

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, September 14, 2021**

The regular meeting of the Common Council of the City of Marshall was held September 14, 2021, 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, 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; Jim Marshall; Director of Public Safety; and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

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

**MMUA Award**

The CEO of Minnesota Municipal Utilities Association Jack Kegel and Marshall Municipal Utilities General Manager David Sch provided the MMUA Community Services Award to Councilmember John DeCramer in recognition of long and outstanding service to his community and his support to municipal utilities.

**Consider approval of the minutes from the regular meeting held on August 24, and from a work session held on August 25, 2021.**

Motion made by Councilmember Lozinski, Seconded by Councilmember Labat That the minutes from the regular meeting held on August 24, and from a work session held on August 25, 2021, 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 Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Project Z75/SAP 139-124-004: South 4<sup>th</sup> Street Reconstruction Project --1) Public Hearing on Assessment; 2) Consider Resolution Adopting Assessment.**

This project consisted of the following: reconstruction and utility replacement on South 4<sup>th</sup> Street from the intersection of Elaine Avenue and South 4th Street to the intersection of Country Club Drive and South 4<sup>th</sup> Street. Utility work included sanitary sewer, watermain, and storm sewer replacement. This project also included new curb and gutter, new 5-ft. sidewalk on the west side of the street, driveway aprons, water services, and sewer services to the right-of-way.

The following is a breakdown of the proposed project funding. The costs shown below include 16% for engineering and administrative costs, for a total project cost of \$2,968,379.94. The following is a proposed breakdown of the project funding:

Wastewater Fund	\$594,332
MMU	\$784,329
Surface Water Management Utility	\$731,750
Mn/DOT	\$135,038
City Participation (MSAS)	\$514,578
<u>Assessed to Property Owners</u>	<u>\$343,391</u>
<b>Total Project Amount</b>	<b>\$2,968,380</b>

Per the current Fee Schedule, the assessment interest rate is calculated using the most recent bond interest rate and adding 2% for administrative costs.

The 2020 GO Bond interest rate was 0.84% plus 2% results in a 2.84% assessment interest rate. The term of the assessment repayment is proposed by staff to be 8 years. The City has no formal written policy on the term but has followed an administrative past practice to generally match the assessment repayment to the bond repayment term assuming a typical reconstruction project with assessments reaching near the maximum of the residential assessment rate. If the assessment is substantially higher in cases such as commercial assessments the term may be appropriate to increase. Alternatively, on smaller assessment projects consideration could be made to shorten the assessment term. One other item to note is that if additional principal is paid each year the interest is recalculated annually to address the payments. Therefore, there is no penalty for individuals to repay on a more accelerated schedule if they so choose.

Director of Public Works/ City Engineer Jason Anderson provided the background information on the agenda item.

Jordan Carstensen, 801 4<sup>th</sup> St. South, discussed how the project effected his property specific to his driveway. Mr. Carstensen commented that there are water drainage issues with the driveway that was poured and that he will need to replace the driveway apron and the remainder of the driveway in order to correct the work that has been done with the information that was provided by the city.

Linda McGrath, 401 Kathryn Ave, commented that she never received a letter about the project and was surprised about the amount she received for her assessment. Ms. McGrath commented that the amount being assessed is a lot for a property owner to pay. Ms. McGrath's daughter, who now lives in the house described that they previously had water issues and now their basement bathroom is no longer usable.

City Attorney Dennis Simpson discussed the differed option requires for the property needs to be the homestead of the property owner.

Director of Public Works/ City Engineer commented that the sanitary sewer line was not replaced at this property and that every property owner effected did receive a letter at the beginning on the project.

Councilmember Lozinski commented on the look back period regarding surrounding assessments.

Councilmember Meister clarified that notices were sent out to property owners.

