

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, October 08, 2019**

The regular meeting of the Common Council of the City of Marshall was held October 8, 2019 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:30 P.M. by Mayor Robert Byrnes. In addition to Byrnes the following members were in attendance: Craig Schafer, Steven Meister, Glenn Bayerkohler, John DeCramer, Russ Labat and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/ City Engineer; Annette Storm, Director of Administrative Services; Dave Parsons City Assessor; Jim Marshall Director of Public Safety; Sheila Dubs Human Resource Manager and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

Consider approval of the minutes of the work session and regular meeting held on September 24, 2019.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the minutes of the work session and regular meeting held on September 24, 2019 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Public Hearing for Ice and Snow Removal and Weed Elimination from Private Property in the City of Marshall and Consider Resolution Number 4664, Second Series, A Resolution Adopting 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.

City Clerk Kyle Box provided the background information on the agenda item.

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

Bayerkohler, 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 4664, SECOND SERIES, 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 Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Project Z70-2: South High Street/South Whitney Street (100 & 200 Block) Alley Improvement Project, Public Hearing on Assessment and Consider Resolution Number 4665, Second Series, a Resolution Adopting Assessment.

The project consists of the installation of new storm sewer main and requested private storm sewer services within and adjacent to the alley lying between the west side of South Whitney Street and the east side of South High Street, between the north line of East Marshall Street and the south line of East College Drive. Property owners are responsible for the costs of installation of private storm sewer services to their property. At the informational meeting on September 9, 2019, the individual costs were explained to the property owners in attendance. The property owners were given a week to decide whether or not they wanted to go ahead with the contract costs for the installation of the private storm sewer services. Only one property owner has decided to proceed with their storm sewer service. Actual installations will be revised prior to the final assessment recommendation as per the property owners' requests. Because of these adjustments, the project award with contingencies and engineering is slightly different than the total amount of the assessment roll.

The following is a breakdown of the revised proposed project funding. The costs shown below include 5% for contingencies and 16% for engineering and administrative costs, for a total revised project cost of \$38,326. The following is a proposed breakdown of the project funding:

Wastewater Fund \$ 0
MMU \$ 0
Surface Water Management Utility \$ 0
City Participation (Ad Valorem) \$ 3,585
Assessed to Property Owners \$34,741
Total Project Amount \$38,326

Per the Finance Department, the interest rate on the assessments for this project is 2.5%.

Director of Public Works/ City Engineer Glenn Olson provided the background information on the agenda item.

Motion made by Councilmember DeCramer, Seconded by Councilmember Labat that the Council close the public hearing on assessments for Project Z70-2: South High Street/South Whitney Street (100 & 200 Block) Alley Improvement Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council adopt RESOLUTION NUMBER 4665, SECOND SERIES, which is the "Resolution Adopting Assessment" for Project Z70-2: South High Street/South Whitney Street (100 & 200 Block) Alley Improvement Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Project Z74: Huron Road/Superior Road Reconstruction Project, Public Hearing on Assessment and Consider Resolution Number 4666, Second Series a Resolution Adopting Assessment.

The project consists of watermain replacement on Huron Road between Superior Road and TH 59 and reconstruction on Superior Road from Huron Road to CSAH 33. All utilities will be replaced, including watermain, sanitary sewer, and storm sewer on Superior Road and watermain replacement only on Huron Road.

The following is a breakdown of the proposed project funding. The costs shown below include 5% for contingencies and 16% for engineering and administrative costs, for a total project cost of \$958,927.80. The following is a proposed breakdown of the project funding:

Wastewater Fund \$ 91,444
MMU \$192,468
Surface Water Management Utility \$ 44,633
City Participation (Ad Valorem) \$383,802
Assessed to Property Owners \$246,581
Total Project Amount \$958,928

Per the Finance Department, the interest rate on the assessments for this project is 2.5%.

Director of Public Works/ City Engineer Glenn Olson Provided the background information on the agenda item.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski that the Council close the public hearing on assessments for Project Z74: Huron Road/Superior Road Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Motion made by Councilmember Meister, Seconded by Councilmember Schafer that the Council adopt RESOLUTION NUMBER 4666, SECOND SERIES, which is the "Resolution Adopting Assessment" for Project Z74: Huron Road/Superior Road Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Approval of the Consent Agenda.

Councilmember Schafer requested that item number 15, Project Z50-2019: Bituminous Chip Sealing on Various City Streets - Consider Change Order No. 1 (Final), be removed for further discussion.

Councilmember Bayerkohler requested that item number 10, Consider Resolution Declaring Building "Blighted" and "Substandard" for Redevelopment, be removed for further discussion.

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

Approval of the introduction of the Cable Franchise Ordinance between the City of Marshall and Clarity Telecom, LLC d/b/a Vast Broadband.

Approval of the introduction of Ordinance Number ____, Second Series, An Ordinance Establishing Licensing and Regulations for Mobile Food Units and Food Carts.

Approval of the introduction of Ordinance Number ____, Second Series, An Ordinance amending Chapter 2, Article VI, Division 12, MERIT Center Board.

Approval of the Wastewater Treatment Facilities Improvement Project - Consider Payment of Invoice 0239270 to Bolton & Menk, Inc.

Approval of the Wastewater Treatment Facilities Improvement Project - Consider Application for Payment No. 3 to Magney Construction, Inc.

Approval of a LG220 Application for Exempt Permit for United Way of Southwest Minnesota.

Approval of the bills/project payments.

Consider Resolution Number 4667, Second Series Declaring Building "Blighted" and "Substandard" for Redevelopment.

Council awarded a contract for demolition at the September 10, 2019 Council Meeting for the property located at 100, 102 & 110 West Main Street (Block 11).

