

## Regular Meeting – November 13, 2018

The regular meeting of the Common Council of the City of Marshall was held November 13, 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 (5:35 PM), Glenn Bayerkohler, John DeCramer, David Sturrock and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glen Olson, Director of Public Works/City Engineer; Jason Anderson Assistant City Engineer/Zoning Administrator; Karla Drown, Finance Director; Director of Public Safety, Rob Yant; Director of Community Services, Scott VanDerMillen; Quinten Brunsvold, Fire Chief; Bob VanMoer, Wastewater Treatment Facility Superintendent; Preston Stensrud, Parks Superintendent 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 October 23, 2018.**

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'that the minutes of the regular meeting held on October 23, 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**

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

Member **John DeCramer** Moved, Member **Craig Schafer** 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: **6** Nay: **0**. The motion **Carried. 6 - 0**

Member **John DeCramer** Moved, Member **David Sturrock** Seconded to approve the **NEW** motion 'that the Council adopt Resolution Number 4555, 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: **6** Nay: **0**. The motion **Carried. 6 - 0**

**Consider Award of Bids for Pick-Up for Surface Water Department and Pick-Up for Engineering Department.**

**SURFACE WATER** - The City opened bids on November 6, 2018 for a replacement pick-up for the Surface Water Department. City staff recommends award of the bid for a new 2019 Dodge Ram 1500 Quad Cab 4x4 ST Pick Up for the Surface Water Department from Lockwood Motors of Marshall, Minnesota, in the amount of \$24,996.62, including tax and no trade-in. The State CPV price of this unit including all minimum specifications is \$26,851.54, including tax and no trade-in.

The Surface Water Department 2007 Chevrolet will be transferred to the Building Maintenance Department. The Capital Fund will transfer \$7,500.00 to the Surface Water Fund for compensation for the vehicle as budgeted in 2018. The trade-in amount for the Building Maintenance 1993 Chevrolet pick-up was only \$500.00. In lieu of the trade-in, we are proposing to list the vehicle on Purple Wave Auction as we believe that we could get more for the vehicle from that site. Any revenue received from the sale of the 1993 Chevrolet pick-up will be to the Capital Fund. **ENGINEERING DEPARTMENT** - The City opened bids on November 6, 2018 for a replacement pick up for the Engineering Department.

City staff recommends award of the bid for a new 2019 Dodge Ram 1500 Quad Cab 4x4 ST Pick Up for the Engineering Department from Lockwood Motors of Marshall, Minnesota, in the amount of \$17,541.62, including tax and \$7,000.00 trade-in of the existing 2006 Ford F 250 Super Duty 4WD Crew Cab. The State CPV price of this unit including all minimum specifications is \$26,851.54, including tax and no trade-in.

Director of Public Works/City Engineer introduced the item. There was continued discussion by Council.

Member **James Lozinski** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'that the Council authorize the purchase of a new 2019 Dodge Ram 1500 Quad Cab 4x4 ST Pick Up for the Surface Water Department from Lockwood Motors of Marshall, Minnesota, in the amount of \$24,996.62, including tax and no trade-in.'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried. 7 - 0**



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Member **John DeCramer** Moved, Member **David Sturrock** Seconded to approve the **NEW** motion 'that the Council authorize the transfer of \$7,500.00 from the Capital Fund to the Surface Water Fund for the transfer of the Surface Water Department 2007 Chevrolet to the Building Maintenance Department. '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

Member **David Sturrock** Moved, Member **Craig Schafer** Seconded to approve the **SUBSTITUTE** motion 'to table the purchase of a new 2019 Dodge Ram 1500 Quad Cab 4x4 ST Pick Up for the Engineering Department from Lockwood Motors of Marshall, Minnesota, in the amount of \$17,541.62, including tax and \$7,000.00 trade-in of the existing 2006 Ford F 250 Super Duty 4WD Crew Cab until the next regular council meeting.'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed. 6 - 1** with Lozinski voting no.

**Approval of Consent Agenda.**

Council member Bayerkohler requested that item number 9, Consider Engagement Letter for Audit Services for 2018 Financial, be removed for further discussion.

Member **Craig Schafer** Moved, Member **Steven Meister** 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 Senior Citizen's Commission yearly contract with both MASC, Inc. (Marshall Area Senior Citizens, Inc.) and LSS (Lutheran Social Services - senior dining).

Approval of an ATM Letter of Understanding and Agreement.

Approval to Execute the Engagement Letter with VanIwaarden Associates for the GASB 67/68 Actuarial Services.

Approval of Service Agreement between City of Marshall and Lyon County for the purposes of third party access to Criminal Justice Data Communications Network (CJDN) Applications and Resources Access and Criminal History Data (CHRI) Access.