Councilmember Labat clarified that both public informational meetings were held at MMU.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council close the public hearing on assessments for Project Z75/SAP 139- 124-004: South 4th Street Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the Council adopt RESOLUTION NUMBER 21-066, which is the "Resolution Adopting Assessment" for Project Z75/SAP 139-124-004: South 4th Street Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Meister, Councilmember Labat. The motion **Passed. 5-2**

**Project Z76: South 1<sup>st</sup> Street Reconstruction Project --1) Public Hearing on Assessment; 2) Consider Resolution Adopting Assessment.**

This project consisted of reconstruction and utility replacement on South 1st Street generally between Southview Drive and George Street. Water, sanitary sewer, and storm sewer catch basins were replaced along South 1st Street in this area. Sidewalk was added along the west side of the street to provide connection to existing sidewalk north of the project area on South 1st Street and existing sidewalk at Southview Drive. This project also included new curb and gutter, driveway aprons, and water services. In addition to the utility replacement and street reconstruction on South 1<sup>st</sup> Street, sanitary sewer force main improvements were made at the intersection of South 1<sup>st</sup> Street and DeSchepper Street.

The following is a breakdown of the proposed project funding. The costs shown below include 16% for engineering and administrative costs, for a total project cost of \$730,539.96. The following is a proposed breakdown of the project funding:

Wastewater Fund	\$164,077
MMU	\$213,293
Surface Water Management Utility	\$73,850
City Participation (Ad Valorem)	\$170,292
<u>Assessed to Property Owners</u>	<u>\$109,028</u>
<b>Total Project Amount</b>	<b>\$730,540</b>

Per the current Fee Schedule, the assessment interest rate is calculated using the most recent bond interest rate and adding 2% for administrative costs. The 2020 GO Bond interest rate was 0.84% plus 2% results in a 2.84% assessment interest rate.

The term of the assessment repayment is proposed by staff to be 8 years. The City has no formal written policy on the term but has followed an administrative past practice to generally match the assessment repayment to the bond repayment term assuming a typical reconstruction project with assessments reaching near the maximum of the residential assessment rate. If the assessment is substantially higher in cases such as commercial assessments the term may be appropriate to increase. Alternatively, on smaller assessment projects consideration could be made to shorten the assessment term. One other item to note is that if additional principal is paid each year the interest is recalculated annually to address the payments. Therefore, there is no penalty for individuals to repay on a more accelerated schedule if they so choose.

Director of Public Works/ City Engineer Jason Anderson provided the background information on the agenda item.

Ben Walker, 609 1<sup>st</sup> St. South, asked for clarification on how residents in the project area are assessed, why residents receive different amounts, and if the maximum assessed amount is \$5,700 for a property why are some amounts more. Mr. Walker asked why residents of the previous project were asked to pay for 11% of

the project while residents of this project are being asked to pay for 14.9% of the project. Mr. Walker commented that this is a lot of money to ask of people.

Edward Carberry, 700 1<sup>st</sup> St. South, commented on the overall project and his opposition towards it. Mr. Carberry commented on the grass that was planted and if he could replant wildflowers that were previously there. Mr. Carberry asked for clarification of the cost breakdown and why it states \$0 for sidewalk and if that means it's the responsibility of the property owner to pay those costs. Mr. Carberry also discussed the maximum amount and asked for an explanation on why his is over the stated \$5,700 amount. Mr. Carberry also asked for clarification on how deferment works.

Councilmember Meister commented that the grass needs to be reworked and placed back in the condition it was.

Director of Public Works/ City Engineer discussed how special assessments are calculated per property.

City Attorney Dennis Simpson discussed how the maximum special assessment amount was set by the district court.

Director Anderson commented that he will follow through with the project manager to make sure the grass is reseeded. Director Anderson also discussed on the precepts assessed for each project and that every project is different depending on state aid and utility involvement.

Mr. Walker followed up by asking if the city chooses to assess the amounts received by property owners.

Director Anderson commented that assessments are calculated by a formula approved by the council. Mr. Walker asked if the amount was negotiable or not.

Director Anderson commented that the formula used for each project are the same but the total amounts for each project will change depending on certain factors.

