

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, March 22, 2022**

The regular meeting of the Common Council of the City of Marshall was held March 22, 2022, 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, Steve Meister, Russ Labat. Absent: John DeCramer and James Lozinski. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Scott VanDerMillen, Community Services Director; Lauren Deutz, Economic Development Director; Sheila Dubs, Human Resource Manager; Ilya Gutman, Assistant Zoning Administrator/ Plan Examiner, and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a general consensus to operate under the amended agenda.

Consider approval of the minutes from the regular meeting held on March 8, 2022.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the minutes from the regular meeting held on March 8, 2022 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Ordinance Amending Chapter 62 of the City Code establishing Sec. 62.11-Access Management (Driveway Ordinance) – Public Hearing and Adoption of Ordinance.

City staff is proposing to establish a set of driveway regulations that more explicitly describes the requirements and limitations for driveways in various land uses. The proposed ordinance would apply to new properties or applications for modifying existing driveways. Applications to replace driveways, as they are currently, would be exempt from the requirements in the ordinance.

The proposed ordinance describes the requirements for materials and geometrics (size, slope, etc.) for residential, commercial, and industrial-zoned properties. The ordinance also identifies an exemption process, should a property owner wish to install a driveway that does not conform to the requirements in the proposed ordinance.

Staff believes that the proposed ordinance would provide clear direction to property owners regarding driveway installations. Limiting driveway width and spacing between driveways can improve safety by helping to reduce vehicle/pedestrian interaction area and by reducing and limiting street access/conflict points, help ensure good gutter drainage, reduce unnecessary storm water runoff, help ensure compliance with vegetative cover ordinance requirements, and help maintain character of a neighborhood. Establishment of driveway regulations are typical for many other communities in Minnesota. Staff can review requirements of other communities as needed.

This item was presented to the Public Improvement/Transportation Committee at their meeting on January 25, 2022, with a recommendation from the Committee for approval of the driveway ordinance to the City Council.

This item was presented to the Legislative & Ordinance Committee at their meeting on March 1, 2022. At L&O Committee, Councilman Lozinski suggested that the City Council discuss allowing bituminous paving as an accepted driveway material in the City right of way. City staff prefers to require concrete in City right of way but can make this amendment if the Council desires. After discussion, motion passed with the recommendation from the Committee to Council to introduce the Ordinance Amending Chapter 62 of the City Code establishing Sec. 62-11 - Access Management (Driveway Ordinance) and call for public hearing to be held March 22, 2022.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Motion made by Councilmember Labat, Seconded by Councilmember Schafer that the Council adopt Ordinance No. 22-002, which is the Ordinance Amending Chapter 62 of the City Code establishing Sec. 62-11 - Access Management (Driveway Ordinance). Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Labat. Voting Nay: Councilmember Meister. The motion **Failed. 3-1**

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to reconsider the ordinance at the next regular council meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Approval of the Consent Agenda

Councilmember Labat requested that item number 7, Consider approval of amendments to the Personnel Policy Manual and item number 8, Consider Approval Resolution Authorizing Submission of DNR Outdoor Recreation Grant, be removed from the consent agenda for further discussion.

Motion made by Councilmember Meister, Seconded by Councilmember Labat to approve the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Approval of Sponsorship Renewals at the Red Baron Arena & Expo

Approval of the 2022-23 annual Refuse Haulers Licenses.

Approval of the Wastewater Treatment Facilities Improvement Project – Consider Payment of Invoice 0285412 to Bolton & Menk, Inc.

Approval of a Permit for Alcoholic Beverages At City-Owned Facilities

Approval of the bills/project payments

Consider approval of amendments to the Personnel Policy Manual

Councilmember Labat asked some clarifying questions on the amendments to the Personnel Policy Manual.

The Council Personnel Committee met on February 23, 2022, and unanimously recommended approval of the amendments.

Chapter 4 of the Personnel Policies deal with several topics related to the Classification and Compensation study report that the Council accepted at the February 22, 2022 meeting. Both technical and new language revisions are recommended.

4.1 Technical amendments are being recommended. The City now utilizes the Decision Band Method of job evaluation, the new language removes the former Hay pointing detail and inserts the new detail. Additionally, the word “salary” is amended to “compensation” to alleviate employee confusion related to pay on a salary or hourly basis.