Approval of a Temporary On-Sale Intoxicating Liquor License for Marshall Convention and Visitors Bureau for November 15, 2018

Approval of an LG220 Application for Exempt Permit for Holy Redeemer Church for January 31, 2019.

Approval of BDPI Grant Amendment, request for extension.

Adoption of Resolution Number 4556, Second Series, designating uniform election dates and the polling locations.

Approval of the bills/project payments.

**Consider Engagement Letter for Audit Services for 2018 Financial Statements.**

The Engagement Letter is an annual approval which sets forth the understanding between the City and our auditors.

Council member Bayerkohler pulled the item for further discussion. Member Bayerkohler discussed rotating the City's audit service engagement partners every few years for new, independent review.

Member **Glenn Bayerkohler** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'to approve the Engagement Letter for Abdo Eick & Meyers, LLP to perform the audit services for the City of Marshall's 2018 Financial Statements.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**Fire Department Grant.**

The Marshall Fire Department was accepted to receive a 50/50 matching grant of up to \$20,000 from the Otto Bremer Foundation with \$20,000 raised in donations by the Marshall Fire Department for a total of \$40,000. \$15,000 of the donations raised had come from R & G construction and the rest of the \$5,000 was raised by various fundraisers performed by the fire department membership. This grant was funded to purchase tools used for auto extrication. These tools include battery powered hydraulic spreader (Jaws of Life), cutter, and hydraulic ram, vehicle struts to stabilize vehicles that are either on their top or on their sides & battery-operated tower scene lighting. We did solicit 2 vendors for these tools but since they are very specialized and specific, it wasn't possible to equally compare all aspects of the need.

Quote #1 – Alex Air Apparatus This quote met all the specifications. The Marshall Fire department already has 2 complete sets of Hurst branded extrication equipment but both sets (outfitted on 2 separate trucks) all have hydraulic lines that are tethered to a pump (either the truck pump or to an external, gas powered hydraulic pump). The Spreader that is included with this quote has a spread pattern of 28 inches which is currently what both of our spreaders have now. The cutter that is quoted here has a blade design that automatically centers the unit while cutting as to not push or pull the operator which comes is safer to operate. The Struts quoted are a lightweight, compact, telescoping stabilization tool designed for rescuer and patient safety during extrication. The struts quoted is a package that is fit to stabilize large commercial vehicles down to stabilizing small passenger vehicles. These struts can be deployed in a matter of seconds and is made by a DuPont Kevlar infused composite material.

Quote #2 – Clarey's Safety Equipment This quote did not meet all the specifications. Genesis hydraulic tools only offer a 24-inch and a 32-inch spreader. The specification is a 28-inch spreader. Their cutter and ram did meet the specifications, but their cutter does not have the auto centering designed blades. The Struts that are quoted are constructed of high grade aluminum and can be extended by screwing in extension rods which is a point of weakness compared to the telescoping of the Alex Air quoted struts.

Quentin Brunsvold introduced the item to Council.



Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'to approve the quote from Alex Air Apparatus in the amount of \$40,128.00'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**Partnership Agreement between the City of Marshall and Marshall Municipal Utilities.**

This agreement is brought to the Council for consideration on an annual basis. Please see the updated 2019 proposed Partnership Agreement with MMU. The joint committee met on October 16, 2018, reviewed the document in detail, and unanimously recommended approval. Marshall Municipal Utilities, General Manager Brad Roos will be present.

Mayor Byrnes introduced the item. City Administrator Sharon Hanson commented on select items within the agreement; payment in lieu of taxes, placement of small cell installation by Verizon 5G, additional fiber installation.

Council member Bayerkohler discussed payment in lieu of taxes and the decrease in payment over the last 5- 6 years. Marshall Municipal Utilities (MMU) General Manager Brad Roos discussed the item with Council.

Council member Sturrock commented on the lease agreement with Verizon to place small cell installation on street poles within the City. General Manager Roos commented that the initial installation would consist of eight (8) street poles equipped with the new technology.

Council member DeCramer commented on the shared Information Technology Department by the City of Marshall and Marshall Municipal Utilities.

There was further discussion by Council and Staff.

Member **John DeCramer** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'Approve the 2019 the agreement between MMU and the City of Marshall.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**Hotel Tax Abatement Request.**

Economic Development Director Tara Onken presented the item to Council. Mr. Patel has been approached by other hotel developers to purchase and develop the site, but for various reasons, those deals have not come to fruition. Mr. Patel had been in conversations years ago with former administrator Mr. Ben Martig, and his initial request was tax abatement. Mr. Patel is here to formally make the request for tax abatement on his parcel. If granted, Mr. Patel will agree to build a Hampton Inn & Suites hotel which is part of the Hilton hotel group. More details will be provided at the meeting.

