of a public street to close a portion of Iowa State Avenue for temporary placement of sections of two manufactured homes for future permanent placement on 709 Scott Street and 1404 Iowa State Avenue from August 28 through October 5, 2018. This was subsequently requested to be extended for 30 days after October 5, 2018 (to November 4, 2018). Approval was granted for a 14-day extension from October 5 to October 19, 2018. The City received a complaint by an aggrieved person before and after approval of the 14-day extension of the permit. In accordance with Sec. 62 6 of the Code of Ordinances, “Sec. 62-6. - Private use of public streets and parking lots. (a) Authority, permission and procedure. Prior to any private use of public streets, public right-of-way, or publicly owned parking lots, an application for such use shall be made to the office of the director of public works/city engineer. The application may include, but not limited to, establishment of private or leased parking, loading zones, display of merchandise on sidewalks, block parties, temporary dumpster locations or construction activities. The director of public works/city engineer shall review the application and approve, conditionally approve, deny, or refer the application with a recommendation to the city council at their next regularly scheduled meeting. If the action on the application is anything

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other than approval, the applicant has the right to request review of the action by the city council. Compensation, other than for the permit itself, for issues such as leased parking or other long-term use of public areas shall be determined by the city council as they determine to be just and equitable. If, after the approval of any application for the private use of public streets, public right-of-way, or publicly owned parking lot, a complaint is filed by any aggrieved person, the council shall at its next regular meeting after receipt of such complaint, call a hearing thereon to be held after ten days' notice in writing to the applicant and complainant and published notice at least ten days prior to such hearing. After such hearing the council shall by resolution decide whether to terminate, continue or redefine the terms of such permission, and such decision shall be final and binding on all persons directly or indirectly interested therein, except that the council may, on its own motion, reconsider the decision.

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

Heather Moreland, 1306 Iowa St. Circle, a resident of the affected area provided discussion on the item. Ms. Moreland commented that she is not in favor of the permit.

Kevin Strut, Attorney for Mr. Paul Schierholz, provided discussion on the permit. The Construction Foreman for the project provided information on the timeline for the project.

There was further discussion on the item.

Heather Reber of 1400 Iowa St. Ave. provided discussion on the item. Ms. Reber commented that she is OK with the current status of the permit but is not in favor of an extension past the October 19th date.

Member **James Lozinski** Moved, Member **John DeCramer** Seconded to approve the **SUBSTITUTE** motion 'that the Council approve the Private Use of Public Streets on Iowa State Avenue until October 19, 2018 for temporary placement of sections of two manufactured homes for future permanent placement off City Right of Way'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Consider approval of employee vision insurance renewal, an EAP program with National Insurance Services, and health insurance benefit renewal with BCBS of MN through the Southwest West Central Cooperative.

Staff have previously reviewed this information with the Council at the September 25, 2018 work session. Staff will provide a brief review of the information at the Council meeting. Open enrollment meetings for employees are tentatively planned for October 25, 2018.

Human Resource Manager Sheila Dubs provided information on the items.

Member **Craig Schafer** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that the Council approve a two-year renewal of the vision plan benefit with National Insurance Services.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

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Council member Meister discussed the usage of EAP services. Manager Dubs commented that there are been no users for the previous two years.

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **NEW** motion 'that the Council approve an Employee Assistance Program with National Insurance Services.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

There was discussion by Council and Staff on the Health Insurance options. The City's Health Insurance Agent Bill Chukuske, provided information between the Flex RX vs the Gen RX

Member **James Lozinski** Moved, Member **Glenn Bayerkohler** Seconded to approve the **NEW** motion 'that the Council approve the 2019 health insurance renewal with the SWWC Service Cooperative and Blue Cross Blue Shield of MN and approve cost share Option D. '. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Carried. 6 - 1** with DeCramer voting no.

Mayor Byrnes with acceptance from Council moved to agenda item number 16, MERIT Center Driving Track - Phase 2: Consider Award of Proposal for Engineering Services with Graef-USA Inc.

MERIT Center Driving Track - Phase 2: Consider Award of Proposal for Engineering Services with Graef-USA Inc.

