

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, April 27, 2021**

The regular meeting of the Common Council of the City of Marshall was held April 27, 2021, at the Minnesota Emergency Response and Industrial Training (MERIT) Center, 1001 West Erie Road. 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 (6:34 P.M.) , Don Edblom, John DeCramer, Russ Labat and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Jason Anderson, Director of Public Works/ City Engineer; Annette Storm, Director of Administrative Services; Director; Scott VanDerMillen, Director of Community Services; David Schelkoph, Marshall Municipal Utilities General Manager; Preston Stensrud, Parks Superintendent; Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator; Lauren Deutz, Economic Development Director 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 April 13, 2021.**

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the minutes of the regular meeting held on April 13, 2021 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Consider Approval to Move Dwelling to Residential District at 416 Brussels Court**

The house to be moved to 416 Brussels Court is currently located just outside of town. It is a one-story ranch type house over a walk out basement, approximately 1,600 S.F. in footprint area, built in early 1970's. This house was inspected by Kurtis VanKeulen, Building Inspector, and found to be in good condition suitable for moving. The plan is to set this house on a newly built basement at a new location and to add a two-car garage; at that time, the entire house will be brought up to the new Building Code. The site at Brussels Court seems to be adequate.

The residential area where this house will be moved in has a covenant agreement, but this house seems to be generally in compliance with it. There are no other houses in the immediate vicinity of the proposed relocation lot, and just a few dwellings in that general area, all built within the last 15 years. They are ranch and split types and mostly have slightly smaller footprints (without garages). According to the City Ordinance, the aesthetics, i.e., how the house fits into the locale to which it is being moved, is the main concern for the Council and a deciding factor for approval. The approval should be granted in case it is determined that the house does fit into the area. Since the issue for the Council is about appearance, staff does not render an opinion.

Ordinance Sections 18-56 through 18-62 outline moving-in-town procedures.

At the April 13, 2021, meeting, the City Council called for a Public Hearing to be held on April 27, 2021, regarding this application.

Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator provided the background information on the agenda item.

Councilmember DeCramer commented that this request came before the EDA regarding the lot the house is being placed on.

Councilmember Lozinski asked if the house would have a new roof, siding, windows to fit into the neighborhood. It was confirmed by the applicant that those items will happen.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the council approve the move of a dwelling to residential district at 416 Brussels Ct. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Public Hearing and Adoption of Ordinance amendments related to placement shipping containers within the City and other minor miscellaneous Ordinance revisions.**

Last month, the City received an application for a variance to install a shipping container for the use as a permanent storage. The Ordinance prohibits using shipping containers as accessory buildings (Sec. 86-163 (10) or permanent storages (Sec. 86-248 (f) in Business and Residential zoning districts but permits them in Industrial districts. The State Statutes and the City Ordinance require the presence of Statute defined “practical difficulties” for the variance to be granted. These practical difficulties were absent in this case and the Council denied the request.

Provisions prohibiting shipping containers was added to the City Ordinance in 2013 as a part of multiple revisions to the Performance Standards. This provision was triggered in part at that time by a bright green shipping container installed at Sara Circle next to the house and ensuing complaint. It was determined that shipping containers do not meet building codes and do not fit into the typical city environment, which may lead to a reduction in surrounding properties’ values. Provisions prohibiting shipping containers were not controversial at that time and it was hardly discussed at the meetings, even though the changes went through the Planning Commission, Legislative and Ordinance Committee, and the City Council, some of them several times.

In light of the latest request for a variance to install a shipping container as a permanent storage, the Council requested City staff do some research. It was brought up that there are many shipping containers placed around the City for storage use with no granted variances or even variance requests. After thorough review, staff have determined that the majority of the containers are located at Wal-Mart and at Action Sports site at Canoga Park Drive. Based on conversations with the Wal-Mart manager, most of their containers are temporary storage used during their recent construction project and will be removed shortly; this use is permitted by the Ordinance. We received complaints about the containers on Canoga Park Drive in the summer of 2020 and the owner is planning to remove them shortly. This leaves just a few containers scatters around town that are installed in violation of the current Ordinance.

In researching other cities, it was determined that most do not have any regulations of shipping containers, which doesn’t mean they do not contemplate having some. Those which do have regulations, prohibit them in all residential areas but allow in some shape or form in commercial areas, mostly by a conditional use permit.

