

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, August 22, 2023**

The regular meeting of the Common Council of the City of Marshall was held August 22, 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, and See Moua-Leske. Absent: Steve Meister and James Lozinski. 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; Jim Marshall, Director of Public Safety; and Steven Anderson, City Clerk.

The Pledge of Allegiance was recited at this time.

Mayor Brynes attended via Zoom at his home due to illness. Attorney Whitmore explained that the law recently changed to allow elected officials to join meetings virtually from a non-public setting for personal or family medical reasons up to three (3) times a year.

There was a consensus to operate under the current agenda.

**Consider Approval of the Minutes from August 8 Work Session and Regular Meeting**

There were no amendments to the minutes.

Motion made by Councilmember Schroeder, Seconded by Councilmember Schafer to approve the minutes as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

**1)Public Hearing on Proposed Assessments for Unpaid Services 2) Approval of Resolution Adopting Unpaid Services**

City Clerk Anderson opened the public hearing by stating that the public hearing was for unpaid services incurred by the city for mowing, snow removal and fire calls. Minnesota Statue 429.101 set forth various types of City charges that can be assessed against property taxes pursuant to the special assessment process. The property owners were sent notice of the public hearing if they wished to contest the unpaid assessments or can pay before the statutory deadline of November 30 for certifying special assessments to the Lyon County Auditor Treasurer for taxes payable in 2024. Anderson mentioned that the property owners at 705 East Main Street and 214 Carrow Circle sent payment and when received they would have their assessment removed before they are certified as a special assessment for 2024. There were no members of the public or councilmembers who wished to comment during the public hearing.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to adopt Resolution 23-062 which was for Unpaid Services for Grass and Snow Removal, and Unpaid Fire Call Services. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

**Approval of the Consent Agenda**

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

Motion made by Councilmember Alcorn, Seconded by Councilmember Moua-Leske to approve the items on the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

- Introduction of Ordinance Section 18-2 Key Box
- Consider Approval of the Red Baron Arena & Expo and Lockwood Motors Sponsorship Agreement
- Consider Temporary Extension of Alcohol License Area for Brau Brothers Brewing Company
- Consider Approval for a Temporary On-Sale Liquor License for Marshall Area Chamber of Commerce
- Declare Speed Trailer for the Marshall Police Department as Surplus Property
- Revision of the EMERGENCY OPERATIONS PLAN (EOP), City of Marshall
- Consider Approval of the Bills/Project Payments

#### **Coalition of Greater MN Cities Legislative Update**

Legislative Lobbyist Marty Seifert presented an updated on the 2023 Legislative Session. Highlights of the presentation included:

- CGMC 2023 legislative priorities
- Local Government Aid increases
- Bonding bills
- Lead service line replacement

Administrator Hanson thanked Seifert for his efforts in getting the Aquatic Center special legislation moved through the appropriate channels to allow the City of Marshall to hold a special election on November 7<sup>th</sup> for a sales tax extension. Mayor Brynes and Councilmember Schafer also thanked Seifert for his work.

#### **Consider the Request for a Variance Adjustment Permit and a Conditional Use Permit for an Advertising Sign at 511 State Highway 23 South**

Ilya Gutman explained that the property owner at 511 State Highway 23 South applied for a Conditional Use Permit for an advertising sign at 511 State Highway 23 South. The sign would be a traditional panel sign, not a digital sign. The new sign will consist of four panels total, 30 feet wide each, with two panels stacked above each other and those pairs installed at about 20-degree angle to each other to face traffic on Highway 23 in both directions. The overall height of the sign was requested to be 30 feet. Each panel size is less than the maximum allowed length of 55 feet. There is another billboard already built further north along Highway 23, but the distance between the two signs will be more than 100 feet as required by Ordinance. However, the new sign is proposed to be installed less than 100 feet from the nearest residence district, which is also required by the Ordinance. Consequently, to proceed with a Conditional use permit, a variance permit must be obtained first.

Granting of a variance may be permitted only if the request meets the “practical difficulties” test, which required that proposed use is reasonable; the problem is caused by the conditions unique to this property and not created by the landowner; and that granting the variance will not change the character of the area. A condition to plant trees was added to mitigate the negative effect on the neighboring residential area.

Councilmember Schroeder said that the Planning Commission did not have concerns with the proposed development and that no neighbors were present at the public hearing. The owners of the digital sign on the adjacent property were present for the public hearing.

#### **Requirements for the *Variance Adjustment Permit*:**

1. That the regulations, standards, and requirements as set forth in the City Code and as pertains 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 Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to cure any such default.

3. That trees are planted between the sign and the adjoining residential district to fully block the view of the sign from residential area; such trees shall be 2-inch minimum caliper when planted and at least 30 feet tall when fully grown. Any tree that dies or is damaged must be replaced within a year.

