

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, December 13, 2022**

The regular meeting of the Common Council of the City of Marshall was held December 13, 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: Amanda Schroeder, Craig Schafer, Steve Meister, 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; E.J. Moberg, Director of Administrative Services; Jim Marshall, Director of Public Safety; Sheila Dubs, Human Resource Manager; Dave Parsons, City Assessor; Karla Drown, Finance Director; Quentin Brunsvold, Fire Chief; Ilya Gutman, Plans Examiner; Amanda Beckler, Community Education Coordinator; Preston Stensrud, Parks Supervisor and Steven Anderson, City Clerk.

The Pledge of Allegiance was recited at this time.

Consider Approval of the Minutes from the Regular, Special and Work Session Meetings Held on November 22, 2022 and TNT Meeting Held December 6, 2022

There were no changes to the minutes from councilmembers.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the minutes as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Public Hearing of an Ordinance Amending City Charter Ch.2, Sec. 2.03 Elective Office and Ch.3, Sec. 3.04 City Attorney

On October 19, 2022, the Charter Commission met and considered revisions to two Articles: Councilmember Terms of Office and City Attorney. Language was brought forth to align councilmember terms of office with Minnesota State Statute and provide better clarity on the when the councilmember term starts. Language was brought forth to revise City Attorney language to make it more consistent with legal representation afforded a client, in this case the city. After discussion, the Commission approved the revisions as included in the Council packet and now makes a recommendation to Council to approve, by ordinance, the Charter Amendments proposed. Notice of the hearing was published on November 19, 2022. Councilmember Lozinski verified that if an emergency meeting were required the new councilmembers could be sworn in.

Motion made by Councilmember Schafer, Seconded by Councilmember Decramer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski to approve Ordinance 22-012 Amending the City Charter provisions regarding terms of office and city attorney. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Floodplain Management Ordinance Amendment – Chapter 38, Article II of the City Code of Ordinances – 1) Public Hearing; 2) Adoption of Ordinance

August 23, 2022, the City Council adopted Ordinance 22-009 amending Chapter 38 relating to Floodplain Management. Upon further review of the amended floodplain ordinance, the Minnesota Department of Natural Resources (MNDNR) has advised that some language in our recently revised ordinance is now viewed as “optional language” by the MNDNR. City enforcement of a “regulatory floodplain” is now viewed as optional and “above and beyond” type of language for a Minnesota community to consider. City staff has had concerns and questions with this language from the onset of discussions with the MNDNR about our ordinance revisions. In practical terms, the language that is now optional requires development outside of determined floodplains to be regulated as if it is in the floodplain. While the intent and idea behind the practice is understandable, city staff believes that it

complicates land use decision making in our community and makes it more difficult for citizens, developers, and staff to understand development limitations in our community. To simplify our ordinance, City staff is recommending revisions to the ordinance as attached. In addition to the above-mentioned revisions, staff is proposing one additional revision editing the Board of Adjustment to mean the City Council instead of the Planning Commission. L&O Committee reviewed the adjustment and recommended approval.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve and adopt Ordinance 22-013. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Conduct Public Hearing of Ordinance Amending Section 86-205 Access, 86-206 Construction and maintenance, and 86-226 Minimum size regulations

These are minor changes to parking ordinance brought up by real life. The changes allow for a narrower two-way street access drive beyond required front yard, which will let landowners save money on pavement and reduce impervious surfaces, while not negatively affecting safety; require that principal use parking on the lot be paved, which will prevent large gravel parking lots in business areas, since only accessory parking to the main structure is currently covered by the Ordinance; and increase minimum sidewalk width in front of the shorter parking places to make sure that an accessible path is still available if a vehicle's front projects over sidewalk. At the November 9, 2022, Planning Commission meeting it was recommended to bring forth to city council. At the meeting on October 11, 2022, Legislative and Ordinance Committee voted to recommend to council the approval of revisions to City Ordinance Sections as proposed by staff.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schroeder to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Motion made by Councilmember DeCramer, Seconded by Councilmember Lozinski to approve and adopt Ordinance 22-014. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

DG Marshall - 1) Public Hearing on Preliminary Plat and Approval of Preliminary Plat; 2) Consider Resolution Adopting the Final Plat

