

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, February 27, 2024**

The regular meeting of the Common Council of the City of Marshall was held February 27, 2024, at City Hall, 344 West Main Street. The meeting was called to order at 5:00 P.M. by Mayor Robert Byrnes. In addition to Byrnes the following members were in attendance: Amanda Schroeder, John Alcorn, See Moua-Leske, Steve Meister and James Lozinski. Absent: Craig Schafer. 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; Scott Truedson, Wastewater Superintendent; and Steven Anderson, City Clerk.

Mayor Byrnes indicated that the council was meeting 30 minutes earlier than usual because of precinct caucuses that were being held in the city. State Statute 202A.19 subd. 1 requires “no... city council may conduct a meeting after 6:00 p.m. on the day of a major political party precinct caucus.”

Approval of the Agenda

No changes were requested to the agenda.

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

Consider Approval of the Minutes from the Regular Meeting Held on February 13th

No changes were made to the minutes from February 13th.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to approve the minutes as presented.

Voting Yea: Mayor Byrnes, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-012-2024: South Whitney Street Reconstruction Project (E College Dr to Jean Ave) - 1) Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds; 2) Resolution Accepting Bid (Awarding Contract)

Director Anderson provided background information on the project that consisted of reconstruction of the sidewalk, roadways, and utility replacement on South Whitney Street from East College Drive to Jean Avenue. All public utilities would be replaced, including watermain, sanitary sewer, and storm sewer on South Whitney Street. Other items of work included pavement removal, aggregate base, bituminous surfacing, sidewalks, curb and gutter, and other minor work. On February 22, 2024, four bids were received. The low bid was from D&G Excavating, Inc. of Marshall, Minnesota, in the amount of \$1,565,706.60. The engineer’s estimate was approximately \$1,755,700. The estimated total project cost included a 5% allowance for contingencies and 16% for engineering and administrative costs was \$1,907,030.64. All improvements would be assessed according to the current Special Assessment Policy, including but not limited to participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation.

Motion made by Councilmember Schroeder, Seconded by Councilmember Moua-Leske to adopt Resolution 24-020 Regarding Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project ST-012-2024. Voting Yea: Mayor Byrnes, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

Motion made by Councilmember Alcorn, Seconded by Councilmember Moua-Leske to adopt Resolution 24-021 accepting bids and awarding the contract to D&G Excavating Inc for Project ST-012-2024. Voting Yea: Mayor Byrnes, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting

Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

Approval of the Consent Agenda

Councilmember Lozinski requested that Consider Approval of License Renewals for Garbage/Refuse Haulers and Project ST-001-2024: Chip Sealing on Various City Streets - Consider Authorization to Advertise for Bids be removed from the consent agenda. Councilmember Meister also asked that Consider resolution calling for a public hearing on an issue of revenue bonds on behalf of Avera Health be removed.

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

- Channel Parkway Addition – Introduction of Preliminary Plat
- Project ST-002-2024: Bituminous Overlay Project - Consider Authorization to Advertise for Bids
- Consider a Resolution of Support for Bioforge Marshall (Solugen) to the MN Forward Fund
- Consider Resolution Calling for a Public Hearing on an Issue of Conduit Revenue Bonds on Behalf of the Foundation for Innovation in Education to be Leased to and Operated by the Southwest West Central Service Cooperative (SWWC)
- Consider Approval of the Bills/Project Payments

Consider Approval of License Renewals for Garbage/Refuse Haulers

Councilmember Lozinski asked if in the future more garbage haulers were to be licensed in the city that a possible limit be imposed or perhaps divide the city by haulers. The trucks can be harsh on alleys and having four to five different haulers go down a single alley would be strenuous to the alley.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to approve Garbage/Refuse Hauler licenses for Southwest Sanitation, West Central Sanitation and Waste Management for 2024. Voting Yea: Mayor Byrnes, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-001-2024: Chip Sealing on Various City Streets - Consider Authorization to Advertise for Bids

The estimated total cost of the project was \$161,267 for Channel Parkway, Susan Drive, Tiger Drive, Soucy Drive, Fremont Street, Pleasant Street, Ranch Avenue, and Winifred Circle. Councilmember Lozinski didn't believe chip sealing to be cost effective. Director Anderson said that the topic gets discussed extensively at PI&T and concerns are brought up and city staff would still recommend moving ahead with advertising for bids.

Motion made by Councilmember Alcorn, Seconded by Councilmember Schroeder to authorize advertisement for bids for Project ST-002-2024 Bituminous Overlay. Voting Yea: Mayor Byrnes, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Nay: Councilmember Meister, Councilmember Lozinski. The motion **Carried. 5-2.**

Consider Resolution Calling for a Public Hearing on an Issue of Revenue Bonds on Behalf of Avera Health

