

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, November 28, 2023**

The regular meeting of the Common Council of the City of Marshall was held November 28, 2023, at City Hall, 344 West Main 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, Amanda Schroeder, John Alcorn, See Moua-Leske, James Lozinski and Steve Meister. Absent: None. Staff present included: Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney (via Zoom); Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Ryan Hoffman, Police Captain; Dave Parsons, City Assessor; Eric Hanson, Assistant City Engineer; Preston Stensrud, Park and Rec Supervisor; Ilya Gutman, Plans Examiner; Lauren Deutz, Economic Development Director; and Steven Anderson, City Clerk.

Mayor Byrnes announced that there is a work session scheduled following the regular city council meeting and that agenda item 13) Project ST-034: Intersection Control Evaluation (ICE) for Intersection of Susan Drive and US 59 Frontage Road – Consider Resolution of Support for LRIP Grant Application would be removed and not discussed.

**Consider Approval of the Minutes from the Special Meetings and Regular Meeting on November 14th**

There were no amendments to the minutes.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schroeder to approve the minutes as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

**Project ST-012-2024: South Whitney Street Reconstruction Project (E College Dr to Jean Ave) - 1) Improvement Hearing; 2) Consider Resolution Ordering Improvement & Preparation of Plans**

Anderson opened the public hearing by saying that property owners affected by the project had been notified, according to law, that a hearing would be held on November 28, 2023. The project consisted of reconstruction of the sidewalk, roadways, and utility replacement on South Whitney Street from East College Drive to Jean Avenue. All public utilities would be replaced, including watermain, sanitary sewer, and storm sewer on South Whitney Street. Other items of work included in the project are pavement removal, aggregate base, bituminous surfacing, sidewalks, curb and gutter, and other minor work. The reconstruction project had been discussed at multiple meetings of the PI/T Committee. In addition, City staff invited all property owners in the project area to a project informational meeting that was held on November 9, 2023, in the City Council Chambers. The engineer's estimate for the construction portion of the project was \$2,071,000.00. The total estimated project cost, including 10% allowance for contingencies and 16% for engineering and administrative costs was \$2,403,000.00. All improvements would be assessed according to the current Special Assessment Policy, including, but not limited to, participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation. Mayor Byrnes opened the public hearing to the audience and Pat Surprenant (400 East Marshall Street) spoke to the council. Mr. Surprenant expressed his concern about the speed of traffic on South Whitney Street and asked for the city to consider methods to slow traffic that could be implemented in the plans of the reconstruction project. Anderson stated that Mr. Surprenant had attended the November 9<sup>th</sup> input meeting and staff were looking at options that didn't reduce the size of the street. Councilmember Lozinski added that the stop signs on East Marshall Street were regularly ignored. Temporary measures were put into effect by the Marshall Police Department by placing the mobile radar station to remind drivers how fast they are actually going. Anderson also addressed the East Marshall Street issue and engineering staff were looking at changing the stop signs to be on Whitney instead of East Marshall as a form of speed control or turn the intersection into a four-way stop. Councilmember Meister asked how the interest rate is determined for street projects and Moberg responded that the rate was determined by the bond rating plus 2% on whatever rating was assigned by the bank.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve Resolution 23-071 Ordering the Improvement and Preparation of Plans for Project ST-012-2024. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

#### **Adoption of Ordinance – Amending Section 86-106 I-1 Limited Industrial District**

Ilya Gutman began the public hearing explaining that the new comprehensive plan introduced a new land use, Commercial/Industrial mix use, with the intent to allow both commercial and light industrial uses. At the time the mixed-use district ordinance with associated requirements had not been developed yet. However, the current I-1 Limited industrial district description will serve as the basis for the new district requirements. Based on potential economic development in an area marked as Commercial/industrial use on the Land use map, a rezoning has become necessary. The most reasonable way was to rezone the proposed area to an I-1 limited industrial district, while also adding an office use to this district, in line with the future Commercial/Industrial zoning district. At the meeting on October 31, 2023, the Legislative and Ordinance Committee voted to recommend to council the approval of revisions to Section 86-106 I-1 Limited Industrial District. Councilmember Schroeder stated that the Planning Commission didn't foresee any issues with the rezone and believed the rezone made sense for the project area.

