

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, April 25, 2023**

The regular meeting of the Common Council of the City of Marshall was held April 25, 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: Amanda Schroeder, Craig Schafer, Steve Meister, John Alcorn, See Moua-Leske and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney; Jason Anderson, Director of Public Works/City Engineer; E.J. Moberg, Director of Administrative Services; Amanda Beckler, Community Education Coordinator; Dave Parsons, City Assessor; Jim Marshall, Director of Public Safety; Quentin Brunsvold, Fire Chief; Ilya Gutman, Plans Examiner and Steven Anderson, City Clerk.

The Pledge of Allegiance was recited at this time.

Consider Approval of the Minutes from April 11th & the Local Board of Appeal & Equalization on April 17th

No amendments were made to the minutes.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve the minutes from April 11th and the LBAE from April 17th. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Conduct Public Hearing of Ordinance Amending Section 86-230 Required Number of Spaces

Minimal changes were made to the ordinance regarding parking spaces. One of the changes was made because of analyzing a specific request for parking to significantly exceed current requirements. The changes were made to Dwellings of one to four units, and to Motor vehicle repair. Staff also removed the limit to the maximum number of spaces to let businesses be in more control of their parking. The Planning Commission and the Legislative & Ordinance Committees both recommended the proposal be brought to council for approval.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister 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 approve Ordinance 23-007 amending the number of required spaces. 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

No requests were made to remove any items from the consent agenda for additional discussion.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve 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.**

- Consider Approval of the 2023-2024 Township Fire Services Agreements
- Consider Approval for a Temporary On-Sale Liquor License for the Knights of Columbus Fundraiser
- Consider Approval of Amendments to Ordinance Division 2-VI-11 Adult Community Center Commission
- Consider Amendment to Sec. 74-122 regarding Snow Emergency Declaration
- Introduction of Ordinance Amending Section 86-248 Outside Storage and Call for Public Hearing
- Consider Authorization to Declare Vehicles as Surplus Property for the Marshall Police Department
- Consider Approval for a Raffle LG220 Exempt Permit for Holy Redeemer
- Consider Approval of the Bills/Project Payments

Request for Conditional Use Permit by Western MN Municipal Power Agency

An orderly annexation took place last year on a piece of property that was zoned agricultural (1200 N. 7th Street). Under a conditional use permit solar panels are allowed in zone A – Agricultural District. A public hearing was held by the Planning Commission on April 12 and the permit was recommended to be approved by city council with the following conditions:

1. That the regulations, standards, and requirements as set forth in the City Code and as pertain to the class of district in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Conditional Use Permit if any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default.
3. That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties.

Luke Gildemeister, the representative from US Solar, was present and explained that the project consists of a 10 mega-watt solar garden and a 5 mega-watt battery storage system. US Solar oversees construction and implementation and once the project gets close to completion the solar garden will be sold and transferred to Western MN Municipal Power Agency.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schroeder to approve Resolution 23-039 granting a conditional use permit for 1200 N. 7th Street. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Contract Allowing MRES to Become MMU’s Administrator of the New WAPA Renewable Energy Credits

Dave Schelkoph, General Manager for Marshall Municipal Utilities presented the contract from Missouri River Energy Services. Starting in 2023, Western Area Power Administration (WAPA) has created and credited Renewable Energy Credits (REC) associated with the hydroelectric power they produce and deliver to all their power contract holders. MMU is a preferred customer of WAPA and is one of those contract holders. As the WAPA RECs are now recognized by the utility industry, they are now subject to the same regulations concerning all forms of REC contracted throughout the U.S. As MRES is already performing this REC administrative work for all REC purchased by our customers through the Bright Energy Choices program, MRES is offering their services to administer the MMU allotted WAPA REC. This service is being offered at no cost to MMU.