Avera Health planned to acquire, construct, remodel, renovate and equip certain health care facilities located in Marshall owned by Avera Marshall, an affiliate of Avera Health and a Minnesota nonprofit corporation, through the issuance by the South Dakota Health and Educational Facilities Authority of one or more series of revenue bonds, of which an amount not to exceed \$3,000,000 will be applied to finance the Project. Since the Project to be financed by the Bonds is in the City, Section 147(f) of the Internal Revenue Code of 1986, and regulations promulgated thereunder, require that prior to the issuance of the Bonds, this Council approve the use of proceeds of the Bonds to improve facilities located in the City, after conducting a public hearing thereon. A public hearing on the proposal to issue the Bonds to finance the Project is proposed to be held on March 12, 2024, at 5:30 p.m. The City is being

asked to provide “host approval” under Section 147(f) of the IRS Code for the issuance of tax-exempt conduit revenue bonds by the South Dakota Health and Educational Facilities Authority. Host approval, which requires the City to hold a public hearing and adopt an approving resolution, must be provided by the City for the South Dakota Authority to issue such bonds since the project to be financed by the bonds was in the City of Marshall. As with all conduit revenue bonds the City will have no obligation to pay the bonds even if the project encounters financial difficulties. And the issuance of the bonds by the South Dakota Authority will not impact the City whatsoever. The Tax Equity and Fiscal Responsibility Act (TEFRA) hearing is an IRS requirement for any nonprofit borrower seeking tax-exempt bonds through a conduit issuer. The hearing is held to allow members of the public to comment, contest, oppose, or support the use of tax-exempt bonds for a non-profit borrower that is providing a public benefit. Avera Marshall has completed the City’s application for tax exempt financing and returned the completed form with a non-refundable application fee to the Director of Administrative Services. Councilmember Meister requested the item to be removed as he was an employee of Avera Health and thought it best to abstain from the vote.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to adopt Resolution 24-022 calling for a public hearing on behalf of Avera Health. Voting Yea: Mayor Byrnes, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Abstaining: Councilmember Meister. The motion **Carried. 6-0-1.**

Wastewater Items – 1) Wastewater NPDES Permit Update; 2) Consider Authorization to Utilize Wastewater Funds to Continue the Water Softener Rebate Program (Project WW-002)

Scott Truedson, Wastewater Supervisor, provided an update on the Wastewater National Pollutant Discharge Elimination System (NPDES) permit. Wastewater staff requested and were granted a 15-year schedule of compliance from NPDES to allow time to work on source reduction for sulfates. New proposed limits on phosphorus would need to be reached later in the year and was obtainable but upgrades would be needed in the following years for the effluent filter system. The water softener rebate program was funded by a grant from Minnesota Pollution Control and grant money ran out as of February 27, 2024. Staff would have liked to continue the rebate program to encourage citizens to optimize or replace older systems. Councilmember Lozinski asked if the Wastewater Department had a ballpark number of water softeners in the city because the number of optimizations and replacements seemed like a small percentage of the community. Director Anderson agreed with Councilmember Lozinski and believed that there are thousands of softeners in the city and was part of the reason the wastewater facility would like to continue the rebate program to replace/optimize as many as possible. Councilmember Moua-Leske asked if efforts were made by local softener companies to reach out to customers who had older units. Truedson verified that was part of the campaign and a good portion of the grant funding was used for education and advertisement. Councilmember Moua-Leske also inquired if steps were taken to reach out to non-English speaking citizens. Flyers were provided with Spanish text, but other languages hadn’t been provided. Councilmember Meister queried where the funding would come from and if it was possible for additional funding from the EPA or MPCA.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schroeder to authorize city staff to continue the water softener rebate program using dedicated funds in the wastewater budget and to replenish the fund at the time of fee resolutions. Voting Yea: Mayor Byrnes, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Project ST-010: Lyon Circle Reconstruction Project - Consider Resolution Receiving Feasibility Report and Calling Hearing on Improvement

Director Anderson explained the project consisted of reconstruction of the street, curb and gutter, and utility replacement work. The sanitary sewer would be replaced, along with service lines, and the water main would be extended with a fire hydrant added at the end of the circle. Storm sewer piping and intakes would be replaced at the intersection of Lyon Circle and E. Lyon Street. Other items of work included pavement removal, aggregate base,

concrete valley gutter, and bituminous surfacing. Lyon Circle had been included in the 2024 CIP for complete reconstruction. The newly constructed road would be narrower than the current circle, a reflection of the very low traffic demand for the dead-end circle. The project had been presented and discussed at the following PI/T meetings: 01/24/2023, 02/14/2023, 10/24/2023 and 02/13/2024. In addition, a public informational meeting was held on 01/18/2024. Notices were mailed to all owners; however, no property owners attended the meeting. All improvements are proposed to be assessed according to the current Special Assessment Policy, including but not limited to participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to adopt Resolution 24-026 Receiving the Feasibility Report and Call for Hearing for Project ST-010 Lyon Circle Reconstruction. Voting Yea: Mayor Byrnes, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Commission/Board Liaison Reports

Byrnes	Fire Relief Assoc.: Held their annual meeting. SRDC: Funding was received to assist smaller communities with grant writing.
Schafer	Absent.
Meister	No report.
Schroeder	EDA: E. College Drive grants were being distributed and changes should be coming along the corridor when the funds get used. Planning: Talked about the preliminary plat for Channel Parkway that was approved.
Alcorn	No report.
Moua-Leske	No report.
Lozinski	No report.

Councilmember Individual Items

Mayor Byrnes indicated that Solugen (Bioforge Marshall) would be having their groundbreaking event April 11th.

City Administrator

During the EDA meeting a business representative approached the EDA about childcare needs in the area. The DEI Commission was slated to have their first strategic planning meeting in April and discussion on different translation services.

Director of Public Works/City Engineer

In collaboration with the Assessor's office, letters were sent to non-homestead property owners about the Rental Code Ordinance and the required registration.

City Attorney

No report.

Information Only

There were no questions on the Information Only items.

Upcoming Meetings

There were no questions on the Upcoming Meetings.

Adjournment

At 5:39 PM Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

Steven Anderson, City Clerk

Robert Byrnes, Mayor