4.2 All full-time employees who were grandfathered in on the fire department have now retired or resigned from the fire department; therefore, this sentence is no longer needed.

4.4 Technical amendments are being recommended. The word “salary” is amended throughout this section and replaced with more appropriate language.

4.5 Staff recommend new language that requires an extension of the probationary period when an employee has received approval for a leave of absence during the probationary period. Staff also recommend language that employees in their probationary periods do not have grievance rights over discipline or dismissal decisions (this language is already included in the union contracts). Staff also recommend new language, as recommended by the League of Minnesota Cities policy template, that provides that employees do not have a vested interest or property right to continued City employment following completion of the probationary period.

4.6 The first sentence states that employees are eligible for step increases upon receipt of a satisfactory performance evaluation. In cases of substandard performance, and depending on the performance issue to be resolved, the employee is typically placed on a performance improvement plan and given a designated amount of time to achieve a satisfactory performance level. The recommended language clarifies that employees are not eligible for a retroactive step increase in cases of substandard performance. If appropriate and approved by the Director and City Administrator, an employee may become eligible for a step increase upon achieving a satisfactory performance level.

4.7 Technical changes recommended. The amendments recommended do not reflect a process change.

Staff will continue to review the remaining chapters of the policy manual for legal compliance and other necessary technical changes. Future Personnel Committee meetings will be scheduled as these are completed and recommendations will be brought to the full Council for consideration.

If approved by the City Council, staff would proceed with updating the cover page (date of revision) and table of contents (date of revision).

Motion made by Councilmember Labat, Seconded by Councilmember Meister to approve the amendments to the Personnel Policy Manual. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Approval Resolution Authorizing Submission of DNR Outdoor Recreation Grant.

Councilmember Labat asked a clarifying question on the 50% of the project cost. It was further discussed that the match doesn't need to explicitly need to be a cash match but can be the value of labor and equipment.

On March 8, 2022, Council approved a proposal for the City to prepare and submit a Minnesota DNR Outdoor Recreation Grant. This grant would provide financial assistance to provide inclusive play components at Independence Park. The Resolution is required as part of the grant application. Project estimate is \$60,000. City match would be 50% of the project costs.

Motion made by Councilmember Labat, Seconded by Councilmember Schafer to approve Resolution Number 22-042, a resolution authorizing the submission of a DNR outdoor recreation grant. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Comprehensive Plan Update by SRF

SRF Consulting was hired in March of 2021 to complete the City's Comprehensive Plan update.

A 12-member community task force was created and staff from Economic Development and Community Planning are assisting in the process.

SRF Consulting has completed a review and analysis of the city's current plan and supporting documentation. The SRF team was also on site in September to complete a community tour and stakeholder interviews with city staff and partners.

SRF has also provided public participation opportunities with a community survey, focus groups, and open house. There was 600+ participants in the survey and five focus groups with 58 participants. The data collected from the public was used to shape the goal and focus areas for the plan.

Serving as the lead consultant on the project, Stephanie Falkers will provide a project update including an overview of key themes and next steps in the process.

Authorize Staff to Acquire Proposals for YMCA Financial Feasibility and Future Recreation Feasibility Study

The City of Marshall in January approved a resolution requesting sales tax authorization for an aquatic center and an indoor recreation facility. Since that time, current proposed legislation does not include an indoor recreation facility due the sentiment that additional information would be needed to garner legislature and public support.

Recently the city received a request from the Marshall Area YMCA to study financial viability and future recreation needs as a community and YMCA.

Many comparable communities have developed master park plans which includes analyzing future recreation needs as part of their plans. Further, in MN and nationwide, YMCAs have explored or have existing arrangements with cities. (Attached is a summary sheet of a few arrangements—but not inclusive of existing arrangements in the State of MN).

Eric Eben, Treasurer of the Marshall Area YMCA provided a financial analysis over the last three full years of the Y's operations.