Councilmember Meister commented on special assessments and if the council should choose to switch over to include project costs to ad valorem.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council close the public hearing on assessments for Project Z76: South 1<sup>st</sup> Street Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer that the Council adopt RESOLUTION NUMBER 21-067, which is the "Resolution Adopting Assessment" for Project Z76: South 1st Street Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Meister, Councilmember Labat. The motion **Passed. 5-2**

**Ice and Snow Removal and Weed Elimination from Private Property in the City of Marshall. 1) Conduct a Public Hearing. 2) Consider a Resolution Adopting the Assessment.**

City shall conduct public hearing to consider approving of special assessment to be levied against City property to allow for collection of costs incurred by the City to remove ice and snow and to mow lawns-eliminate weeds on private property. Minnesota Statutes Chapter 429.101 does set forth the various types of City charges that can be assessed against property taxes pursuant to the special assessment process. Minnesota Statutes §429.101 subd. 1(1) indicates that snow, ice, or rubbish removal from sidewalks may be assessed against property owners. §429.101 subd. 1(2) indicates that “weed elimination from streets or private property” may be assessed against property owners.

The procedure by which those types of costs incurred by the City may be assessed against private property owners is outlined in Minnesota Statute §429.061 and procedures further outlined in a Minnesota Court of Appeals decision Sykes v. Rochester City Council Court of Appeals case A13-2421. The Sykes decision does require full compliance with §429.061, when levying those costs as assessments against private property. §429.061 does require public hearing to be held before those amounts can be assessed.

The City Council has previously passed a resolution declaring the costs to be assessed as required by Minnesota Statute §429.061 and further that a second resolution has been passed calling for a public hearing regarding those costs to be assessed. Notice of public hearing has been sent to property owners and has been published in the Marshall Independent as required by Statute. Public hearing is to be held as scheduled.

The City has incurred the costs for ice and snow removal, lawn mowing and weed elimination as set forth in the attached resolution. Approval of the resolution will allow for the City to recover its out-of-pocket costs.

Motion made by Councilmember Meister, Seconded by Councilmember Labat that the Council close the public hearing on assessments for ice and snow removal and for weed elimination from private property in the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer. The motion **Carried. 7-0**

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer that the Council adopt Resolution Number 21-068, which is the “Resolution Adopting Assessment” for ice and snow removal and for weed elimination from private property in the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**306 Athens Ave.– 1) Public Hearing regarding a home property tax abatement request 2) Consideration of a resolution approving home property tax abatement.**

On August 24, 2021, a public hearing was called for and to be held on September 14, 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 306 Athens Ave. with an estimated market value of \$203,200 and with the difference of improvement being \$191,400.

The approximate amount of assistance is \$1,056.00 a year or \$2,112.00 over a maximum period of 2 years as a Homestead.

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

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve Resolution Number 21-069, a resolution approving home property tax abatement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat  
Voting Abstaining: Councilmember Lozinski. The motion **Passed. 6-0-1**

**Consider Approval of the Consent Agenda.**

Motion made by Councilmember Schafer, Seconded by Councilmember Edblom.  
Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Approval of Resolution Number 21-070, a Resolution Accepting the Coronavirus Local Fiscal Recovery Funds

Approval of an amendment to the Personnel Policy Manual--Appendix B--Maximum Allowable Reimbursement/Per Diem Rates

Approval for the Wastewater Treatment Facilities Improvement Project – 1) Consider Application for Payment No. 26 to Magney Construction, Inc.; 2) Consider Payment of Invoice 0274632 to Bolton & Menk, Inc.

Approval for Project ST-022: Bruce Street Gravel Resurfacing Project – Consider Authorization to Receive Quotes.

Approval for a Quit Claim Deed – Out lot B, Carr Subdivision I.

Approval of a Room Rental Policy.

Approval to authorize to declare vehicles as surplus property for the Marshall Police Department.