Jacob Fahl Chair of the Southwest Amateur Sports Center Commission, provided additional information on the item via Power Point.

Shailesh Patel provided more information on the potential of a Hampton Inn & Suites connected to or near the Red Baron Arena and Expo.

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Council member Meister discussed the potential downside of the project.

Council member Schafer provided discussion from the Sports Commission.

Lauren Deutz Director of the Convention and Visitors Bureau provided additional discussion.

Council member Lozinski commented that a tax abatement policy should be extended to all hotels for potential remodeling as well as new construction.

Member **Craig Schafer** Moved, Member **David Sturrock** Seconded to approve the **SUBSTITUTE** motion 'to direct City Staff to develop the framework for a tax abatement policy for future and existing hotels.'

There was continued discussion by Council.

Upon a roll call vote being taken, the vote was: Aye: **6** Nay: **1**. The motion **Passed. 6 - 1** with Bayerkohler voting no.

Mayor Byrnes called for a recess.

**Contract for Deed between Knochenmus Enterprises, LLP and the City of Marshall.**

Third Amendment to the Contract for Deed agreement with Ralco (Knochenmus Enterprises, LLP). This agreement extends the final balloon payment by another year. Remaining payment is due in full at the earlier of November 15, 2019 or upon Ralco vacating the "north half" of the property.

City Attorney Dennis Simpson provided information on the item. There was discussion by Council and Staff on the use the building.

Member **David Sturrock** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'to approve the contract for deed between Knochenmus Enterprises, LLP and the City of Marshall.'. 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 an Amendment to the Contract between Engan Associates and the City of Marshall for architectural services.**

The analysis of the three proposed city hall sites was not in the original scope of work request. The interest of the adjacent hotel property has added complexity and delay to the project in terms of additional design work.

City Administrator Sharon Hanson provided information on the item.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'approve amendment to the contract between Engan Associates and the City of Marshall.'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **2**. The motion **Passed. 5 - 2** with Meister and Bayerkohler



**Project Z51-2018: Bituminous Resurfacing Project on Various City Streets -- 1) Consider Change Order No. 1 (Final); 2) Acknowledgement of Final Pay Request No. 2.**

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. 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 **John DeCramer** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that the Council approve Change Order No. 1 (Final) with Duininck, Inc. of Prinsburg, Minnesota, resulting in a contract decrease in the amount of \$5,361.96 and acknowledge Final Pay Request (No. 2) in the amount of \$16,266.83 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 Z47: Commerce Industrial Park/Michigan Road Improvement Project – Consider Change Order No. 2 with Midwest Contracting LLC.**

Change Order No. 2 for a time extension to the Substantial Completion date from November 13, 2018 to July 12, 2019 due to unfavorable site conditions due to weather. The DEED grant funding has been extended into August 2019 to facilitate the revised Substantial Completion date.

Member **James Lozinski** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'that Council approve Change Order No. 2 with Midwest Contracting, LLC of Marshall, Minnesota, for a time extension to the Substantial Completion date from November 13, 2018 to July 12, 2019.'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried. 7 - 0**

**Consider and approve Grant Agreement-Construction Grant for the Marshall MERIT Center Project regarding expansion of the driving training and road course.**

City staff recommends that the appropriate City officials be authorized to execute the Grant Agreement - Construction Grant for the MERIT Center project. The grant is given to the City of Marshall to "design, construct, furnish and equip the driver training and road course expansion of the Minnesota Emergency Response and Industrial Training (MERIT) Center in Marshall. The 2018 Minnesota Legislature authorized a grant to be given to the City of Marshall for the purpose as described above. Minnesota Laws 2018, Chapter 214, Article 1, Section 15, Subdivision 4 provides a grant from the Department of Public Safety "for a grant to the City of Marshall to design, construct, furnish and equip the driver training and road course expansion of the Minnesota Emergency Response and Industrial Training (MERIT) Center in Marshall. The grant documents have been prepared by the Department of Public Safety and the Minnesota Management Budget Commissioner and have been provided to the City of Marshall for review and execution. I am not currently recommending any changes to the agreement. I am however, noting some of the key elements and reporting requirements for the City related to the grant agreement. The City has commissioned consulting firm Graef to begin predesigning of the road course expansion project. The expenditure of funds for the pre-design consulting work is authorized within the grant agreement. The property encumbered by this trust agreement includes the current driving course property as well as the additional property necessary for the

expansion of that facility. Additionally, the current MERIT facility site facility is also included within the legal description of the property to allow for potential expansion of parking lot if necessary.