Motion made by Councilmember Schroeder, Seconded by Councilmember Lozinski to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to adopt Ordinance 23-027 Amending Chapter 86 Section 106 I-1 Limited Industrial District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

#### **Approval of the Consent Agenda**

There were no requests to remove an item from the consent agenda for further discussion.

- Consider Resolution Accepting Jonathan Monterroso as a Member of the PERA Public Employees Police and Fire Plan
- Consider Approval of the Joint Powers Agreement for the Drug Task Force
- Consider Approval of a Liquor License Annual Renewal for El Rancho and Brau Brothers
- Consider Approval of an Off-Sale 3.2% Malt Liquor License for Family Dollar
- Consider Authorization to Declare Vehicle as Surplus Property for the Marshall Police Department
- Consider Approval of the Bills/Project Payments

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve the items on the consent agenda as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

#### **Call for a Public Hearing Regarding Proposed Property Tax Abatement for Rebound Partners**

Lauren Deutz said that a commercial tax abatement request was received from Rebound Partners to build a Hampton Inn at 1610 Commencement Blvd which is adjacent to the Red Baron Arena and Expo Center. Rebound Partners are a Northfield Minnesota based developer. The developer had requested tax abatement up to 15 years with annual

decreases over the abatement period. The EDA board reviewed the application at their last meeting and have a recommendation but were awaiting more financial information from the developer.

Motion made by Councilmember Schroeder, Seconded by Councilmember Meister to call for a public hearing regarding the proposed property tax abatement for Rebound Partners. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

**Adoption of Ordinance – Rezone property at 100 through 120 London Road from R-1 One Family Residence District to I-1 Limited Industrial District**

Gutman informed the council that this was a request by the City of Marshall to rezone the area at 100 through 120 London Road from an R-1 One Family Residence District to a I-1 Limited Industrial District for the future development of the proposed Southwest West Central Cooperative commercial building project that was presented at the November 14<sup>th</sup> meeting. The adoption of this ordinance is related to the adoption of Ordinance 23-027 that was approved at the public hearing earlier during the meeting. Councilmember Schroeder said that one citizen appeared at the public hearing held by the Planning Commission and was concerned about additional traffic.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to adopt Ordinance 23-026 Rezoning 100 through 120 London Road from R-1 One Family Residence District to I-1 Limited Industrial District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to publish a summary of Ordinance 23-026. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

**Project ST-008 / SAP No. 139-121-004: Channel Parkway Pavement Replacement Project - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request (No. 2)**

Anderson detailed that the project consisted of 3” mill of existing bituminous pavement and replacement with 3” new bituminous pavement, spot replacement of curb and gutter, and ADA pedestrian ramps along Channel Parkway. The items on Change Order No. 2 (Final Reconciling Change Order) for the project are the result of final measurements and changes of item quantities during construction. All work had been completed in accordance with the specifications. Final Pay Request (No. 2) was the amount of \$133,743.89. Change Order No. 2 (Final) resulted in a contract increase in the amount of \$31,087.75. The final contract amount was \$1,398,094.38. The original contract amount was \$1,374,151.96. The final calculations result in a total contract net increase of \$23,942.42 or 1.74%. This project was financed in part by a \$1,250,000 State Local Road Improvement Program (LRIP) grant, with the remaining costs being paid by Municipal State Aid funds. Councilmember Lozinski requested Anderson to briefly explain the change order policy of the city. Anderson stated that a policy was put into place to ensure projects keep on pace and allowed up to 5% overage on the contract amount.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve Change Order No. 2 (Final) and acknowledge Final Pay Request (No. 2). Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

**Project ST-034: Intersection Control Evaluation (ICE) for Intersection of Susan Drive and US 59 Frontage Road – Consider Resolution of Support for LRIP Grant Application**

This item was removed from the agenda and not discussed.