At the Legislation and Ordinance Committee meeting on March 1, 2021, staff presented some information from its research, such as the history and extent of the problem, approach that is used in other cities, and possible solutions, which were discussed at length. The Committee made some recommendations and asked staff to revise relevant Ordinances sections. The proposed changes as presented will allow installing a single shipping container in a B-3 General Business district with a conditional use permit. Such containers will still be prohibited in residential districts and other business districts but will remain permitted in industrial districts. Proposed standard conditions limit placement location within a site, specify screening requirements, and regulate exterior look of the containers; additional conditions may always be added as well. Adopting this Ordinance change will still leave some existing containers in the city not in compliance. At the last City Council meeting, a discussion about screening requirements for containers took place. The proposed Ordinance requires that containers are located in such a manner that they are not visible from public streets, public parks, and residential districts, i.e., areas on which they may have the greatest negative effect. The Ordinance gives an applicant significant flexibility in complying with this requirement, as the desired result may be achieved by locating containers behind existing objects, such as buildings or other barriers, including natural ones, placing them farther than 500 feet from those areas, or building a new screen, such as a living fence. Installed containers must still be in good shape because they may be visible from adjacent business district lots.

In addition to two sections revised in conjunction with the shipping containers, staff is presenting minor changes to three other Ordinance sections, which were made in staff's continued efforts to improve the City Ordinance by making it more straightforward and less subject to interpretation and reducing the number of situations which require variances wherever possible.

At its meeting on March 18, 2021, Legislative and Ordinance Committee voted to recommend an approval of proposed ordinance amendments to the city council as recommend by staff. At the March 24, 2021, special Planning Commission meeting, Muchlinski made a motion, seconded by Lee to recommend an approval of proposed ordinance amendments to the city council as recommend by staff. All voted in favor of the motion. The Ordinance Amendments related to placement shipping containers within the City and other minor miscellaneous Ordinance revisions was introduced at the April 13, 2021, City Council meeting.

Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator provided the background information on the agenda item.

Councilmember Lozinski ask if a conditional use permit is appropriate for this ordinance change and suggested an interim use permit be used instead.

There was continued discussion by Council and staff on using an interim use permit vs. a conditional use permit.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember DeCramer, Seconded by Councilmember Edblom that the Council adopt Ordinance No. 21-002, Amending Section 86-248 Outside storage to allow shipping containers' use as a storage as a conditional use permit in a B-3 general business district and also multiple minor revisions to

Sections 86-161 Height modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86- 164 Accessory equipment. The motion **Failed. 3-3**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council adopt Ordinance No. 21-002, Amending Section 86-248 Outside storage to allow shipping containers' use as a storage as a conditional use permit in a B-3 general business district with four additional modifications.

1. The requirement to screen the shipping container language to be replaced with "may"
2. That shipping container square footage shall be limited to 340 square feet
3. That shipping containers are painted & maintained with reasonable color.
4. That shipping containers require property owners to apply for an interim use permit for the use of a shipping container on their property. The interim use permit will expire with the sale of the property.

In addition to multiple minor revisions to Sections 86-161 Height modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86- 164 Accessory equipment. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski, Voting Nay: Councilmember Labat. The motion **Passed. 5-1**

**905 Elizabeth St. – 1) Public Hearing regarding a home property tax abatement request 2) Consideration of a resolution approving home property tax abatement.**

On April 13, 2021 a public hearing was called for and to be held on April 27, 2021 regarding a home property tax abatement request. Per M.S 469.1813 sub 5 The governing body of the political subdivision may approve an abatement under sections 469.1812 to 469.1815 only after holding a public hearing on the abatement. The property is located at 905 Elizabeth St. with an estimated market value of \$319,200 with the difference of improvement being \$256,300.

Motion made by Councilmember Labat, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Labat, Seconded by Councilmember DeCramer to approve the resolution approving home property tax abatement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Rehkamp-Horvath Funeral Home: 1) Public Hearing regarding a business tax abatement request. 2) Consideration of a resolution approving business tax abatement.**

On April 13, 2021 a public hearing was called for and to be held on April 27, 2021 regarding a home property tax abatement request. Per M.S 469.1813 sub 5 The governing body of the political subdivision may approve an abatement under sections 469.1812 to 469.1815 only after holding a public hearing on the abatement. The property is located at 404 West Lyon St.

Director of Economic Development Lauren Deutz provided the background information on the agenda item.

Councilmember Labat asked a clarifying question regarding when the abatement would be reimbursed. The abatement would begin to take effect in 2023.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer,

Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Schafer, Seconded by Councilmember Labat to approve the resolution approving the business tax abatement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Consider Approval of the Consent Agenda**

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Approval for a Transient Merchant License for TNT Fireworks.

Call for a Public Hearing Regarding Proposed Property Tax Abatement at 1107 Slate St.

Approval of the 2021-22 Township Fire Contracts.

Approval of Payment to Fran’s Communication for the low voltage wire work at City Hall

Approval of the Wastewater Treatment Facilities Improvement Project – Consider Payment of Invoice 0266366 to Bolton & Menk, Inc.

Approval of a Maintenance Agreement with Neo Electrical Solutions for MALSR at Airport.