Dollar General has purchased two lots for development of their retail store. The building that is being constructed sits atop the lot line that separates the two lots. City of Marshall Zoning Ordinance requires property line setbacks; therefore, a building cannot be constructed over top of a lot line. Due to an error in property descriptions, Lyon County is not allowing for the two lots to be combined into one lot to resolve the lot line issue. To resolve the issue, Dollar General is going through a platting process to resolve description concerns and to combine the existing two lots. The preliminary plat was presented at the Planning Commission meeting on November 9, 2022 and recommended for approval. City Attorney Dennis Simpson explained that the platting process requires notices to be sent parties with a legal interest in the property. One mortgage was found and a consent to plat was sent for their approval. The surveyor indicated that a new legal description will be on the final plat.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve the preliminary plat. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Labat to approve Resolution 22-091 adopting the final plat with the new legal description from the surveyor. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Approval of the Consent Agenda

Councilmember Labat requested that item 13) Introduction of the new Article VIII Residential Rental Code and Call for Public Hearing be removed from consent. Councilmember Lozinski requested that 23) Authorize City Administrator to Negotiate the Purchase Agreement with Centerpointe Real Estate Group be removed from consent.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to approve the remaining consent agenda items. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

- Consider Approval of Employee Retirement Resolutions
- Consider Approval of a Permit for Alcoholic Beverages at City-Owned Facilities
- Consider Approval of Various 2023 Liquor and Tobacco License Renewals
- Introduce Ordinance Amending Chapter 2, Article 2-VI-1, Sec. 2-145 Qualifications and Compensation
- Introduce Ordinance Amending Chapter 70, Article 70-II, Sec. 70-22 Imposition
- Introduction of Ordinance Amendment to Chapter 82, Article 82-I, Section 82-1 Grass, and Weeds on Private Property
- Introduction of Ordinance Amending Sign Ordinance – Chapter 86, Division 86-VI-2-Signs, Sec. 86-180 through 86-187 and Call for Public Hearing
- Call for a Public Hearing Regarding Authority to Transfer Unobligated Tax Increments
- Acceptance of Donations Made to the MERIT Center for 2022
- Acceptance of Donations Made to Marshall Fire Department for FY 2022
- Acceptance of Donations made to the Marshall Parks Department for 2022
- Acceptance of Donations Made to the Marshall Fire Department Scholarship Fund
- Acceptance of Donations Made to the Marshall Community Services Department
- Consider Approval of a LG220 Raffle Permit for the Marshall Golf Club
- Consider Approval of a LG220 Raffle Permit for the Pheasants Forever Spring Banquet
- Consider Resolution Entering into Mn/Dot Agreement No. 1052108 Regarding Agency Delegated Contracting Process (DCP) Agreement.
- Consider Resolution Authorizing Transfer of Funds from the General Fund (101) to Capital Projects Fund (401)
- Consider Approval of the Bills/Project Payments

Introduction of the new Article VIII Residential Rental Code and Call for Public Hearing

Councilmember Labat suggested that a committee of landlords and staff be created before continuing with the rental code. Labat and Gutman clarified that the fee would be \$50 per building not per unit within a building. Jason Anderson added that multiple meetings were held with landlords and the original rental code was significantly changed after input was received from the meetings. Councilmembers discussed the \$50 administrative fee.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski, Councilmember Schroeder. Voting Nay: Councilmember Labat. The motion **Carried. 6-1.**

Authorize City Administrator to Negotiate the Purchase Agreement with Centerpointe Real Estate Group

The City of Marshall owns a parcel of property approximately 30,000 square feet located at the northeast corner of Main & Boyer. CenterPointe Real Estate Group and the City entered into a Letter of Intent dated November 18, 2022 and the Letter of Intent specifically states that it is not intended to be contractual in nature or create any legal obligations and that the parties shall not be bound in any way until a formal agreement is executed between the parties. Administrator Hanson explained that discussions were had at the EDA regarding the purchase. As of now the intent is to get the property back onto the tax rolls and eventually have some development in the near future.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schroeder to approve Resolution 22-099 authorizing the City Administrator to negotiate the purchase agreement with Centerpoint Real Estate Group, LLC. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder.

Consider Resolution Approving the Changes for the 2023 Fee Schedule

Finance Director Karla Drown introduced the 2023 fee schedule. Councilmembers questioned why some fees changed more than others. Preston Stensrud, Parks Supervisor, explained that the shelter rental increase of \$25 was still significantly lower than comparable cities and the fee hasn't been changed in over 20 years. Councilmember Labat brought up that he had directed city staff to review outdated fees and bring them more in line and to at least cover city costs. Councilmember Lozinski questioned the increase in firefighter costs and noted that the increase was still a great deal. Lozinski also questioned the increase in the lock-out fee under the Police Department. Director of Public Safety Jim Marshall stated that officers have some discretion on whether to charge the fee depending on the situation.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve Resolution 22-101 allowing specific fees to be charged by the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Schroeder. Voting Nay: Councilmember Lozinski. The motion **Carried. 6-1.**

