

CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, November 12, 2019

The regular meeting of the Common Council of the City of Marshall was held November 12, 2019 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga 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, Steven Meister, Glenn Bayerkohler, John DeCramer, Russ Labat and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glen Olson, Director of Public Works/ City Engineer; Jason Anderson, Assistant City Engineer/ Zoning Administrator; Annette Storm, Director of Administrative Services; Jim Marshall Director of Public Safety; Sheila Dubs Human Resource Manager and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

Consider approval of the minutes of the regular meeting held on October 22, 2019.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the minutes of the regular meeting held on October 22, 2019 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 Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried.**
7-0

Consider Award of Bids for Municipal Building Renovation Project (CH1).

Three bids were received for the Municipal Building Renovation Project (CH1) on November 7, 2019.

The apparent low bid was from Brennan Companies of Mankato, Minnesota, with a base bid in the amount of \$4,890,000 proposed to be complete in 400 calendar days from issuance of Notice to Proceed. There are six alternate bids that must be reviewed to determine which alternates will be included in the bid award. A recommendation of award is anticipated to be received from the City's consultant, Engan Associates, prior to the City Council meeting on Tuesday, November 12, 2019. The project will be funded from Account #494-41136-5520 (Project CH1).

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer that the Council award the Municipal Building Renovation Project to Brennan Companies of Mankato, Minnesota in an amount to be recommended by the City's consultant, Engan Associates, per base bid and determination of alternates to be included in the bid award.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler, Councilmember Labat. The motion **Passed.**
5-2

Consider Award of Bids for Removal of Hazardous Materials from the Municipal Building (City Hall).

The City of Marshall received bids for the above-referenced project on October 29, 2019. The apparent low bid was from Advanced Health, Safety and Security in the amount of \$67,284.34.

The City has received bids for the Municipal Building Renovation Project on November 7, 2019. The award of this project will be contingent upon award of bids of the Municipal Building Renovation Project. The project will be funded from Account #494-41136-5500 (CH1).

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer that the Council award the project to Advanced Health, Safety and Security in the amount of \$67,284.34, contingent upon award of bids of the Municipal Building Renovation Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

Approval of the Consent Agenda

Councilmember Lozinski requested that item number 12, Consider Resolution Transfer and Closure of Small Cities Fund 223, be removed 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 Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Approval of Resolution Number 4672, Second Series, A Rural Service District Resolution.

Approval a Special Assessment Deferral.

Authorization to declare surplus property for the Marshall Police Department.

Approval of the Wastewater Treatment Facilities Improvement Project – 1) Consider Application for Payment No. 4 to Magney Construction, Inc.

Approval of the Wastewater Treatment Facilities Improvement Project – 2) Consider Payment of Invoice 0241268 to Bolton & Menk, Inc.

Approval of the Wastewater Treatment Facilities Improvement Project – 3) Consider Payment of Invoice 1301833 to American Engineering Testing, Inc.

Approval of the MPCA Air Monitoring Equipment Site Lease PC0054 at Airport.

Approval of LG220 Application for Exempt Permit for Holy Redeemer Church for January 31, 2020.

Approval of the bills/project payments.

Consider Resolution Number 4673, Second Series, a Resolution Authorizing the Transfer and Closure of Small Cities Fund 223.

Fund 223 and Fund 220 are both local small cities fund. Fund cleanup continues and having two funds for the same purpose are unnecessary. Finance Staff are recommending closing fund 223 into fund 220. Councilmember Lozinski pulled the item to ask a clarifying question.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to Approve Resolution Number 4673, Second Series, a Resolution Authorizing the Transfer and Closure of Small Cities Fund 223. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Approval for Auditing Service Contract for 2019-2022

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to remove the item from the table.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Since this item was tabled at the October 8th Council Meeting, staff have been interviewing the auditing firms. This item was to be discussed at the October 22nd Council Meeting but do to scheduling conflict for one firm were unable to discuss at that meeting.