Eben commented on the YMCA's operational losses from COVID-19 over the last three years and into 2022. A significant membership drop is tied to COVID-19 and has reduced the operational budget. Eben commented that the facility is over 18 years old with maintenance needs that are not able to be fulfilled with the current operations budget, which is the main reason the YMCA is looking for a partnership opportunity with the City of Marshall.

There was further discussion by the Council and YMCA representatives.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to authorize Staff to Acquire Proposals for YMCA Financial Feasibility and Future Recreation Feasibility Study. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consideration of renewal agreement options with J&M Displays, Inc., for 4th of July fireworks.

The City of Marshall has a fully executed agreement with J&M Displays, Inc., (previously Pyrotechnic Display, Inc.) for fireworks display at Independence Park on July 4, 2022. (Current agreement included).

J&M Displays, Inc., has informed the City that to maintain financial and operational integrity, their company will be implementing a 20% price increase, effective January 1st, 2022. (Notification letter included). J&M will honor the 2019 agreed upon fee (\$11,800.00) for 2022.

The City has traditionally approved three-year agreements for fireworks to secure the most cost-effective pricing from a reputable vendor. J&M Displays, Inc., is offering the City two options as planning begins for 2023 and beyond.

A one-year Fireworks Display Agreement (FDA) for 2023 can be secured for \$14,160.00 OR a Multiple Year Agreement (MYA) for 2023, 2024 and 2025 can be secured for a yet-to-be determined amount – both options with J&M Displays, Inc.

An additional proposal was solicited from Hollywood Pyrotechnics, Inc., (Eagan, Minnesota) for 2023 at a rate of \$1,000 per minute of display. This proposal is presented at a \$15,000 minimum.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve a one-year Fireworks Display Agreement for 2023 with J&M Displays, Inc. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Project AP-004: Airport Zoning Update – Consider Resolution Authorizing Execution of Mn/DOT Grant Agreement No. 1049819 (S.P. A4201-104).

The City received notification from Mn/DOT-Aeronautics that MML has been identified as a recipient of a State grant (State participation rate of 70% / 30% local) for the Airport Zoning Ordinance Update.

At their meeting on January 11, 2022, the City Council authorized entering into a professional services agreement with TKDA for update to the Airport Zoning Ordinance in the amount of \$49,500.

With authorization of the attached MnDOT Grant Agreement No. 1049819, City and TKDA staff may begin work on updating our airport zoning ordinance. Participation rates of 70% State (\$36,050) / 30% local (\$15,450).

Motion made by Councilmember Labat, Seconded by Councilmember Schafer that the Council adopt RESOLUTION NUMBER 22-043, which is the Resolution of Authorization to Execute Mn/DOT Grant Agreement No. 1049819 (S.P. A4201-104) for Airport Improvement Excluding Land Acquisition for the Airport Zoning Ordinance Update. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Resolution Authorizing Execution of Mn/DOT-Aeronautics Grant Agreement No. 1049651 (S.P. A4201-C3) for Federal Airport Expenses Reimbursement under the American Rescue Plan Act (ARPA).

The City of Marshall has received an Airport Rescue Grant (ARG) under the American Rescue Plan Act (ARPA). The grant award of \$59,000 was announced in June 2021, but City staff has been waiting for MnDOT to distribute agency agreements to access the funds. The purpose of the grant is to reimburse federally eligible airport expenses. The City will be reimbursed 100% of federally eligible expenses not reimbursed by any other source. The FAA will be conducting oversight and monitoring the ARG funding.

In order to receive reimbursements under the ARPA Program, MnDOT and the City need to execute the attached Agency Agreement. The Agency Agreement augments the FAA grant and allows the Office of Aeronautics to make payments under the FAA grant per the channeling arrangement.

The funds may be used by the airport for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments.

The federal ARPA funds are not being amended or tied to any other state or federal programs and as a result, MnDOT's role in the ARPA program will be very limited. Any remaining CARES and CRRSA funds should be utilized first. MnDOT will not be making any eligibility determinations.

The City will receive \$59,000 in grant funds for reimbursement of federally eligible airport expenses.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council adopt RESOLUTION NUMBER 22-22-044, which provides for the Resolution Authorizing Execution of MnDOT Aeronautics Grant Agreement No. 1049651 for Federal Airport Expenses Reimbursement under the American Rescue Plan Act (ARPA).

