

CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, December 10, 2019

The regular meeting of the Common Council of the City of Marshall was held December 10, 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; Glen Olson, Director of Public Works/ City Engineer; Jason Anderson, Assistant City Engineer/ Zoning Administrator; Annette Storm, Director of Administrative Services; Quentin Brunsvold, Fire Chief; Sheila Dubs, Human Resource Manager; Dave Parsons, City Assessor; Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the presented agenda.

**Consider approval of the minutes of the regular meeting held on November 26, 2019.**

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the minutes of the regular meeting held on November 26, 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**

**Adoption of Ordinance amendment to add Interim Use Permit with associated changes.**

Some time ago it was brought to staff's attention that the ordinance requiring a Conditional Use Permit renewal for home occupation contradicts the statutes that don't allow time limits to be attached to a Conditional Use Permit. To correct this, staff proposes to introduce an Interim Use Permit and make home occupation an interim use.

The statutes allow using Interim Use Permit if time limit for a permit is desired. Many cities have provisions for Interim Use Permit, but many do not. Additionally, among cities that define them within their ordinances, some do not have any specific uses listed as interim uses. How each city approaches home occupations also varies among the cities with some listing them as accessory uses with limitations on what may be considered a home occupation, some allow them as Conditional Use Permit, similar to Marshall's past approach, and some have them as interim use. Staff believes that making home occupation an interim use and issuing a time limited Interim Use Permit offers the city the greatest amount of flexibility. It provides for public input through a public hearing and allows issuing those permits on a temporary basis.

To accomplish this task, Conditional Use Permit Division was amended to describe Interim Use Permit parallel with Conditional Use Permit, while keeping most of the sections intact since procedures and standards for hearings are practically the same for both permits.

A home occupation section has been updated to make home occupation and business an interim use and a few more conditions were also added, mostly copied from other cities. Sections 86 - 96 thru 86 - 102 were amended by removing home occupation from conditional uses.

At the October 9, 2019, regular Planning Commission meeting Fox made a motion, second by Knieff to recommend to city council an approval as recommend by staff. All voted in favor of the motion.

At the meeting on November 6, 2019, Legislative and Ordinance Committee voted to recommend to council the approval of revisions amending zoning ordinance by introducing Interim Use Permit, making home occupation an interim use, and making associated changes as recommended by staff.

The Ordinance Amendment to add Interim Use Permit with associated changes was introduced at the November 26, 2019, City Council meeting.

Plan Examiner/ Assistant Zoning Administrator Ilya Gutman provided the background information on the agenda item. Councilmember Lozinski commented on Item 7, Sec. F in the proposed ordinance and recommended it be removed from the ordinance. The Council was in favor of that recommendation.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer that the Council close the public hearing on the Ordinance amendment to add Interim Use Permit with associated changes. 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 Lozinski, Seconded by Councilmember Labat that the Council adopt Ordinance No. 747, Second Series, Amending Ordinance amendment to add Interim Use Permit with associated changes. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

#### **Adoption of Ordinance amendment to Section 62-2 Snow Removal on Private Streets.**

Recently, the Ordinance has been amended to ensure that owners plow snow on their private streets to allow for emergency vehicle and resident access. There was some confusion about the required width of the plowed path, so the suggestion was to amend the ordinance by including a specific width. The attached ordinance amendment refers to 16-foot clear path. However, currently, the way it's written, the Ordinance states that "all snow and ice remaining upon ... private streets..." constitute a hazard, which means that the entire width of the street shall be cleared of those hazards even without specifying certain width.

At the meeting on November 6, 2019, Legislative and Ordinance Committee voted to recommend to council the approval of revisions amending Section 62-2 Snow Removal on Private Streets to include required width of 16 feet.

The Ordinance amendment to Section 62-2 Snow Removal on Private Streets was introduced at the November 26, 2019, City Council meeting.

Plan Examiner/ Assistant Zoning Administrator Ilya Gutman provided the background information on the agenda item. Councilmember DeCramer provided discussion from the Legislative and Ordinance Committee regarding the proposed amendment. There was further discussion by Council and Staff.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council close the public hearing on the Ordinance amendment to Section 62-2 Snow Removal on Private Streets. 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 Lozinski that the Council adopt Ordinance No. 748, Second Series, amendment to Section 62-2 Snow Removal on Private Streets. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**1500 Travis Road - 1) Public Hearing regarding a business tax abatement request, 2) Consideration of Resolution Number 4676, Second Series, a resolution approving business tax abatement.**

On November 26, 2019 a public hearing was called for and to be held on December 10, 2019 regarding a business 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 project is a 28,000 square foot one story metal building housing a bus garage and travel agency. This project started in April 2019 and finished in September 2019.