Approval of Resolution Number 21-071, a Resolution Authorizing Transfer of Funds from Fund 609 to Capital Project Fund 401

Approval of Resolution Number 21-072, a Resolution Designating Uniform Election Dates and Polling Locations.

Approval of Resolution Number 21-073 a Resolution Approving the MERIT Center Bonding Request

Approval of the bills/project payments

**Project SWM-007: Independence Park Pond Forebay Expansion Project – Consider Authorization to Advertise for Bids.**

The shared use trail system located in Independence Park has reached the end of its useful life and the City would like to replace the majority of the park's trail system, bringing it into compliance with the Americans with Disabilities Act (ADA). A trails replacement project was awarded to A&C Excavating at the August 25, 2021, City Council Budget Work Session following Council action at the August 24, 2021 City Council meeting.

Further, City staff believes it would be prudent to complete an Independence Park Pond forebay expansion project in coordination with the trail replacement project. The forebay expansion would create additional pond storage volume in the park while also creating a ponding environment that promotes solids settlement (stormwater treatment) within the forebay area with the goal of reducing future pond areas that will require dredging. Coordinating this work with the trail replacement project helps to ensure that new trail is installed in the proper location and investments into trail pavement and new culvert crossing are preserved.

At the August 10, 2021, City Council meeting the Council authorized staff to hire Bolton & Menk to complete project plans for a pond forebay expansion project that will run concurrent with the park trails project that has already been awarded.

Now, City staff is finalizing work with Bolton & Menk for final design plans for the forebay pond expansion project. These plans are nearly completed, and staff is looking to prepare the contract for bid advertisement. This memo is intended to introduce the project and authorize staff to advertise for bids. Staff is planning an October 6th, 2021, bid opening date with an award recommendation to Council at the October 12th, 2021 meeting.

An estimated cost of \$214,255 including contingency (10%) and engineering (16%) costs for this pond project. The majority of project costs will be funded through the Surface Water Management Utility.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer That the Council authorize advertisement for bids for Project SWM-007: Independence Park Pond Forebay Expansion Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer. Voting Nay: Councilmember Meister, Councilmember Labat, Councilmember Lozinski. The motion **Passed. 4-3**

**Project Z87 - Diversion Channel Slope Repair and Sheet Piling Removal Project – Consider Award of Bid.**

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

This agenda item was tabled at the August 24, 2021, meeting to September 14, 2021 meeting. The following is a summary of the unapproved minutes:

- Motion made to award to R&G Construction Co. of Marshall, MN in the amount of \$98,950.44 and failed by a 3-3 vote.
- Motion made to award to Towne & Country Excavating, LLC of Garvin, MN in the amount of \$85,094.00 and failed by a 2-4 vote.
- Motion made to table until the September 14, 2021, regular Council meeting and carried by a 6-0 vote.

The Redwood River Diversion Channel begins west of the Lyon County Public Works property at the diversion structure east of County Road 7. Over the last several years, the channel bank has eroded significantly in

several locations upstream of the drop structure north of Madrid Street. There are several locations where sheet piling used for outfall installation was left in place. This sheet piling, along with numerous recent high-water events, has contributed to the erosion of the diversion channel banks. The drainage ditches adjacent to the diversion channel spill into the channel via flume channels. These flume channels have also exhibited erosion and need repair.

City Engineering staff has identified a project to repair the severely eroded channel bank locations, remove sheet piling, and repair flume channels and storm water pipe outfalls. Staff originally budgeted \$155,000 in the 2021 Capital Budget to perform repairs in the diversion channel.

At the July 27, 2021, meeting the City Council authorized staff to advertise for bids.

On August 18, 2021, bids were received for the above-referenced project. At the bid opening, it was noted that our electronic bidding system indicated that three bids were completed, and those three bids were read aloud. It was noted that R & G Construction of Marshall was the apparent low bidder with a bid of \$98,950.44.