The Marshall Utilities Commission recommended the approval of the contract, and Attorney Dennis Simpson reviewed the document.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve the contract allowing MRES to become MMU’s administrator for new WAPA RECs. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Missouri River Energy Services & MMU Reserve Capacity Agreement

Missouri River Energy Services (MRES) provides approximately 75% of the electricity for the city of Marshall. During the 2023 budget process at MRES, it was proposed and adopted to change the Reserve Capacity Agreement (RCA) between MRES and its members. The changes were to promote membership development of distributive generation with cash incentives and larger monthly payments that would increase the power capacity of MRES to better serve their membership. Under the new agreement monthly payments to MMU will increase from \$2.00/KW/Month to \$5.00/KW/Month. In addition to this increase, an additional \$2.00/KW/Month for ten years will be given to MMU as up-front payment for all new generation installed and in service. The current generator at MMU needs to be replaced as it is 54-years old and in need of repair. MMU has not gone forward with a replacement plan to date because to do so,

MMU would have to increase electrical rates to pay for a new generation project. MRES and the new RCA will significantly increase payments to the membership for distribution generators. This increase in compensation is significant enough that MMU can replace/add to our generator capacity resulting in little to no inflationary pressure on rates. MMU is considering using reciprocating diesel-powered engines, 5-6 units are being considered. Like the previous RCA, there is no cost to unilaterally leave the agreement should a member choose to do so.

Motion made by Councilmember Meister, Seconded by Councilmember Alcorn to approve the agreement with MRES and to allow the MMU General Manager to sign the exhibits. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project AP-003: Airport Snow Removal Equipment (SRE) Building - Consider Rejection of Bids

One bid was received from Sussner Construction, Inc. in the amount of \$4,346,000, which substantially exceeds the construction cost estimate of \$3,118,023 for construction costs. Total estimated project budget, including construction administration and special testing costs, was \$3,353,023. The Airport Commission met on 04/04/2023, discussed and recommended a re-evaluation of the project scope, bidding requirements and potential cost control measures for the City's review/consideration.

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

Project ST-003: South 1st Street/Greeley Reconstruction Project – 1) Resolution Declaring Cost to Be Assessed and Ordering Preparation of Proposed Assessment; 2) Resolution for Hearing on Proposed Assessment

The project consisted of reconstruction and utility replacement on South 1st Street from George Street to Greeley Street, on Greeley Street from West College Drive to Saratoga Street, and on Williams Street from Maple Street to George Street; sanitary sewer, watermain, and storm sewer replacement. The project also included new curb & gutter, new 5-ft. sidewalk on one or both sides of the streets, driveway aprons, water services, and sewer services to the right-of-way.

Per the current Fee Schedule, the assessment interest rate is calculated using the most recent bond interest rate and adding 2% for administrative costs. The term of the assessment repayment is proposed by staff to be 8 years. The City has no formal written policy on the term but has followed an administrative past practice to generally match the assessment repayment to the bond repayment term. If the assessment is substantially higher in cases such as commercial assessments, it may be appropriate to increase the assessment repayment term. Alternatively, on smaller assessment projects consideration could be made to shorten the assessment term. One other item to note is that if additional principal is paid each year the interest is recalculated annually to address the payments. Therefore, there is no penalty for individuals to repay on a more accelerated schedule if they choose. The hearing date is currently set for May 23rd.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to approve Resolution 23-032 declaring costs to be assessed. 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 Meister to approve Resolution 23-033 setting a hearing date for proposed assessments. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-004: Halbur Road Reconstruction Project – 1) Resolution Declaring Cost to Be Assessed and Ordering Preparation of Proposed Assessment; 2) Resolution for Hearing on Proposed Assessment