City Administrator Sharon Hanson provided that background information on the agenda item.

Councilmember Bayerkohler clarified that the abatement procedure for structures that are destroyed by fire qualify for an abatement.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to close the public hearing. 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 DeCramer, Seconded by Councilmember Lozinski to approve Resolution Number 4676, Second Series, a resolution approving business property tax abatement.

Councilmember asked a clarifying question on the abated amount and whether or not the abated amount should be the increase in value from before the fire destroyed the building or on the entire amount after it was destroyed by the fire.

City Administrator Sharon Hanson commented that the abated amount was on the parcel that only included the new construction. There was further discussion by Council and Staff.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

**301 Stephens Ave. – 1) Public Hearing regarding a home property tax abatement request, 2) Consideration of Resolution Number XXXX, Second Series, a resolution approving home property tax abatement.**

On November 26, 2019 a public hearing was called for and to be held on December 10, 2019 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 301 Stephens Ave. with an estimated market value of \$652,400 with the difference of improvement being \$409,000. The approximate amount of assistance is \$2,902 a year or \$5,804 over a maximum period of 2 years.

City Administrator Sharon Hanson provided that background information on the agenda item.

Motion made by Councilmember Labat, Seconded by Councilmember DeCramer to close the public hearing. 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 Lozinski to approve Resolution Number 4677, Second Series, a resolution approving home property tax abatement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

#### **Truth in Taxation – At or after 6:00 PM**

Counties, cities with a population over 500, school districts, metropolitan special taxing districts, and regional library authorities established under section 134.201 are required to hold a meeting at which the budget and levy will be discussed, and the public allowed to speak. The meeting must be after Nov. 24 and no later than Dec. 30 and held at 6:00 p.m. or later. This meeting may be part of a regularly scheduled meeting.

City Administrator Sharon Hanson presented the background information via PowerPoint. Administrator Hanson introduced City Assessor David Parsons to go into detail on values and tax capacity within the city of Marshall.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer to close the Truth and Taxation. 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**

Motion made by Councilmember Schafer, 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 employee retirement Resolutions Numbers, 4678, 4679 and 4680, Second Series.

Approval of the 2020 Temporary and Seasonal Employee Wage Schedule.

Approval of the renewal of the 2020-2021 Health Care Savings Plan Memorandums of Understanding.

Approval of the Vacation of Utility Easement in Carr Subdivision I -- Receive Petition for Vacation of Utility Easement and Call for Public Hearing.

Approval of the Wastewater Treatment Facilities Improvement Project – 1) Consider Application for Payment No. 5 to Magney Construction, Inc.

Approval of the Wastewater Treatment Facilities Improvement Project – 2) Consider Payment of Invoice 1301869 to American Engineering Testing, Inc.

Approval of the Declaration of Surplus Items from Wastewater Department.

Approval of the bills/project payments.

**Consider a LG220 Application for Exempt Permit for SMSU Foundation for February 24, 2020.**

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to SMSU Foundation to hold a raffle on February 24, 2020, at Southwest Minnesota State University , 1501 State Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30- day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Abstaining: Councilmember Bayerkohler. The motion **Passed. 6-0-1**

**Statement of Annual Performance Evaluation for Sharon Hanson, City Administrator, and consider approval of a step increase**

In accordance with the personnel policy on Employee performance reviews (Policy 4.6) and the employment agreement between the City and Administrator Sharon Hanson, Hanson should receive an annual performance evaluation based upon the anniversary date of her hire date, which was November 16, 2017.

On December 10, 2019, the City Council held a special meeting with a closed session in accordance with Minnesota Statute 13D.05, subd.3(a) to evaluate the performance of Administrator Hanson. In accordance with Minnesota law, the Council is required to summarize the conclusions of the evaluation and present a summary at the next open meeting. A summary of the performance evaluation will be presented by Mayor Byrnes.