Following the bid opening, City staff identified that a fourth bid was submitted on time, but the bidder had not acknowledged the third and last project addendum that was issued. Because the final addendum was not acknowledged, our electronic bidding program identified the bid as being incomplete. Upon investigation, staff realized that Towne & Country Excavating's proposal was completed and submitted on Friday, August 13th. The third addendum was issued on Monday, August 16th. The electronic bidding program sends an e-mail notification that an addendum is issued, but Towne & Country did not check e-mail or otherwise failed to acknowledge the most recent addendum. Therefore, the program turned Towne & Country's "completed" submittal into an "incomplete" submittal. Towne & Country's proposal was for \$85,094.00 and the contractor has notified staff that Addendum No. 3 does not impact their submittal.

The purpose of Addendum No. 3 was to notify all bidders of an alternative method of completing a portion of the contract work. Staff determined the need to issue Addendum No. 3 because staff had authorized one contractor that they may utilize an alternative method to complete work and it was important to issue notification of the alternative method to all plan holders to help ensure that contractors are aware of all construction methods available to them to give the City of Marshall the best possible price.

City staff has conferred with City legal staff regarding this situation. As is common in municipal bid advertisements, the City's advertisements contain the language that the City reserves the right to reject all bids or waive informalities or irregularities. There are several court rulings that have established that a bidder who has deviated from the specifications may still be awarded a contract if the deviation was a nonmaterial deviation. A general rule is that a deviation is material if it gives a bidder a substantial advantage or benefit over other bidders. Conversely, non-material deviations are those that are technical irregularities that do not injure other bidders.

Reviewing Addendum No. 3, it is not requiring any additional information from bidders, it is not changing the scope of work that is required to be completed, it is not changing project quantities, it does not contain a new proposal sheet, it does not change the nature of work to be completed, and by City staff's determination, it is largely non-material in nature because it is a question and answer type of project addendum.



To make an award recommendation in this instance, the City Council will need to make the determination of whether the failed acknowledgement of Addendum No. 3 constitutes a material deviation.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer that the Council declare the failed acknowledgement of Addendum No. 3 to be non-material in nature and authorize award of the project to Towne & Country Excavating, LLC of Garvin, MN in the amount of \$85,094.00. Voting Yea: Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. The motion **Failed. 3-4**

Motion made by Councilmember Labat, Seconded by Councilmember Schafer that the Council declare the failed acknowledgement of Addendum No. 3 to be material in nature, reject the non-conforming apparent low bid and authorize award of the project to the second low bid received from R&G Construction Co. of Marshall, MN in the amount of \$98,950.44. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. Voting Nay: Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. The motion **Passed. 4-3**

#### **Consider Resolution Approving the changes for the 2022 Fee Schedule**

There are proposed changes/updates for the 2022 Fee Schedule. The Ways & Means Committee reviewed the changes to the Fee Schedule at their meeting on August 25, 2021. Ways & Means Committee are recommending further Council discussion and approval of the changes/updates to the 2022 Fee Schedule. Per the request of the Ways & Means Committee, the Special Assessment For Street Reconstruction has been flagged for further discussion. As well as an additional comparison of the difference in a 1% increase in Wastewater rates has been included in the packet.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski Approve Resolution Number 21-074, a resolution approving specific fees to be charged by the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

#### **Consider approval to enter into a fleet management program with Enterprise Fleet Management.**

At the August 24, 2021, regular meeting Enterprise Fleet Management brought forward a proposal at the request of council and staff to begin reviewing a fleet management program. After hearing the proposal council requested that the program be reviewed by the Equipment Review Committee and the Ways and Means Committee.

On September 9, 2021, both the Equipment Review and Ways and Means Committees met with staff and an Enterprise representative to review the program. Both Committees unanimously approved the program to the City Council for approval.

Included in the packet is an updated Fleet Planning Analysis. This analysis is a snapshot of our current fleet under Enterprises recommended program. If the Council does approve the program Enterprise's team will begin to work with each department to determine their fleet needs. This will be an opportunity for staff to analyze their own departments and vehicle needs and requirements.