City Attorney Dennis Simpson provided information on the item.

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'Consider and approve Resolution Number 4557, Second Series, authorizing the proper City officials to execute the Grant Agreement-Construction Grant for the Marshall-MERIT Center 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 approval of Resolution of the City of Marshall in Support of a Small Cities Development Program**

On February 13, 2018 Council approved the submission of an application for affordable housing, rental and commercial assistance grant monies from the Department of Housing and Community Development, administered by the Minnesota Department of Employment and Economic Development (DEED). The City of Marshall has been awarded the Small Cities Grant. The local funding or Program Income is in the amount of \$539,289.54, which DEED has rounded. Per the Trial Balance, there are sufficient funds available to be transferred. The next step is for the Council to approve the local funding to be transferred to the Small Cities Fund.

Finance Director Karla Drown introduced the item to Council.

Member **Craig Schafer** Moved, Member **John DeCramer** Seconded to approve the **ORIGINAL** motion 'approve Resolution Number 4558, Second Series, A Resolution of the City of Marshall in Support of a Small Cities Development Program'. Upon a roll call vote being taken, the vote was: Aye: **5** Nay: **1** Abstain: **1**. The motion **Passed. 5 - 1 - 1** with Bayerkohler voting no and Lozinski abstaining.

**Canvas election results for Council Members.**

Minnesota Statute 204C.33 and Minnesota Statute 205.185 requires that the governing body of a city conducting any election to act as the canvassing board, canvass the returns and declare the results of the election.

City Clerk Kyle Box presented the item to Council. Clerk Box provided an overview of the 2018 General Election within the City of Marshall.

Member **James Lozinski** Moved, Member **Steven Meister** Seconded to approve the **ORIGINAL** motion 'that John DeCramer be declared duly elected as Council Member for Ward One; that Russ Labat be declared duly elected as Council Member for Ward Two; that Craig Schafer be declared duly elected as Council Member for Ward Three, and that the term of all these elected positions is four years'. Upon a roll call vote being taken, the vote was: Aye: **7** Nay: **0**. The motion **Carried. 7 - 0**



**Consider approval of a Temporary On-Sale Intoxicating Liquor License for SMSU Foundation for an event to be held on December 12, 2018 and February 23, 2019.**

Member **John DeCramer** Moved, Member **Craig Schafer** Seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the SMSU Foundation to use at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota on December 12, 2018 and February 23, 2019.'. 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 SMSU for an event to be held on December 14, 2018.**

Member **Craig Schafer** Moved, Member **James Lozinski** Seconded to approve the **ORIGINAL** motion 'the approval of a Temporary On-Sale Liquor License for the SMSU to use at Southwest Minnesota State University, 1501 State Street, Marshall, Minnesota on December 14, 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 approval of a Temporary On-Sale Intoxicating Liquor License for Marshall Area Chamber of Commerce for an event to be held on January 11, 2019.**

Member **Craig Schafer** Moved, Member **Steven Meister** 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 Street, Marshall, Minnesota on January 11, 2019.'. 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	<u>MERIT Center Commission</u> will start to review the lease agreement with Minnesota West.
Meister	No Report
Bayerkohler	No Report
DeCramer	No Report
Sturrock	No Report
Lozinski	No Report

**Councilmember Individual Items**

Council member Lozinski discussed a dragline project and the Marshall Wastewater Treatment Facility. With the recent purchase of new equipment, a project that normally takes 3-4 weeks only took 7 days.

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Member Lozinski also commented on removing individual change orders, within the scope of the original project bid, from the council agenda.

Council member Sturrock mentioned attendance at recent events; League of Minnesota Cities Regional Meeting, City Hall Planning Committee, MERIT Center Ground Breaking, Marshall Chamber of Commerce Progress Tour.

Council member DeCramer commented on the Grow Your Own Conference hosted at SMSU.

**City Administrator**

No Report

**Director of Public Works**

Director of Public Works/City Engineer mentioned that construction projects have halted for the winter season.

**City Attorney**

No Report

**Administrative Reports**

There were no questions on the administrative reports

**Information Only**

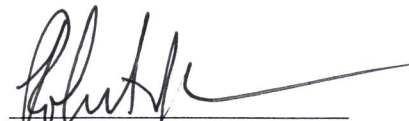
There were no questions on the information items.


**Upcoming Meetings**

There were no questions regarding the upcoming meetings.

**Adjourn Meeting**

At 7:50 PM, Member **Craig Schafer** Moved, Member **James Lozinski** 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