Administrator Hanson is currently compensated at \$136,489.60 (Step 5). In accordance with the employment agreement, future compensation increases are determined by the Council, in its sole discretion, after each performance evaluation. Council approval of movement to Step 6 would reflect an annual salary on the 2019 wage schedule of \$143,665.60, which would be retroactive to November 16, 2019.

Motion made by Councilmember Steven Meister, Seconded by Councilmember Lozinski that the Council accept the performance evaluation of City Administrator Sharon Hanson. 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 Lozinski that the Council approve a step increase for City Administrator Sharon Hanson. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat,

Councilmember Lozinski. The motion **Carried. 7-0**

**Affirm Commercial Tax Abatement Policy Guidance**

The EDA Board recommended to the Council that consider commercial tax abatement applications with no penalty as per a revised policy or council directive. This is based on the following:

Due to further analysis and the belief that the county commercial tax abatement would consider an abatement for the same property with no penalty. The county commercial tax abatement policy is contingent on local approval of an abatement being granted.

The policy is new and there is still awareness to be gained and thus there has been interest from expanding businesses, after construction, for the commercial tax abatement.

Staff recommends that the Council provide staff with the guidance to bring forward applications for abatement with no penalty if applications and construction started after the effective date of the policy and until 12/31/2020 at which time staff can evaluate the guidance and if at that time the policy is no longer new and thus approval prior to construction can be achieved starting 1/1/2021.

Furthermore, the city's policy states: The City reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on City services in relation to the potential benefits from the project. The City Council can deviate from this policy for projects that supersede the objectives identified herein. Thus, at this time staff does not recommend formal policy revision, rather act upon the Council's direction provided and voted upon by the majority of the Council.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve the policy guidance that staff be directed to bring forward applications for abatement with no penalty if applications and construction started after the effective date of the policy and until 12/31/2020 at which time staff and Council can evaluate the guidance and if at that time since the policy is no longer new and awareness is gained and thus approval prior to construction can be achieved starting 1/1/2021. Any tax abatement would still be evaluated and in compliance with MN Statutes. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Amend Resolution Number 4658, Second Series, by striking the language denoting 10% reduction for the tax abatement granted.**

The EDA Board recommended to the Council that the Canoga Park Childcare commercial tax abatement be amended to eliminate the 10% penalty due to further analysis and the belief that the county commercial tax abatement would consider an abatement for the same property with no penalty. The county commercial tax abatement policy is contingent on local approval of an abatement being granted. Furthermore, the city's policy states: The City reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on City services in relation to the potential benefits from the project. The City Council can deviate from this policy for projects that supersede the objectives identified herein. Motion made by Councilmember DeCramer, Seconded by Councilmember Labat. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat. Voting Nay: Councilmember Bayerkohler. Voting Abstaining: Councilmember Lozinski.

The motion **Passed. 5-1-1**

**Commission/Board Liaison Reports**

- Byrnes Southwest Regional Development Commission met and discussed the economic development within the region.
- Schafer Southwest Amateur Sports Commission met and discussed how they can expand on different areas sports and how they can bring future tournaments to Marshall.
- Meister Community Services Advisory Board met and discussed the condition of the pool, recently published the winter brochure. Member Meister also announced current board openings.
- Bayerkohler Public Housing Commission is working with a firm to develop a website for Public Housing.
- DeCramer No Report
- Labat Library Board met and provided a recap of their 2019 events and an outlook for 2020. The Library also received a \$2,500 grant to upgrade to LED lighting.
- Lozinski No Report

**Councilmember Individual Items.**

Councilmember Lozinski commented on the snow removal process that the City has and the expectation that our community has for our clean streets.

Councilmember Labat commended staff for their work on the Habitat for Humanity project.

Councilmember DeCramer commented on City Hall move.

Councilmember Schafer mention the Light up the Night Parade and the Light up the Night events at Independence Park.

Mayor Byrnes discussed Refugee Resettlement item that was received from the State Department of Human Services. Mayor Byrnes indicated that this was not an action item for the council to take but could be an input item to the County.

**City Administrator**

City Administrator Sharon Hanson discussed the move from City Hall to Southwest Minnesota State University.

**Director of Public Works**

Director of Public Works/ City Engineer commented on the Habitat for Humanity project and the City Hall move.

**City Attorney**

No Report

**Administrative Reports**

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 7:07 P.M., Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski 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:

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City Clerk