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Resolution Providing for the Issuance and Sale of the City's General Obligation Bonds, Series 2022A, and General Obligation Refunding Bonds, Series 2022B

The issuance of the City's General Obligation Bonds, Series 2021A in the principal aggregate amount of \$2,920,000 currently includes the following.

- **Improvement Portion: \$1,940,000**
 - Halbur Road
 - S 1st St/Greeley St/Williams St

- **Airport Portion: \$70,000**
 - Infrastructure improvements; available state grants in addition of \$164,500
- **Abatement Portion: \$575,000**
 - Rose and Addison parking lots
- **Street Reconstruction Portion: \$335,000**
 - W Lyon

The issuance of the City's General Obligation Refunding Bonds, Series 2022B in the principal aggregate amount of \$1,370,000 to refund 2023 to 2027 maturities on the 2011A and 2011B bonds to provide interest cost savings.

The resolution includes language to establish a pricing committee, who can then approve a winning bid subject to parameters provided (maximum true interest cost, minimum net savings) if interest rate increases become an issue at/near the award date.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer Approve Resolution Providing for the Issuance and Sale of the City's General Obligation Bonds, Series 2022A & General Obligation Refunding Bonds, Series 2022B. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Request for Interim Use Permit / storage containers in a B-3 General Business District, Shri Gayatri LLC 1511 East College Drive.

This is the request by the Owner for an Interim Use Permit for a shipping container placement in a B-3 General business district. Last spring the City has amended its Ordinance governing placement of shipping containers and semi-trailers on properties within the City. The revised Ordinance now allows placing a limited number of containers in a general business district by an interim use permit. The above-listed conditions include a reference (condition 4) to a particular Ordinance section that itemizes specific conditions for container placement. This section is attached to make sure that only its current version is applicable and compliance with future amendments, if any, to this section will not be required.

Interim use permit regulations are found in Sec. 86-46 and the standard for approval are in Sec. 86-49.

At the Planning Commission meeting on March 9, 2022, after a public hearing, a motion was made by Muchlinski, seconded by Deutz, to recommend approval as recommended by city staff to City Council. ALL VOTED IN FAVOR

Motion made by Councilmember Schafer, Seconded by Councilmember Labat to approve the request by Shri Gayatri LLC for an Interim Use Permit to have a storage container on the premises at 1511 East College Drive with the following conditions:

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 Conditional Use 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 amount of time in which to repair such default.
3. That this permit expires when the property changes ownership.

4. That this container meets all conditions of Sec. 86-248(f) dated 04-27-2021 (as attached) by June 30, 2022, including a fence

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Request for Conditional Use Permit / mini storage in a B-3 General Business District by Menard, Inc. at 1211 Clarice Avenue.

This is a request of Menard, Inc. to have a mini storage in a B-3 General Business District at 1211 Clarice Avenue, which requires a Conditional Use Permit. Conditions attached will minimize an impact on surrounding properties.

Requirements for B-3 District can be found in Sec. 86-104.

The Conditional Use Permit regulations are found in Sec. 86-46 and the Standards for approval are found in Sec. 86-49.

At the Planning Commission meeting on March 9, 2022, after a public hearing, a motion was made by Muchlinski, seconded by Deutz, to recommend approval as recommended by city staff to City Council. ALL VOTED IN FAVOR.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve a Conditional Use Permit request by Menard, Inc. to have a mini storage in a B-3 General Business District at 1211 Clarice Avenue with the following conditions:

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 Conditional Use Permit in the event that 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.
4. All driveways, approaches, any other non-landscaped areas are paved.
5. The perimeter of the property is separated from surrounding areas either by storage units or a minimum 6-foot-high opaque fence.
6. The landscape ordinance provisions for live vegetation and trees are complied with, both at the time of construction for area allocated for mini-storage, and for future subdivided parcel as determined at that time.
7. The number of units is as follows: 558 enclosed units and 78 RV parking stalls.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Levee and Flood Control Property Signage Exhibits and Quote.

Bueltel-Moseng is providing surveying services for determination and location of select property points of the Flood Control Project, both levee and diversion channel property and easements. The survey includes setting property pins (where applicable) and setting stakes at requested locations along the Flood Control Project.