Consider Approval of a Civil Engineer for the Engineering Department

City staff are proposing the addition of a Civil Engineer position for the Engineering Department. Unfortunately, recruitment efforts have not been successful in trying to replace our former Assistant City Engineer, who resigned in July, 2022. Staff are proposing to hire a Civil Engineer in lieu of an Assistant City Engineer. The Civil Engineer would report to the Director of Public Works/City Engineer. The Civil Engineer job description is written to be more entry-level; it would require a bachelor's degree, but no prior work experience in Engineering to qualify for the position. Our goal would be to hire and train a candidate that desires to become licensed as a professional engineer. Once a PE licensure of obtained, the candidate would be qualified to be promoted to our existing Assistant City Engineer position. The qualifications necessary to obtain PE licensure in MN is prescribed in MN Statute. The newly developed Civil Engineer job description was evaluated by Gallagher, resulting in a DBM rating of C41. The 2023 wage range would increase by 3% consistent with the general wage increase approved by the Council for non-union employees. If approved by the Council, HR will keep the Assistant City Engineer position posted, and will initiate recruitment for the Civil Engineer position immediately. Both positions would be closed once 1 of the positions is filled, either the Assistant City Engineer or the Civil Engineer. Council discussed advertising and retention for the Civil Engineer position. Councilmember Labat asked if services to MMU were still ongoing, and council also brought up concerns that it was their wish to not burn out the City Engineer as well.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to approve the addition of a Civil Engineer position. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Project ST-002-2022: Bituminous Overlay on Various City Streets - Consider Change Order No. 3 (Final) and Acknowledgement of Final Pay Request (No. 3)

This project consisted of street milling and overlay on various city streets. The 2022 capital budget included \$685,000 for this work as follows: \$625,000 in the Public Improvement Fund and \$60,000 in the Wastewater Fund for the Wastewater Plant road mill and overlay. The Wastewater portion of the project was \$56,531.26. Change Order No. 3 (Final) resulted in a contract increase in the amount of \$78,981.68, and the final contract amount was \$650,476.48. The original contract amount was \$560,573.35.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the change order and final pay request. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Project ST-003: South 1st Street/Greeley Reconstruction Project - Consider Change Order No. 3 (Final) and Acknowledgement of Final Pay Request (No. 9)

This project consisted of reconstruction and utility replacement on South 1st Street from George Street to Greeley Street, on Greeley Street from West College Drive to Saratoga Street, and on Williams Street from Maple Street to George Street; sanitary sewer, watermain, and storm sewer were replaced. This project also included new curb & gutter, new 5-ft. sidewalk on one or both sides of the streets, driveway aprons, water services, and sewer services to the right-of-way. Change Order No. 3 (Final) results in a contract decrease in the amount of \$19,326.72. Final Pay request No. 9 in the amount of \$88,969.76 results in a total contract amount of \$1,641,503.05, a net decrease of \$5,995.64 from the original contract amount of \$1,647,498.69.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve the change order and final pay request. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. The motion **Carried. 7-0.**

Approve Agreement for Legislative Services with Flaherty and Hood

The first day of legislative session begins January 3, 2023 and it is recommended that the city proceed with a services contract prior to the start of the session. Unfortunately, the legislature adjourned in 2022 without passing a tax bill which included the city's sales tax authorization. Councilmember Lozinski commented on unnecessary additional cost to the city because no tax bill was passed.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to approve the agreement with Flaherty and Hood. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski, Councilmember Schroeder. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Consider Resolution Adopting Tax Levy for 2023

Minnesota Statute § 412.711 addresses the Consideration of Budget; Tax Levy and states, in part: "The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund." At the August 23rd council work session, staff proposed a property tax levy increase of 13.20%. The main contributing factors for this increase were increased personnel and health insurance costs, inflation, and an increase in debt related levies from 2022 to 2023. Staff continued to work to reduce increase for the preliminary levy that that was set on September 13th. The 2023 preliminary levy was set at \$8,249,818, which was an increase of 9.04% from the 2022 levy. Staff recommends the final 2023 levy be set at \$8,178,954, which is an increase of 8.10% from the 2022 levy. Councilmembers discussed direction given by council to staff through committees and work sessions and how the budget is built step by step. Councilmembers also brought up the Homestead Credit Refund (Form M1PR) and to remind citizens to talk to legislators about a revision to the homestead exclusion on property taxes.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve Resolution 22-102 adopting the 2023 tax levy. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember DeCramer, Councilmember Schroeder. Voting Nay: Councilmember Labat, Councilmember Lozinski. The motion **Carried. 5-2.**