Approval of the bills/project payments

**Consider approval of Recommendation for Marshall Aquatic Center Design, Architecture and Engineering Services.**

On January 26, 2021 Council approved a Request for Proposal (RFP) process to provide Design, Architectural and Engineering services for the Marshall Aquatic Center. The RFP was issued on January 29, 2021 and the deadline for submissions was March 4, 2021. A total of thirteen (13) proposals were received.

On February 9, 2021 Council approved the establishment of a Marshall Aquatic Center (MAC) RFP Selection and Construction Committee. A 10-member committee began reviewing the thirteen proposals in mid-March. Councilmen Lozinski and Meister were a part of this committee and may be able to provide input on the review process.

At this time, only the names of the responders are considered public data; all other data in the proposals received by the City are classified as private or non-public data until the City has completed negotiations with the selected vendor. (Reference MN Statute 13.591 subd. 3(b)). Proposals were received from:

- |  |                                  |
|--|----------------------------------|
| 1) 292 Design Group                    | 8) Shelter Architecture LLC      |
| 2) ADCI Professional Corporation, S.C. | 9) Short Elliott Hendrickson     |
| 3) Brunton Architects & Engineers      | 10) Stockwell Engineers, Inc.    |
| 4) Burbach Aquatics, Inc.              | 11) Waters Edge Aquatic Design   |
| 5) Collaborative DesignGroup, Inc.     | 12) Widseth                      |
| 6) Hay}Dobbs                           | 13) Williams Architects/Aquatics |
| 7) ICON Architectural Group            |                                  |

Committee Recommendation: On 04/20/2021, the MAC RFP Selection Committee finalized review of proposals, reference checks and site visits. recommended proceeding with Stockwell Engineers, Inc. to provide Design, Architectural & Engineering Services for the Marshall Aquatic Center.

Jon Brown, Company President and David Locke, Landscape Architect/Partner from Stockwell Engineers, Inc., will be available to make a brief presentation to Council and respond to questions. Scott VanDerMillen, Director of Community Services, will present the item and Preston Stensrud, Parks Superintendent will be available for discussion related to the review process. Staff welcomes any question(s) or discussion in advance of the Tuesday meeting.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski Pending City Attorney review of Agreement for Professional Services, approve the proposal submitted from Stockwell Engineers, Inc., for Phase I of Design, Architecture and Engineering Services for the Marshall Aquatic Center. Aquatic Center RFP Selection and Construction Committee supports this recommendation. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed. 5-1**

At 6:34 P.M. Councilmember Meister joined the meeting.

#### **Water Treatment Plant Softening Enhancement Project Update.**

The Marshall Municipal Utilities (MMU) Water Treatment Plant (WTP) Softening Enhancement Project that began in Fall of 2019 is nearing completion. The major driver of the WTP Enhanced Softening project is the upcoming Minnesota Pollution Control Agency (MPCA) chloride (salt) limitation for our City of Marshall Wastewater Treatment Facility (WWTF). In 2024, the City WWTF will be required to reduce our discharge of chlorides (salt) into the Redwood River. Since chlorides cannot be removed through conventional mechanical wastewater treatment systems, the City of Marshall and MMU worked together to study various options to reach the required chloride reductions. Following analysis, it was determined that upgrading MMU's WTP to produce a softer water was the most efficient method to attain compliance with the required limits set by the MPCA.

The MMU Water Treatment Plant project is a \$11,585,492 project that was a collaborative project between MMU and the City of Marshall that was made possible by a \$7,000,000 Point Source Implementation Grant (PSIG). The City of Marshall Wastewater Department's contribution to the project is capped at \$2,555,953 through the City/MMU Cooperative Agreement.

With the project nearing completion, the next step is to inform the public about the softer water that will be delivered and to understand our process going forward to monitor for reductions in chlorides in the waste stream as adjustments are made. Included with this memorandum is a public notice that the City and MMU intend to deliver to all utility customers via next month's utility billing. The notice indicates that following June 1, 2021, all water customers must adjust their softener units to reflect an incoming water hardness of eight (8) grains. The water delivered prior was delivered at thirty-five (35) grains hardness, and we need softener adjustments for the customer to save money on salt and for the city to meet its upcoming chlorides restriction.

The message will not be a singular message. City and MMU staff intend to deliver the message to our utility customers continually over a period of many months. We believe that repetition of notice and variety of notice locations will be important in conveying the benefits of the softer water and the necessity for softener adjustments to our public. We intend to utilize utility billing stuffers, city/MMU social media, newspaper, radio, and the city website. Further, Wastewater Department staff will be meeting with our major industrial customers to ensure that they are well informed.

