

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, December 19, 2023**

The regular meeting of the Common Council of the City of Marshall was held December 12, 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; Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Katie Brusven, Adult Community Center Coordinator; Preston Stensrud, Park and Rec Supervisor; Lauren Deutz, EDA Director; and Steven Anderson, City Clerk.

Lauren Deutz announced that the public hearing for the tax abatement request from Rebound Partners was cancelled. The developers decided additional time was needed to finalize the project and hoped to reschedule it at a later date once the project was ready to come forward. E.J. Moberg requested that item 6. Consider Resolution Calling Public Hearings on Street Reconstruction Plan, Tax Abatements, and Issuance of GO Bonds be removed from the consent agenda.

Consider Approval of the Minutes from the Regular Meeting on December 12th

No amendments were requested to be made to the minutes.

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

Consider Tax Abatement Application by Rebound Partners for Proposed Hotel Project

The public hearing was cancelled. No action or discussion was taken.

Approval of the Consent Agenda

There were no requests to remove any additional items from the consent agenda.

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

- Consider Authorization to Declare Vehicles as Surplus Property
- Consider Approval of the Marshall Area Senior Citizens Rental Agreement and Lutheran Social Services Lease Agreement
- Acceptance of a Donation Made to the Adult Community Center for FY 2023
- Consider Approval of the Bills/Project Payments

Consider Resolution Calling Public Hearings on Street Reconstruction Plan, Tax Abatements, and Issuance of GO Bonds

Moberg stated he had requested the item to be removed from the consent agenda because the bonding amount not to exceed was requested to be changed to \$2,100,000 from \$2,000,000 for the public notices. The resolution calling for public hearings on a street reconstruction plan and street reconstruction bonds and abatement was in connection with the project designated by the city as the South Whitney Street Reconstruction Project (from East College Drive to Jean Avenue), and various public improvements to be undertaken by the City, including parking lot improvements and other improvements to facilities within city parks, including Independence Park and Legion Field. Public hearings at the January 9, 2024 Council meeting would keep the city on our tentative schedule with planned sale and consideration of award of the bonds on February 27, 2024 and settlement of the bonds and receipt of bond proceeds around March 28, 2024.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve Resolution 23-089 calling for a public hearing with adjustments to the issuance not to exceed \$2,100,000 instead of \$2,000,000. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Acceptance of Donations Made to the Marshall Parks and Recreation Department for FY 2023

Preston Stensrud announced that The Parks and Recreation Department was very honored to receive numerous generous donations each year to help improve our facilities and programming. In 2023 over \$160,000 was received in donations with another \$145,000 for upcoming years. Additionally, the Parks and Rec Department was awarded nearly \$600,000 in grant funding. Staff were very appreciative of the community support we receive that allows us to continue to provide the amenities and facilities we do. Stensrud proceeded to go over the various donations received and what project the donations had been used for or would be used for.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve Resolution 23-090 accepting donations to the Parks and Recreation department for 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project SWM-002: Legion Field Stormwater Improvements Project-Phase II - Consider Change Order No. 3 (Final) and Acknowledgement of Final Pay Request (No. 3)

Anderson explained the Phase II improvements that included a new pipe crossing of the railroad tracks and a ponding improvement north of the tracks and south of the Parkway Addition to manage the stormwater runoff from the developed land south of the BNSF railroad tracks. The developed industrial area south of the railroad tracks had been nearly completely covered by impervious surfacing for many years, and the development pre-dated current requirements for on-site stormwater management. Which resulted in development that sheds stormwater quickly without managing the volume of stormwater runoff that is generated. The items on Change Order No. 3 (Final Reconciling Change Order) for the project are the result of final measurements and changes in item quantities during construction. All work had been completed in accordance with the specifications. Change Order No. 3 (Final) results in a contract decrease in the amount of \$15,176.46. The final contract amount was \$699,956.02. The original contract amount was \$703,749.60. The final calculations result in a total contract net decrease of \$3,793.58 or - 0.54%.