Requirements for the *Conditional Use Permit*:

1. The sign must be installed as shown on attached sketch. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
2. This permit is for the sign structure described as follows:
  - a. Two double panels (not-digital) installed at an angle to each other (four sign panels total).
  - b. Each sign panel shall be no greater than 10 feet by 30 feet.
  - c. The overall height of the sign shall be no more than 30 feet. Prior to sign installation, a sign permit application must be applied and paid for. Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.
3. A state permit shall be obtained.
4. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner and all future sign and landowners are fully responsible for maintenance, together or separately.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve the Variance Adjustment Permit for an advertising sign at 511 State Highway 23 South to be located less than 100 feet from the adjoining residential district subject to the conditions discussed. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The **motion Carried. 5-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve the Condition Use Permit for an advertising sign at 511 State Highway 23 South subject to the conditions discussed. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The **motion Carried. 5-0.**

**Resolution Establishing an Absentee Ballot Board**

City Clerk Anderson said that under Minnesota Election Law Absentee voting for the Aquatic Center Special Election will begin on September 22 and end on November 6. Absentee voting for this election will take place at City Hall, 344 West Main Street, on the second floor at the City Clerk's Office. As part of the absentee process any municipality administering absentee ballots must establish a ballot board by ordinance or resolution under Minn Stat. 203B.121, Subd. 1. An absentee ballot board is a special board of election judges or election administrators that process and count returned absentee ballots. Per statute OACAVA, Uniform and Overseas Citizens Absentee Voting Act, ballots must be administered by the county auditor, who must also establish their own ballot board specific to the OACAVA process.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve Resolution 23-063 Establishing an Absentee Ballot Board. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

**Discuss and Consider City Ordinance 86-248 Outside Storage**

Jason Anderson gave background information on Ordinance 86-248 Outside Storage. Letters of non-compliance were sent at the beginning of 2022 to about a half dozen violators. Over the course of 2022 the original ordinance was loosened and was switched from a conditional use permit to an interim use permit process. Among those who received a letter of violation from the city, several chose to remove containers or move them to areas where they are permitted. Others have applied for an Interim Use Permit and were granted permission to keep containers with certain conditions. To date, those issued IUPs have not yet complied with the conditions of their permit. The conditions to be met are most typically fence installation to screen the shipping containers. City staff discussed the shipping container ordinance and

staff's direction regarding the ordinance with the Legislative and Ordinance Committee on August 8, 2023. The L&O Committee recommended to Council to offer support for the City's Ordinance regarding shipping containers and to recommend City staff to follow through with prior actions regarding shipping containers.

Mayor Byrnes commented that many of the ordinances for the City revolve around concerns that are brought up by citizens and then the city reacts to them. Councilmember Schafer added that container storage is a cheaper, effective option for businesses and that he doesn't want to see city staff spending a lot of time hunting down non-compliant units. Schafer would like to see containers at least conform to the main building in color and not look rusty. Councilmember Schroeder believed that the ordinance has come to a good middle ground point and likes how it is currently written. Attorney Whitmore cautioned that the city needs an enforceable ordinance that isn't arbitrary or capricious. Based on the discussion council recommended that Ordinance 86-248 Outside Storage be brought back to the Legislative and Ordinance Committee with revisions that containers be consistent with surrounding buildings or similar such language to allow a bit more flexibility without needing to screen with fencing.

**Commission/Board Liaison Reports**

Brynes	No report.
Schafer	Interviews for the MERIT Center Coordinator occurred and hopefully a offer will go out before the next council meeting.
Meister	Absent.
Schroeder	No report.
Alcorn	No report.
Moua-Leske	No report.
Lozinski	Absent.

**Councilmember Individual Items**

Councilmember Schafer praised the Sounds of Summer event and the ribbon cutting event for Terrace 1872.

Councilmember Schroeder wished that more citizens would visit Terrace 1872 now that the space is completed and looks amazing.

Mayor Byrnes commended the Sounds of Summer committee and mentioned that SMSU enrollment numbers were up. The U.S. Census Bureau indicated that the adjusted numbers from the Post Census Group Quarters Review appeal would be available on December 7<sup>th</sup>.

**City Administrator**

Hanson thanked Councilmember Schafer for helping drive the city parade entry during Sounds of Summer. The Aquatic Center will have a Community Walkthrough on September 7<sup>th</sup>. A final report from the University of Minnesota will be coming soon regarding who pays sales tax in Marshall but the initial draft shows 67% is paid by people who live outside Marshall. Hanson and the Mayor met with the Downtown Business Association with concerns about vandalism that kept reoccurring along Main Street.

**Director of Public Works/City Engineer**

Anderson gave project updates on the following: Channel Parkway, seal coating, Legion Field pond, and Third/Lyon Street. An active transportation grant of \$360,000 was awarded to the city to extend the bike trail and a couple of RRFB's to improve safety crossings. The grant does not require a local match.

**City Attorney**

No report.

**Information Only**

Mayor Brynes pointed out the Independence Park Grant Award letter of \$210,274 for the replacement of the main picnic shelter and improvements to the bathroom facilities. No other comments were had.

**Upcoming Meetings**

There were no questions on the Upcoming Meetings.

**Adjourn**

At 6:34 PM Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. The motion **Carried. 5-0.**

Attest:

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City Clerk

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Mayor