It is the belief of City and MMU staff that our efforts of educating our public and the benefit of saving money on salt use will be enough to bring our chloride discharge into compliance. Over the course of the next year our Wastewater

Department will continually monitor chloride levels and keep our team informed on progress. We have until 2024 to come into compliance, and we believe that this is enough time to encourage softener adjustments and monitor for changes. If we need to discuss further methods of reaching compliance, we believe this can be done at a later date.

Costs to create and mail notices and otherwise educate our public. We anticipate the Wastewater Department will incur direct costs of roughly \$7,500 to educate our public. Other costs relate to staffing and wastewater sampling and testing.

**Project Z52 / S.P. #139-090-005: United Community Action Partnership (UCAP) Transit ADA Bus Access Project - Final Acceptance and Closeout of Project.**

The contract includes installation of three bus shelters and associated sidewalk, roadway, and lighting improvements. The bus stops are located on Birch Avenue, North 4th Street, and South 4th Street.

The City is in receipt of the following documents for closeout of the above referenced project.

- Final Pay Request- which results in a negative amount due of (\$1,514.05). The negative amount due was the result of measurement issues that resulted in overpayment to the contractor. This amount has been received by the City of Marshall via check from the contractor.
- Contractor Certificate of Final Acceptance - IC-134 Form
- Withholding Affidavit for Contractors

Motion made by Councilmember DeCramer, Seconded by Councilmember Labat that the Council approve Final Acceptance and Closeout of Project Z52 / S.P. #139-090-005. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Consider the annual adoption of a Resolution Declaring the Sounds of Summer as a Community Festival.**

Sounds of Summer Committee has submitted a letter requesting that the City declare “The Sounds of Summer” celebration as a Community Festival. The Sounds of Summer is scheduled for Thursday, August 19, 2020 through Sunday, August 22, 2021.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to adopt a resolution declaring the Sounds of Summer as a Community Festival. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Passed. 6-0-1**

**Call for a Public Hearing Regarding Proposed Property Tax Abatement at 512 Continental Street.**

Per M.S 469.1813 sub 5 The governing body of the political subdivision may approve an abatement under sections 469.1812 to 469.1815 only after holding a public hearing on the abatement.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to call for a public hearing. Voting Yea: Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Abstaining: Mayor Byrnes. The motion **Passed. 6-0-1**

**Consider Appointments to the Various Boards, Commissions, Bureaus and Authorities.**

Mayor Byrnes made the follow nominations:

Adult Community Center Commission, Jim Tate to an unexpired term to expire on 5/31/23  
Airport Commission, Ron Halgerson to an unexpired term to expire on 5/31/24  
Policy Advisory Board, Dana Larsen, to an unexpired term to expire on 5/31/24

Motion made by Councilmember Schafer, Seconded by Councilmember Edblom to approve the nominations to various boards and commissions. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

### **Commission/Board Liaison Reports**

Byrnes Southwest Regional Development Commission met and approved two funding requests.

Schafer No Report

Meister No Report

Edblom No Report

DeCramer Marshall Municipal Utilities met and reviewed the 2020 Audit.

Economic Development Authority met to discuss the sale of a lot.

Labat Adult Community Center met for the first meeting since the beginning of COVID.

Convention and Visitors Bureau met and commended the community members and Ice Dogs. Hotels are having a better month but still have some difficulties staffing positions.

Marshall Community Transit met and discussed some difficulty licensing drivers, bus shelters and a reviewed a report on ridership over the last few months.

Lozinski City Hall Committee met and are expecting an additional change order to come forward in the next few weeks.

### **Councilmember Individual Items**

Councilmember Meister reminded that everyone 16 years of age or older are eligible to receive their COVID 19 vaccine.

Councilmember Labat commented on the condition of an alley way between 5<sup>th</sup> and 6<sup>th</sup> street. Member Labat also asked for an update with the MAHA Agreement. City Attorney Dennis Simpson Commented that there is no update at this time regarding MAHA.

Mayor Byrnes discussed that he would be delivering the State of the City Address on April 28, 2021. Byrnes also discussed Trey Lance Day and the community should be proud of Trey's accomplishments.

### **City Administrator**

City Administrator Sharon Hanson provided a brief update on the progress of city hall and moving staff into the building after all life and safety issues have been addressed. Administrator Hanson commented on the



continued work for the State of the City Address. Administrator Hanson introduced Director of Administrator Services Annette Storm to discuss and brief update on the 2020 audit status.

**Director of Public Works**

Director of Public Works/ City Engineer Jason Anderson provided an update on construction projects happening throughout the city.

Director Anderson commented that he has been in contact and reviewing the alley way brought up by Councilmember Labat.

**City Attorney**

City Attorney Dennis Simpson provided an update on construction review contracts, various City agreements and the sale of an EDA lot.

**Information Only**

There were no questions on the information items.

**Upcoming Meetings**

There were no questions on the upcoming meetings.

**Adjourn**

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

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Mayor

Attest:

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City Clerk