All final decisions within this program remain with the City. Enterprise will provide data driven information on the best time to replace and cycle vehicles. If a vehicle is taken out of the cycle or kept longer then what is recommended the numbers do change.

The City Attorney has reviewed the documents/ agreements provided by Enterprise.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve a fleet management program with Enterprise Fleet Management. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Passed. 6-1**

### **Preliminary Plat of Carr Subdivision III - Introduce Plat and Call for Public Hearing.**

The final plat of Carr Subdivision I was approved by the City Council at its April 4, 2005, meeting. At the June 28, 2010, City Council meeting the plat was altered with the passing of Carr Subdivision II. Carr Subdivision II consisted of a small portion of the southwest corner of Carr Subdivision I which included a portion of MnDOT right-of way set aside for the future connection of Travis Road to MN 23. After discussions with MnDOT, the City and Developer elected to eliminate the future access point to MN 23 and desired to alter the location of Donald Drive and Travis Road.

Now, the developer wishes to combine and split lots to construct townhomes on the south side of Andrew Street in a similar manner to those constructed on the north side. Because one of the lots is in Carr Subdivision I and the other is in Carr Subdivision II, a platting process is required to adjust lot sizes for the construction of townhomes. The area is zoned R-2 where townhomes are a permitted use. City staff has conferred with Marshall Municipal Utilities regarding the placement of a new utility easement with this plat.

Attached please find a copy of the Preliminary Plat and the Engineer's Report of Preliminary Plat Review. Copies of the proposed subdivision have been sent to the local utility companies for their review and comments.

The preliminary plat was presented at the Planning Commission meeting on September 8, 2021. Following discussion, Schroeder made a motion, second by Muchlinski to recommend approval to City Council as recommend by staff. Fox abstained from vote. All voted in favor.

Motion made by Councilmember Edblom, Seconded by Councilmember DeCramer that the Council call for public hearing on the Preliminary Plat of Carr Subdivision III to be held at the September 28, 2021, City Council meeting, as per the recommendation of the Planning Commission. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

### **Approve Change Order-City Hall Project**

The City Hall Committee has reviewed several times Change Order 14. There have been three versions with the attached the final version. Chairman Lozinski had indicated his support to submit to City Council for their consideration and approval this Change Order if significant progress has been made on remaining items for City Hall. This past week, significant progress has been made.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer Approve Change Order 14 in the amount of \$11,969.00. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Meister, Councilmember Labat. The motion **Passed. 5-2**

**Authorization to use excess Public Facilities Authority loan funds for select equipment repairs at the Wastewater Facility.**

The Wastewater Treatment Facility is just completing a large improvement project. The City used a Public Facilities Authority (PFA) low interest loan to finance the project. The project will be finishing up about \$30,000 under budget, and we have a few items that need to be replaced in the very near future that were not part of the original improvement project. City staff believes that this would be a good time to address these items versus budgeting for them in the future to take advantage of the low interest rate offered by the PFA loan. There are excess funds still available in the loan for qualifying small purchases associated with the project.

Wastewater Department staff have received quotes for additional repairs that total about \$47,000. The items are as follows: a roof top air conditioning unit for the Control Room, replacement of the Federal Pacific service panel in the shop, replacement of a soft start controller for our sludge mixing pump, and update VFD controls for our ATAD Digester. These items would be done outside of the contract with Magney Construction. We have verified with MPCA that these items do qualify for the loan funds.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council authorize the additional equipment repairs of nearly \$47,000 utilizing the low interest PFA loan. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Consider Resolution Adopting Preliminary Levy for 2022**

At the August 25th work session, staff proposed a levy increase of \$730,709 or 10.07%. The main contributing factors for this increase are an increase levy item for street mill and overlays, increased salaries, an additional street employee and health care costs.

Staff have been directed by the Council to reduce this increase for the preliminary levy to 6.0- 7.0%. All cities must adopt proposed budget by resolution and certify proposed tax levy to the county auditor on or before September 30th.