Resolution Adopting 2023 Budget

No discussion from council regarding the budget.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve Resolution 22-103 adopting the 2023 budget. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember DeCramer, Councilmember Schroeder to adopt the 2023 budget. Voting Nay: Councilmember Meister, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 4-3.**

Consider Approval of the 5 Year Capital Improvement Plan (CIP)

The 5-year CIP serves as a guide that lays out capital expenditures over the next 5 years by department as well as by the funding sources. The CIP is meant as a guide for Council and Management and does not give authorization for the projects until formally approved based on the City's Purchasing Policy. The 5-year CIP is a fluid document that is updated on an annual basis. Some projects get pushed back to later years, some projects drop off and some projects move up in years depending on priorities. Ultimately, the funding is a major factor in determining which projects within the 5-year CIP get completed. Moberg noted that there were two changes from the draft versions previously shown. One is a change to the bonding estimate for a parking lot project that may also include a corresponding special assessment to the owner and a lease for continued city use. In recent versions the cost was under a different funding source (TIF). The other change is \$997,600 under surface water revenue. Originally, the plan was to use surface water cash for the project(s), however cost estimates were updated, and higher costs changed the recommendation to include with bonding as there is not sufficient cash available. Councilmember Labat asked about use of liquor store funds to pay some items. Councilmember Lozinski and Schafer reiterated that the CIP are priorities and not commitments.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski, Councilmember Schroeder. Voting Nay: Councilmember Labat. The motion **Carried. 6-1.**

Consider Approval of Community Services Reorganization

Administrator Hanson described changes internally that the City of Marshall had done over the years. These changes also included shifting and rearranging leadership positions. Hanson is recommending a reorganization of the Community Services Department to flatten the department. The restructure would remove the Director of Community Services position and move the Community Education Coordinator, Park and Recreation Director, and Media Communications Specialist director under the City Administrator. Councilmembers discussed span of control for direct reports being 10 – 11 and the current proposed reorganization would keep the number of direct reports to eight. To help alleviate day to day work the Executive Assistant under the Director of Community Services would be moved directly under the City Administrator.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to approve the community services department reorganization. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski, Councilmember Schroeder. Voting Abstaining: Councilmember Labat. The motion **Carried. 6-0-1.**

Commission/Board Liaison Reports

Byrnes Southwest Regional Development: Received a presentation from Southwest Tourism.

Schafer Airport Commission: Discussed and complemented the crack sealing that was done at the regional airport.

Meister No report.

Schroeder No report.

DeCramer Diversity, Equity & Inclusion: Conversed about the by-laws for co-chair rotation and secretary appointment. The commission also met with an individual who was subjected to discrimination that is currently under investigation.

Labat Library Board: The van was finally sold for \$7,175.00 and three of the librarians gave presentations to the board.

CVB: Discussed revisions to the members and options for donation possibilities.

Councilmember Individual Items

Councilmember Lozinski wished everyone happy holidays and to be kind to one another.

Councilmember Labat wished everyone happy holidays.

Councilmember DeCramer wished everyone happy holidays.

Councilmember Schafer wished everyone happy holidays and reminded everyone to look out for your neighbors and be safe.

Councilmember Meister wished everyone happy holidays, be kind, look out for your neighbors and to clear off sidewalks.

Councilmember Schroeder also wished everyone happy holidays.

Mayor Byrnes thanked the Marshall Street Department for their work and informed the council that a survey for commissions and liaisons will be coming soon.

City Administrator

Informed the council that the Director of Public Safety and Fire Chief appeared before the Lyon County Board of Commissioners to request ARPA funds and was granted \$200,000 towards the purchase of the Aerial Truck and Grass Skid units.

Director of Public Works/City Engineer

The comprehensive plan for the city will be going to the planning commission on December 14th. Anderson requested that citizens clear intakes, fire hydrants and drains.

Mayor Byrnes and Anderson talked about the RAISE grant that was submitted to the U.S. DOT and found out that the grant application was never properly received. The RAISE grant will be resubmitted for the upcoming year.

City Attorney

No report.

Administrative Brief

There were no questions on the administrative brief.

Information Only

There were no questions on the information only items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 7:07 PM Motion made by Councilmember Schroeder, Seconded by Councilmember Lozinski to adjourn the meeting.
The motion **Carried. 7-0.**

Mayor

Attest:

City Clerk