Anderson gave a brief update on phase III of the Legion Field Stormwater Improvement Project. The project would consist of additional drainage to the east of Legion Field Road towards Turkey Valley Farms and then northward towards the Nexus apartments adding a pond. Phase III was identified in the CIP for 2025.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve Change Order No. 3 (Final), and acknowledge Final Pay Request (No. 3) in the amount of \$146,410.61 to Towne & Country Excavating LLC of Garvin Minnesota. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Adoption of Ordinances Regarding Public Use of Cannabinoid Products and Prohibition on Smoking of Cannabinoid and Tobacco Products in City Parks and City Recreational Facilities

Whitmore told council that this item was the adoption of the three ordinances that were introduced last week that detailed background information was given on. No councilmembers required additional comments from Whitmore regarding the ordinance. Councilmember Lozinski noted that the Legislative and Ordinance Committee spent a great deal of time to ensure that the ordinance didn't infringe upon private business properties.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to adopt Ordinance 23-029 amending Chapter 42, Ordinance 23-030 amending Chapter 46, Ordinance 23-031 amending chapter 10 and authorization to publish a summary publication of adopted ordinances. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Introduction of Amendments to Interim Cannabis Prohibition Ordinance

Whitmore explained that the City enacted an interim ordinance to allow the City Council time to study and consider adoption or amendment of reasonable restrictions on the operation or location of commercial businesses related to cannabinoid products, including retail stores in the City of Marshall offering Cannabis products, and Lower-Potency Hemp products, for the purpose of protecting the planning process and the health, safety, and welfare of the public. Commercial businesses involved in limited manufacturing, and the transporting, or delivery and distribution of infusion based lower potency hemp edibles and hemp-derived consumer products do not pose a risk to the health, safety and welfare of the public since the operation of those businesses do not result in an introduction or increase in availability of THC related intoxicating products for use within the jurisdictional limits of the City and would not result in increased exposure or availability of these intoxicating products to youth in the community. The City Council has determined that opportunities exist for commercial businesses in the city to provide services involving the testing, manufacturing, transporting, or delivery and distribution of lower potency hemp edibles and hemp-derived consumer products, which will benefit commerce in the city. During the December 12, 2023, meeting Mayor Byrnes asked Attorney Whitmore to draft an amended ordinance to allow breweries to infuse seltzers with THC for distribution outside the city. Councilmember Lozinski suggested that the ordinance go through the normal committee process before being introduced and Councilmember Schafer voiced his agreement to go through the committee process. Mayor Byrnes rebutted that the introduction could still take place and the L&O Committee would still be able to make suggestions or amendments before the January 9, 2024, meeting for the ordinance's adoption.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to **not** introduce the amendments to the Interim Cannabis Prohibition Ordinance and to have the Legislative and Ordinance Committee review before introduction. Voting Yea: Councilmember Schafer, Councilmember Schroeder, Councilmember Moua-Leske, Councilmember Lozinski
Voting Nay: Mayor Byrnes, Councilmember Alcorn. The motion **Carried. 5-2.**

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

The city council met earlier during a special meeting for interviews for open commission positions. Mayor Brynes recommended that Keith Petermeyer be appointed to the Convention and Visitors Bureau and Michael Fenske be appointed to the Library Board, both with terms ending December 31, 2026.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to appoint Keith Petermeyer to the Convention and Visitors Bureau and Michael Fenske to the Library Board. Voting Yea: Mayor Byrnes, Councilmember Schafer, 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	No report.
Alcorn	No report.
Moua- Leske	No report.
Lozinski	No report.

Councilmember Individual Items

Councilmembers wished everyone Merry Christmas and Happy Holidays.

City Administrator

No report.

Director of Public Works/City Engineer

Staff were working on a Minnesota Aeronautics Equipment grant for a skid loader replacement and tractor with a loader replacement. The grant was a 70/30 participating grant. The bid opening for the Snow Removal Equipment Building was scheduled for January 23rd.

City Attorney

The Housing and Redevelopment Authority had a meeting noticed for December 22nd for a piece of land that was originally thought to have been owned by the City of Marshall but through the title search process it was found that the HRA actually owned the land.

Information Only

There were no questions on the Information Only items.

Under Minnesota Statute Section 13D.05 Subdivision 3(b) City Council May Move to Go into a Closed Session To Have an Attorney-Client Protected Discussion with the City Attorney Regarding Litigation Strategy and Options for the City and Marshall Municipal Utilities Pursuant to AFF Multidistrict Litigation No. 2873 (MDL NO.2873)

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to move into closed session. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to come out of closed session. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Mayor Byrnes briefly summarized that the Council met in closed meeting to discuss AFF MultiDistrict Litigation No. 2873 (MDL NO. 2873) and the Marshall Municipal Utilities updated Council that it would be retaining outside counsel to represent the City and MMU in that matter.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to allow the Marshall Municipal Utilities retain outside counsel pertaining to AFF MutliDistrict Litigation No.2873. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Upcoming Meetings

There were no questions on the Upcoming Meetings.

Adjournment

At 6:35 PM motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

Steven Anderson, City Clerk

Robert Byrnes, Mayor