**Consider a Resolution to Accept the Results of the Special Election Held on November 7, 2023**

Sharon Hanson explained that Minnesota Statutes Section 297A.99 specifically outlined the process for approving a sales tax, which included the city conducting a referendum during a general election within two years of receiving legislative authority for the local sales tax. The referendum must include separate questions for each project, and the ballot questions approved by voters may be funded by the sales tax. On November 7, 2023, the voters approved by 66.44% the ballot question authorizing the City of Marshall to (a) extend the sales and use tax of one-half of one percent (.50%) for the purpose of paying the costs of collecting and administering the tax and paying for the construction of a new municipal aquatic center in the City, plus associated bonding costs, including interest on any bonds; and (b) issue its general obligation bonds in an aggregate principal amount not to exceed \$18,370,000, plus the cost of issuing the bonds, including interest on the bonds to finance the construction of the aquatic center. As part of the process of implementing the general local sales tax extension that was approved by the special election on November 7, 2023, a resolution accepting the results was needed. The proposed resolution along with the ordinance in the next item need to be submitted to the Minnesota Department of Revenue and the Minnesota Secretary of State.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve Resolution 23-073 Certifying Results of the November 7, 2023, Special Election. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

#### **Adoption of Ordinance Amending the City's Existing Ordinance No. 667, Second Series to Provide for Extension of the Sales Tax**

The next step under the statutes required the city to pass an ordinance imposing the tax, after which the city will notify the Commissioner of Revenue of the tax. The Canvassing Board met on November 14, 2023, to certify the final results from the special election held on November 7, 2023, and the council just approved Resolution 23-073 certifying the results.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve Ordinance 23-025 amending Chapter 70 Taxation to Allow the Additional Use and Extension of the Sales Tax and publication of the summary ordinance. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

#### **Agreement to Grant the City a License to Use the Parking Facility for Public Parking and Access to the Future Marshall Aquatic Center**

The City of Marshall and Schwan's had previously discussed using Schwan's owned parking lot for the future Marshall Aquatic Center. The agreement grants to the City the non-exclusive use of the Parking Facility to provide for public parking and access to the future Marshall Aquatic Center, but for no other purpose, except with the express written consent of Schwan's. Use of the said parking facilities shall be permitted for all hours, including overnight, with occasional restrictions prohibiting parking for periods of time exceeding 24 consecutive hours. That said public purpose shall continue indefinitely into the future. The use license with respect to real estate upon which the Aquatic Center will be located, is a privilege to go with the Parking Facility, thus there is no cost to the City, excluding routine maintenance. Councilmember Moua-Leske questioned if the annual Sounds of Summer event would still be able to be held at the parking facility. Hanson stated that Sounds of Summer Board would still need to annually ask permission from Schwan's to use the parking facility.

Motion made by Councilmember Schroeder, Seconded by Councilmember Moua-Leske to approve the agreement with Schwan's Shared Services LLC for the license to use the Parking Facility for public parking and access to the future Marshall Aquatic Center. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

**Commission/Board Liaison Reports**

Brynes	No report.
Schafer	No report.
Meister	No report.
Schroeder	EDA discussed the Main Street revitalization grants and recipients should be notified and receive funds soon. Marshalls in Marshall were in final negotiations to sign a contract and begin development.
Alcorn	MMU discussed their preliminary budget and anticipate final approval at the next meeting.
Moua-Leske	No report.
Lozinski	No report.

**Councilmember Individual Items**

Councilmember Schafer brought up a citizen request to establish a quiet zone through Marshall at least during the evening hours. Under the Train Horn Rule (49 CFR Part 222, issued on August 17, 2006), locomotive engineers must begin to sound train horns at least 15 seconds, and no more than 20 seconds, in advance of all public grade crossings. Anderson said he had discussed quiet zones with BNSF before and a study would be required to identify improvements at crossings. Anderson estimated the cost to be roughly \$50,000 and the public works department could look into various grants. Schafer also mentioned that citizens should be more aware of their trash pickup policy with their local refuse hauler and can't just leave items on the curb expecting them to be hauled away.

Councilmember Lozinski requested citizens to pick up after their animals when out in the public and be respectful of your fellow citizens.

**City Administrator**

Hanson spoke about the quiet zone and that city staff intends to look into the process with the Federal Railroad Administration.

**Director of Public Works/City Engineer**

The Redwood River One Watershed Planning group would be meeting on December 8<sup>th</sup> and someone from the engineering department would be attending on the 8<sup>th</sup> and any future meetings.

**City Attorney**

No report.

**Information Only**

There were no questions on the Information Only Items.

**Upcoming Meetings**

There were no questions on the Upcoming Meetings.

**Adjourn**

At 6:13 pm Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

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Steven Anderson, City Clerk

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Robert Byrnes, Mayor