Staff are recommending Abdo Eick and Meyers (AEM) for auditing services for 2019-2022. Staff feel that the historic knowledge that AEM offers plays a key role for improving the finance function for the City. With key finance staff relatively new, AEM has only audited the finance function for 2 years since the staff has changed and so has the processes. Staff feel changing audit firms will put the City back 2 years of progress of cleaning up funds and improving efficiency. It takes 3-4 years to become efficient in the auditing function for both staff and auditors. It is recommended to continue professional services with AEM to maximize services since the current team dynamics have only been working together for 3 years.

The Ways and Means Committee met on November 6th, 2019 to discuss auditing firms interview results and overall selection process. The recommendation from the Committee is to accept BerganKDV, pending contract review, for the auditing years 2019-2022.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve auditing services with BerganKDV for years 2019-2022. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Lease Agreement-MNSCU and City of Marshall.

City Administrator Sharon Hanson provided the background information on the agenda item. The lease agreement has been reviewed by City and SMSU Staff, the City Attorney and MNSCU. The lease agreement will arrange for temporary office space while City Hall is renovated.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to accept the lease agreement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. Voting Abstaining: Councilmember

Bayerkohler. The motion **Passed. 5-1-1**

Agreements Regarding Property Located at 100 and 200 8th Street South

In 2015, the City and Knochenmus Enterprises (Knochenmus) entered into a Contract for Deed whereby the City purchased the property located at 110 8th Street South and 200 8th Street South in the City of Marshall and made an initial payment for the property. Since that time there have been three extensions to the 2015 Contract for Deed: 2016, 2017, 2018 as a result of continued use and interest in the property by Knochenmus. In 2018, the City Council directed staff to discuss with Knochenmus ways to no longer further extend the Contract for Deed.

In 2019, the Mayor and Administrator met with Knochenmus to discuss short- and long-term interest in the property. The City acknowledged interest in the building short-term and Knochenmus acknowledged both short-term and long-term interest in the building. It was acknowledged that the value of the City's past and future short-term interest has a value that equals the initial Contract for Deed payment.

As a result, both the City and Knochenmus are proposing to terminate the Contract for Deed and enter into a Lease agreement. The City shall not be required to pay Knochenmus any consideration for its use of 12,000 square feet of the building on the Property for the previous 48 months. The City shall be allowed to occupy 12,000 square feet of the building on the Property for a period of up to an additional 36 months.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister Approve Contract for Deed Termination Agreement and Lease Agreement Regarding Property Located at 100 and 200 8th St. South. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Adopt Ordinance for map amendment (rezone) by Four Seasons LLC at 800 West College Drive

This is a request by Four Seasons, LLC, Marshall, MN to rezone 800 West College Drive from I-2 General Industrial District to B-3 General Business District. The owner wants to lease the building to UCAP for a daycare use until the new Headstart daycare facility is built. The area where this building is located is currently zoned I-2 General Industrial District, where daycare is not a permitted use. The City's comprehensive plan shows a strip north of West College Drive between Legion Field Road and the BNSF railroad tracks to the west as commercial use. In light of the comprehensive plan apparent intent, it seems reasonable to rezone this property to B-3 General Business District, where daycare is a permitted use.

An area to the east of this property is already zoned B-3 General Business District, so staff proposes to rezone a portion of 750 West College Drive property located between the existing B-3 General Business District area and the property in question to B-3 General Business District as well to provide continuity of zoning district and avoid spot zoning. The State Lottery office is occupying the building located in the area staff proposes to rezone, so the use will go from nonconforming to permitted. Rezoning procedures are described in Section 86-30 Amendments.

At the October 9, 2019, Planning Commission meeting, a public hearing was held, and a motion was made by Schroeder, second by Fox to recommend approval to City Council to rezone the property as recommended by staff. All voted in favor. The Ordinance Amendment to rezone 800 West College Drive and 750 West College Drive from I-2 General Industrial District to B-3 General Business District was introduced at the October 22, 2019, City Council meeting.