The project includes the design and construction plans and specifications for the project, including alternatives for construction with all costs falling within a \$3.1 million total budget. Proposals were received on August 30, 2018. Two proposals were received, one from Graef-USA and one from Bolton & Menk, Inc. After review and scoring of the engineering proposals, it was recommended to award the proposal to Graef-USA Inc. of Minneapolis, Minnesota.

Director of Public Works/City Engineer Glenn Olson introduced Lee Koppy with Graef-USA Inc. of Minneapolis, MN. Mr. Koppy provided information on Graef and similar projects and the preliminary timeline for the MERIT Center project.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'that the Council award the Proposal for civil engineering, landscape architecture, and building design services for the above-referenced project with Graef-USA Inc. of Minneapolis, Minnesota, in the amount not-to-exceed \$72,000, including the options of extension of the skills pad/parking area and two pavement design alternatives for the track, with the award contingent on the execution of the DEED grant agreement and required documentation for this project.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed. 6 – 1** with Bayerkohler voting no.

Consider revocation of GM Tobacco's tobacco license.

On July 24, 2018 the Minnesota Department of Revenue seized contraband from GM Tobacco, Marshall, MN pursuant to Minnesota Statutes Chapter 297f.21. This is a violation of tax requirements for the sale of tobacco products. Marshall Ordinance Sec. 42-153(6) indicates that a sale of tobacco products in violation of federal, State or local law is a prohibited sale of tobacco.

A prohibited sale is grounds for the revocation of tobacco license pursuant to Ordinance Sec. 42-181.

City Attorney Dennis Simpson introduced the item to Council. There was further discussion by Council.

Member **John DeCramer** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'to revoke the tobacco license for GM Tobacco of Marshall, MN for violation of Chapter 42, Article VI, per Marshall Ordinance Sec. 42-181.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Project Z50-2018: Bituminous Chip Sealing on Various City Streets -- 1. Consider Change Order No. 1; 2. Acknowledgement of Final Pay Request No. 2 with Caldwell Asphalt Co., Inc.

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. Each individual line item is shown on the spreadsheet attached to the change order. All work has been completed in accordance with the specifications.

Member **James Lozinski** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 1 (Final) with Caldwell Asphalt Co. Inc. of Hawick, Minnesota, resulting in a contract decrease in the amount of \$6,603.10 and acknowledgement of Final Pay Request (No. 2) in the amount of \$4,334.26 for the above referenced project.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Runway 2/20 Mill & Overlay Project / FAA AIP No. 3-27-0056-15-17 / State Project No. A4201-98 – Acknowledgement of Final Pay Request No. 2 with Duininck, Inc.

Pay Estimate No. 2 (Final) for the above-referenced project with Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$30,125.28. The original contract amount was \$592,525.50. The final contract amount is \$602,505.50, including a previously approved change order for crack repair.

Member **David Sturrock** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'that the Council approve Pay Estimate No. 2 (Final) for the above-referenced project with Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$30,125.28.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Commission/Board Liaison Reports

Byrnes No Report

Schafer Library Board met on October 8, 2018 and discussed fund management, new computers for users and upgrades to the wifi.

Meister No Report

Bayerkohler No Report

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DeCramer Economic Development Authority will be hosting a tour of Marshall on November 2, 2018.

Sturrock No Report

Lozinski No Report

Councilmember Individual Items

Council member Lozinski discussed promoting development within the City.

Council member Meister commented on supporting Staff.

City Administrator

City Administrator Sharon Hanson comment on continuing to communicate with residences.

Director of Public Works

Director of Public Works/City Engineer Glenn Olson discussed rain delays on constructions projects throughout the City.

City Attorney

City Attorney Dennis Simpson provided a summary of developing items such as a Rental Code and Special Assessments.

Administrative Reports

There were no questions on the administrative reports.

Information Only

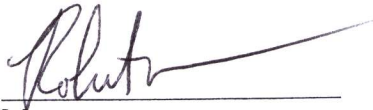
There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn Meeting

At 7:24 PM, Member **Steven Meister** 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