Councilmember Bayerkohler discussed the agenda information being provided prior to the meeting. There was further discussion by Council and staff on the agenda item.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer Approve Resolution Number 4667, Second Series, a Resolution Declaring Building "Blighted" and "Substandard" for Redevelopment Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

Project Z50-2019: Bituminous Chip Sealing on Various City Streets - Consider Change Order No. 1 (Final).

The items on the Change Order No. 1 (Final Reconciling Change Order) for the above-referenced project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Change Order No. 1 (Final) results in a contract decrease in the amount of \$15,335.75 and a total contract amount of \$149,116.25. The original contract amount was \$164,452.00.

Councilmember Schafer pulled the item in light of the positive change order.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that Council approve Change Order No. 1 (Final) with Allied Blacktop Company of Maple Grove, Minnesota, resulting in a contract decrease in the amount of \$15,335.75 for the above-referenced project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider authorization to enter into a purchase and sale agreement regarding sale of City owned property to Minnesota Municipal Utilities Association (MMUA).

MMUA presently owns training facility and currently leases property from the City of Marshall for training purposes. MMUA has approached the City of Marshall regarding purchase of property so as to allow for the expansion of its facilities and training opportunities. A Purchase and Sale Agreement has been developed and reviewed for acquisition of 17.87 acres of property from City of Marshall. Purchase price is \$1,000 per acre for total purchase price of \$17,870. City staff is recommending that the City enter into the agreement to sell property to MMUA.

Representatives from MMUA, Jack Kegel Executive Director and Mike Willetts Director of Training and Safety, discussed their future plans for expanded training opportunities for utility worker training.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to adopt Resolution Number 4668, Second Series, Authorizing the proper City officials to approve and execute the Purchase and Sale Agreement for Sale of Real Estate Owned by the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

Consider Approval for Auditing Service Contract for 2019-2022.

A summary of the Audit Quotes the City of Marshall received for Auditing Services for four years, 2019 through 2022. The review of the proposals included their fees, the number of hours by staff to perform the service, comparable Cities and the qualifications of the staff.

After all the quotes were received and reviewed, special attention was spent on comparing the low quote (BerganKDV) to the other 3 similar amounted quotes. The main difference between the low quote (BerganKDV) and other 3 were the hours spent by the auditing firms, the low quote was significantly lower than the other 3, which was of concern. The City of Marshall's audit staff hours over the past 3 years have averaged 360 hours and the low quote from BerganKDV included 260 staff hours. Not only were the hours low but also the hours spent by the partner reviewing was half the time of Abdo's partners review and this is a critical step in a financial audit to ensure there are no material misstatements.

Abdo Eick & Meyers LLP has provided the auditing service to the City of Marshall for the past 12 years. At the end of 2019 Abdo's partner Kyle Meyers will be retiring and Tom Olinger will take over reviewing and overseeing the City of Marshall's Audit.

Staff strongly recommends awarding the contract for services with Abdo, Eick & Meyers. The recommendation is upon full review of detailed quotes with consideration of the following: price; experience; hours by the audit staff; the change in partner review is new; and year-round staff availability is included in the contract price.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to table the agenda item until the October 22 regular meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Block 11 Pre-Development Agreement Between the City and APX Construction Group.

Ms. Mikaela Huot, Baker Tilly Municipal will present the Pre-Development Agreement for consideration and approval. The Pre-Development Agreement is a follow-up to the September 24, 2019 Council presentation from APX Construction Group and their intent on developing a mixed used property on the Block 11 site. The main emphasis of the Pre-Development is stating shared interest in seeing the property developed with APX Construction Group as the identified partner with the City; that certain conditions and timelines if met, will led to negotiation of a development agreement. If the condition and timelines are not met, the City can pursue additional interest in the Block 11 from other interested parties.

There was further discussion by council on the project and predevelopment agreement.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the Block 11 Pre-Development Agreement Between the City and APX Construction Group. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

City Hall Update.

City Administrator Sharon Hanson introduced Richard Engan and Barbara Marks to provide an overview of the City Hall project thus far.

Barbra Marks of Engan Associates commented that they had met with the City Hall Committee and walked through the project processes and next steps. There will also be a mandatory pre bid meeting held on October 17 to go over bid specifics with contractors.

Richard Engan of Engan Associates commented that site plans will be provided to the City for review and the process for the pre bid meeting.

Commission/Board Liaison Reports

Byrnes No Report

Schafer Southwest Minnesota Amateur Sports Commission met and discussed the number MAHA's players (200 Players not including Varsity). MAHA's has produced \$64,000 in concession sales at the Red Baron Arena.

Meister No Report

Bayerkohler No Report

DeCramer Economic Development Authority met with the City Council work session to discuss an open EDA Director position.

Labat Convention and Visitors Bureau met and discussed the upcoming Gun Show to be held at the Red Baron Arena and Haunted Tower at the MERIT Center.

Lozinski No Report

Councilmember Individual Items

Councilmember Schafer discussed an additional item on Red Baron Arena, specifically the concession stand area, and that all of the equipment was donated by Reinhard Foods.

Councilmember Lozinski commented on a ribbon cutting at Southwest Coaches and Unique Opportunity's. Councilmember Labat commented on hosting additional town hall meetings with the Council.

Councilmember DeCramer also commented on the ribbon cutting at Unique Opportunity and that they are ready to move on to the next phases.

City Administrator

No Report

Director of Public Works

Director of Public Works/ City Engineer mentioned the MERIT Center Open House on October 24 from 3 – 6:30 PM.

City Attorney

No Report

Administrative Report

There were no questions on the Administrative Brief.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn Meeting

At 7:00 P.M., Motion made by Councilmember Schafer, Seconded by Councilmember Labat to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Mayor

Attest:

City Clerk