The flood control project is very important to the City of Marshall, and it is imperative that all adjacent property owners understand where their properties end. According to the US Army Corps of Engineers national levee database, roughly \$1.26B dollars of property value is protected by our flood control project, including at least 2,101 buildings. There are numerous locations along the flood control project properties where adjacent property owners have planted trees, placed sheds, planted gardens, and parked trailers on city property. Any installation on City property shall require City permission.

Staff is proposing to install posts at selected points to indicate property boundaries. The signs would be installed on U-channel posts, approximately four feet off the ground. Signs are proposed to be 4" high by 6" wide with a green background. Posts and signs would be installed by Street Department staff. For visualization, templates of the sign are included in the Council packet.

At locations where the City has easement, as opposed to fee estate, staff would not recommend posts but rather annual notifications to those property owners about the presence of the Flood Control easement.

The City requested layouts and quotes from two companies. The low quote was provided from M-R Sign Co., Inc. of Fergus Falls, Minnesota, in the amount of \$1,931.80.

This item will be presented to the Public Improvement/Transportation Committee at their meeting on March 22, 2022.

The quote as described for signs and posts is for the amount of \$1,931.80. The cost would be funded through the Surface Water Management Utility.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the Council authorize the purchase of the signs and posts associated with the Flood Control Project from M-R Sign Co., Inc. of Fergus Falls, Minnesota, in the amount of \$1,931.80. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Consider Resolution of Support for a RAISE Grant Application for the MnDOT 2025 College Drive Reconstruction Project.

MnDOT District 8 is preparing an application for a federal RAISE grant (Rebuilding American Infrastructure with Sustainability and Equity) for the 2025 College Drive Reconstruction project through Marshall. To help ensure a complete grant application and identify local support, MnDOT D8 has requested that the City of Marshall adopt a resolution of support for the 2025 project. The RAISE grant application deadline is April 14, 2022.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the Council adoption Resolution 22-046, which is a Resolution of Support for a RAISE Grant Application for the MnDOT 2025 College Drive Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Commission/Board Liaison Reports

Byrnes Planning Commission acted on the two permit items brought before the council this evening. The Commission also received a Comprehensive Plan Update.

Schafer Airport Commission acted on the action items brought before the council this evening.

MERIT Center Commission, Member Schafer provided a summary of events held at the MERIT Center.

Meister No Report

Labat Library Board discussed their policy regarding the contract agreement with Lyon County. Labat commented on the increased visits to the Library from 2021 to 2022.

Convention and Visitor's Bureau discussed reinvestment options back into parks, restaurants, and hotels. The Marshall Home Show and Youth Expo are scheduled upcoming events being held at the Red Baron Arena.

Councilmember Individual Items

Councilmember Schafer thanked the Public Works Department resolving fencing issues surrounding a couple of the bridge crossings.

Councilmember Meister discussed sidewalks and the state of disrepair for some of the sidewalks. Meister commented that the City should review taking over the maintenance of sidewalks.

Mayor Byrnes discussed the Southwest Minnesota Council of Mayors and one their proposals that is being advanced in the Minnesota Legislator. The program is for tuition forgiveness for technical education for targeted occupations in southwest Minnesota.

City Administrator

City Administrator Sharon Hanson commented that the Mayor presented to the Minnesota House Property Tax Division on sales tax. Administrator Hanson also discussed calling a work session with a facilitator to update the strategic plan and reviewing the comprehensive plan. Hanson commented that Labor negotiations are scheduled for March 29, and she will have a conversation with the Lyon County Administrator.

Director of Public Works

Director of Public Works commented on pre-construction meetings that will be held and two meeting scheduled with landlords to discuss the proposed rental ordinance. Director Anderson commented that both street sweepers have been out cleaning over the last few days.

City Attorney

City Attorney Dennis Simpson provided an update on the Block 11 project and that the purchase agreement has been signed by the developer. Additionally, another piece of city property has been sold for equipment storage.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 7:23 P.M., Motion made by Councilmember Meister, Seconded by Councilmember Labat to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Carried. 4-0**

Mayor

Attest:

City Clerk