Motion made by Councilmember Meister, Seconded by Councilmember Labat that the Council adopt Ordinance Number 745, Second Series to rezone 800 West College Drive and 750 West College Drive from I-2 General Industrial District to B-3 General Business District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Introduction of Ordinance amendment Section 86-1 Definitions and Call for Public Hearing

ZEF Energy, a company dedicated to building charging stations for electric vehicles, is planning on building one in Marshall. Charging stations are becoming more and more common and it looks like for many of them the best location would be between a street and parking lot, which means that they most likely will be located in the required front yard. The Ordinance prohibits locating accessory equipment in the required front yard, so in order to allow this arrangement, charging stations should be excluded from the accessory equipment definition. To prevent excessive use, the definition will limit exclusion to just two stations. Also, several Use definitions are updated and/or added to streamline the Zoning compliance review. New definitions will define percentage of the building uses to qualify for being considered as permitted, accessory, or conditional uses for placement in zoning districts.

The charging stations are planned to be built in the near future, so this Ordinance review process is being expedited. This Ordinance will be introduced to the Planning Commission on Wednesday, November 13, 2019. This will allow for a public hearing at the November 26, 2019, Council meeting.

At the meeting on November 6, 2019, Legislative and Ordinance Committee voted to recommend to council the approval of revisions amending Section 86-1 Definitions as recommended by staff.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski that the Council introduce the Ordinance amendment to Section 86-1 Definitions and call for Public Hearing to be held on November 26, 2019. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Project Z47: Commerce Industrial Park/Michigan Road Improvement Project - Consider Change Order No. 4 (Final) and Acknowledgement of Final Pay Request No. 15.

The items on Change Order No. 4 (Final Reconciling Change Order) are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Change Order No. 2 (Final) results in a decrease in the amount of \$43,401.98.

The original contract amount was \$4,004,847.25. The final contract amount is \$3,998,185.12, resulting in a total net contract decrease of \$6,662.13.

The final payment in the amount of \$41,716.93, including the final change order and release of retainage, will be paid from Account #462-60211-5570 (2017 Public Improvements-Streets- Infrastructure).

Motion made by Councilmember Bayerkohler, Seconded by Councilmember Meister that Council approve Change Order No. 4 (Final) with Midwest Contracting, LLC of Marshall, Minnesota, resulting in a contract

decrease in the amount of \$43,401.98 and acknowledge Final Pay Request (No. 15) in the amount of \$41,706.93 for the above-referenced project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider two LG220 Applications for Exempt Permits for Southwest Minnesota State University Foundation.

These LG220 applications of Exempt Permits are for Southwest Minnesota State University Foundation to hold a raffle on January 31 and February 15, 2020 at Southwest Minnesota State University, 1501 State St., Marshall, Minnesota

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to Southwest Minnesota State University Foundation to hold a raffle on January 31 and February 15, 2020 at Southwest Minnesota State University, 1501 State St., Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30-day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Abstaining: Councilmember Bayerkohler. The motion **Passed. 6-0-1**

Commission/Board Liaison Reports

Byrnes Fire Relief Association met, and the fund is performing well.

Schafer No Report

Meister No Report

Bayerkohler No Report

DeCramer No Report

Labat Convention and Visitors Bureau met and reviewed a CVB app.

Lozinski No Report

Councilmember Individual Items

Councilmember Lozinski commented on the well-attended ALICE Training conducted by the Marshall Police Department.

Councilmember DeCramer asked for future discussion on the replacement of the artwork on the back of the Varsity Pub and Extra Innings.

Councilmember Meister met with Southwest Health and Human Services on vaping and is advocating for the Legislative and Ordinance Committee to review a tobacco 21 ordinance.

Mayor Byrnes commented on the Census presentation on the 2020 Census. The Minnesota Flood Plain Managers will be meeting in Marshall to discuss flooding in southwest Minnesota.

City Administrator

No Report

Director of Public Works

Director of Public Works/ City Engineer Glenn Olson provided an update on Block 11.

City Attorney

City Attorney Dennis Simpson provided an update on several items; Helena Chemical property, MMU Charging Station locations, Legislative and Ordinance Committee, Planning Commission, Block 11 and Unique Opportunities.

Administrative Reports

There were no questions on the administrative brief.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn Meeting

At 7:11 P.M, Motion made by Councilmember Labat, Seconded by Councilmember Lozinski to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Mayor

Attest:

City Clerk