The project consisted of reconstruction and utility replacement on Halbur Road from Michigan Street to Erie Road (CR 33); sanitary sewer and storm sewer will be replaced with a concrete paved surfacing. This project also included new curb & gutter, driveway aprons, and sewer services to the right-of-way. The hearing date is currently set for May 23rd.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve Resolution 23-034 declaring costs to be assessed. 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 23-035 setting a hearing date for proposed assessments. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-023: W. Lyon Street (College to 1st) Reconstruction Project – 1) Resolution Declaring Cost to Be Assessed and Ordering Preparation of Proposed Assessment; 2) Resolution for Hearing on Proposed Assessment

The project included street and utility reconstruction of W. Lyon Street from College Drive to N. 1st Street including street, sidewalk, curb and gutter, driveways, water main, sanitary sewer, and sewer and water service lines to the right of way. The hearing date is currently set for May 23rd. Mayor Byrnes asked for clarification on the sidewalk adjacent to the construction. Jason Anderson confirmed the sidewalk which was not a part of the project will be completed by the Block 100 developer.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve Resolution 23-036 declaring costs to be assessed. 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 Schroeder to approve Resolution 23-037 setting a hearing date for proposed assessments. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Consider a Resolution Providing for the Issuance and Sale of the City's GO Bond Series 2023A

With the rejection of bids for the SRE Building the total amount of issuance would now be \$5,190,000 instead of \$6,295,000. The resolution includes language that allows the terms of the proposal to withdraw the Airport Bond portion. GO Bond Series 2023A will now consists of:

Abatement (Parking Lot & City Park Improvements) \$600,000
Street Reconstruction (N. 3rd ST/ W Lyon St.) \$3,680,000
Utility Revenue (Legion Field Stormwater) \$910,000

Motion made by Councilmember Alcorn, Seconded by Councilmember Moua-Leske to approve Resolution 23-038 providing for the issuance and sale of GO Bond 2023A. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Consider Appointments to Various Boards, Commission, Bureaus, and Authorities

The council met earlier in the day to conduct interviews for the Marshall Municipal Utilities Commission. Three applicants were interviewed. Mayor Brynes made the recommendation to appoint Michael Tao with a term ending 5/31/2028.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to appoint and affirm the recommendation for Michael Tao. 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 SWRDC: New staff include a planner and finance director. Talked in depth about the revolving load fund for the region.
Fire Relief Assoc: The fund performance at the end of 2022 was negative but has since recovered, a couple of retirements are expected.
- Schafer MERIT Center Commission: Updates were given on the number of courses and events that happened so far. MERIT is in the bonding bill to complete the rifle/handgun range.
- Meister No report.
- Schroeder EDA: Finalized the strategic plan.
Planning Commission: Held the public hearing for the CUP.
- Alcorn MMU: The backup turbine generator is down and is scheduled to be back up and running by the end of May. MMU will be adding a F150 Lightning to its fleet and the truck is expected to arrive by the end of summer.
- Moua-Leske CVB: Will be donating \$40,000 for a Visit Marshall party deck at Legion Field. Prairie Jam has been scheduled and will be at SMSU again this year.
- Lozinski Pool Committee: Has started up once again and is beginning planning in hopes that the pool is included in the tax bill.

Councilmember Individual Items

Councilmember Lozinski commented on street sweeper kept by the street department and the cleanliness of the city streets.

Councilmember Moua-Leske brought up the Bird scooters are now available for use and to be mindful of where they are being parked as a number have been left in locations that block entrances and exits.

City Administrator

The final draft of the Indoor/Rec study will be brought forward to a work session on May 23rd. Registration for Summer activities opens on May 3rd and will be a busy time for community services. Conversations are ongoing with pickle ball enthusiasts and court space.

Director of Public Works/City Engineer

The Wastewater Treatment Facility received accommodation from the MPCA. The 3rd/Lyon Street reconstruction is in full swing.

City Attorney

The MN House of Representatives have passed a version of a marijuana bill and has now moved onto the Senate. The THC moratorium will need to be repealed and an interim ordinance would need to be adopted.

Informational Only

There were no questions on the informational only items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 6:27 PM Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

City Clerk

Mayor