Final levies may be lower than the proposed levy but may not exceed the proposed levy that is adopted in September.

Staff is recommending a 2022 preliminary levy increase of \$435,093 or 6.0%.

The proposed 2022 preliminary general fund budget currently has a deficit of 287,267.29. Of this amount 140,000 is planned use of reserves on one-time expenditures. The remaining amount is due to an additional street employee and unknown health insurance costs – which are being budgeted at a 9% increase from 2021. This amount will not be known until October 1<sup>st</sup> and will be adjusted for the final budget approval in December.

The City Council is required to hold a public meeting for the proposed levy and certify to the County Auditor the date, location and start time at the same time the proposed levy is certified. Currently in the resolution this date is being proposed Tuesday, December 14th at 6:00pm located at City Hall.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer Approve Resolution Number 21-075, a Resolution Adopting Preliminary Levy for 2022. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Edblom, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed. 6-1**

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

Byrnes            Southwest Regional Development Commission met and revised the personnel policy.

Schafer         No Report

Meister         No Report

Edblom         Public Housing Commission met to welcome a new member and are finalizing summer projects.

Planning Commission met to begin the discussion on the Comprehensive Plan and the importance of the Commissions involvement.

DeCramer       Diversity, Equity, and Inclusion Commission continues to prepare for the Welcoming Week event on September 18 at the YMCA. The Commission also has created a subcommittee to handle communications that would be sent out to the community.

Labat            Library Board met to review its reopening schedule at the Marshall and Lyon County branches. The Friends of the Foundation raised \$3,400 during a book sale during Sounds of Summer. Plum Creek will select a new Director for the position prior to the end of the year.

Lozinski         No Report

### **Councilmember Individual Items**

Councilmember Lozinski commented that if he receives any anonymous letters that he does not read them, and they are shredded. He requested that if a resident of Marshall wishes to speak with him that they are to sign their letters.

Councilmember Labat commented on the striping of the lanes near Southview.

Councilmember Meister discussed a complaint he received regarding new installation of sidewalks. Member Meister also discussed that it was reported to him that sidewalks are being taken out.

Mayor Byrnes commented on the 9/11 20<sup>th</sup> anniversary event and thanked Councilmember Schafer for speaking at the anniversary event. Mayor Byrnes also discussed the initial results of the 2020 Census and compared population and housing additions throughout Marshall's three Wards.

Mayor Byrnes also discussed the 13.7% sales tax increase from May 2020 to May 2021.

Councilmember Schafer commented on the 9/11 20<sup>th</sup> anniversary and thanked Public Safety Director Jim Marshall and his staff for putting together the event.

**City Administrator**

City Administrator Sharon Hanson commented that she will step more into the EDA role while the currently Director is on leave and provided an update on ongoing EDA projects. Administrator Hanson also discussed the community survey and that it would be expanding into other parks and recreation projects, rather than just the aquatic center.

**Director of Public Works**

Director of Public Works/ City Engineer Jason Anderson provided project updates happening throughout the city including the Army Corps. of Engineer levy project, James/ Camden/ N. 1<sup>st</sup> Street reconstruction project and the State aid overlay project. The parks trail project will begin in the near future.

Director of Public Works/ City Engineer commented on the photos provided by Councilmember Meister and that the project is not yet complete, and that additional grading work and seeding will still occur. Director Anderson also address that some duplicated sidewalk ramp crossings were removed in uncontrolled intersections.

**City Attorney**

City Attorney Dennis Simpson provided discussion that the MAHA agreement was reviewed the MAHA board and will be brought back to the Council in the near future. The council approved the purchase of land at 800 North Hwy 59, Marshall is waiting on title and plat work to be completed. Broadmoor Valley abatement order for four properties has been served.

**Information Only**

There were no questions on the information items.

**Administrative Brief**

There were no questions on the administrative brief.

**Upcoming Meetings**

There were no questions on the upcoming meetings.

**Adjourn**

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski 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