

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, December 10, 2024**

The regular meeting of the Common Council of the City of Marshall was held December 10, 2024, 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, See Moua-Leske, John Alcorn and James Lozinski. Absent: Steve Meister and Amanda Schroeder. Staff present included: Sharon Hanson; City Administrator; Pamela Whitmore, City Attorney; Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Jim Marshall, Director of Public Safety; Eric Hanson, Asst. City Engineer; Dave Parson, City Assessor, Preston Stensrud, Park and Rec Supervisor; Quentin Brunsvold, Fire Chief; Karla Drown, Finance Director; Ilya Gutman, Plans Examiner; and Steven Anderson, City Clerk.

Councilmember Schafer attended via interactive technology due to being out of state.

Consider Approval of the Minutes of the Meetings Held on November 26th

There were no requests to amend the minutes from November 26, 2024.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to approve the minutes as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Approval of the Consent Agenda

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve the items on the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

- Consider Lease Agreement between Vishay Hirel Systems LLC and the City of Marshall
- Consider Approval of 2025 Workers Compensation Insurance and Volunteer-Accident Plan
- Tiger Office Park – Introduction of Preliminary Plat
- Consider Approval of 3.2% Malt Liquor License Renewal for 2025
- Consider Approval of Tobacco License Renewal for 2025
- Consider Authorization to Declare Vehicles as Surplus Property for the Marshall Police Department
- Authorization to Accept Donations Made to the Marshall Police Department
- Consider Approval of the Bills/Project Payments

Consider Redesign of Marshall Aquatic Center and Direct Contegrity and Stockwell to Develop Final Plans, Specifications and Bidding Documents for a Proposed January 2025 Advertisement for Bid Request to Council

On August 29, 2024, the city opened bids for the Marshall Aquatic Center project. Due to higher than estimated bids being received, during the September 10, 2024, meeting, City Council rejected the bids and gave authorization and direction to staff to explore construction management services for the aquatic center. At the September 24, 2024, Council meeting, the Council authorize staff to finalize an agreement with Contegrity Group, Inc. Since that time Contegrity had been working with Stockwell Engineering and contract providers on redesigned elements that could be incorporated into final redesigned bid documents. The Aquatic Center Committee met to review a redesigned aquatic center and recommended the proposed redesigned concept come forward to Council for consideration. Stockwell Engineering briefly went over the main redesign element changes, such as reducing the number of lanes of the lap pool from eight to four, shrinking and combining buildings, and reducing the amount of water per square foot by 20%-22%. Contegrity provided an overview of the proposed pool project budget and timeline for completion.

Motion made by Councilmember Moua-Leske, Seconded by Councilmember Alcorn to accept the redesign concepts of the Marshall Aquatic Center and to direct Contegrity Group Inc. and Stockwell Engineering to develop final plans,

specifications, and bidding documents. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Consider an Ordinance Amending Ch. 14 Animals

The proposed ordinance was meant to clean up outdated language, clarify definitions, and align current licensing practices with what was being implemented as a process. The amendment also included a new article that would allow residents the ability to have backyard chickens with a city permit. All council members were in favor of updating and clarifying the ordinance. However, Councilmembers Alcorn, Schafer and Mayor Byrnes were opposed to the new article to allow backyard chickens. Councilmembers Moua-Leske and Lozinski were in favor of allowing backyard chickens. Councilmembers cited sanitation, noise, equity, and learning experiences as some of the pros and cons for backyard chickens.

Motion made by Councilmember Lozinski, Seconded by Councilmember Moua-Leske to adopt Ordinance 24-026 amending Chapter 14 Animals as proposed. Voting Yea: Councilmember Moua-Leske, Councilmember Lozinski Voting Nay: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn. The motion **Failed. 2-3.**

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to adopt Ordinance 24-026 amending Chapter 14 Animals and excluding Article V Backyard Chickens. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske. Voting Nay: Councilmember Lozinski. The motion **Carried. 4-1.**

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to direct the City Clerk to publish a summary publication of the ordinance. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Adoption of an Ordinance Amending Chapter 86, Sections 71, 96, 102-108, and Adding Section 166 Certification of Cannabis Business License Application

The State of Minnesota had passed law making personal use and most cannabis related products legal. The Office of Cannabis Management was created to oversee the new cannabis related laws. Most licenses are to be issued by the Office of Cannabis Management and a few of the retail licenses would require local government approval. However, local governments are permitted only to regulate the location of cannabis related businesses through zoning ordinances and the zoning ordinances cannot completely disallow cannabis retailers. The sections under Chapter 86 are being amended to find an appropriate place for each type of State issued cannabis related business license. The proposed changes were made in a consistent and simple manner. All cannabis related businesses are combined into one use line that listed permitted license types appropriate for a particular district, either as a permitted or conditional use. Section 86-166 Certification Of Cannabis Business License Application was added to comply with the new state statutes. Section 86-105 B-4 Shopping Center Business District was proposed to be repealed because the district was obsolete. No areas of the city are zoned B-4 anymore. A few other minor changes were made in several sections to simplify the ordinance.

Motion made by Councilmember Moua-Leske, Seconded by Councilmember Lozinski to adopt Ordinance 25-025 amending Chapter 86, Sections 71, 96, 102 – 108 and adding Section 166 Certification of Cannabis Related Business License Application. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Truth-in-Taxation Public Meeting

Moberg presented the preliminary 2025 budget and property tax levy. Items such as the capital equipment levy, planned bonding and tax capacity changes, and tax levy history were reviewed. Moberg continued by explaining personnel, health insurance and general fund impacting budgets and levies. Further details were provided for budgeted expenditures as well as examples of levy increase impacts on residential, commercial and apartment buildings. Staff recommended that the final levy stay at a 9.80% increase. Mayor Byrnes opened the meeting for public

input. Gary Vlaminck, owner of several rental properties, expressed his dissatisfaction with the increase in taxes. No other members of the audience wished to comment.

Motion made by Councilmember Lozinski, Seconded by Councilmember Moua-Leske to close the Truth in Taxation public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Project ST-002-2024: Bituminous Overlay on Various City Streets - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request (No. 3)

The project was the annual street mill and overlay project that also included ADA improvements at sidewalk ramp crossings. The following identified each location in the project:

Street	From – To
Peltier/Glenn/Simmons	Peltier/Glenn/Simmons off 6 th Street
O’Connell Street	Service Road to Birch Street
Rainbow Drive	Madrid Street south to Railroad Tracks
Floyd Wild Drive	Susan Intersection to Canoga Park Drive
Canoga Park Drive	TH 23 to new Canoga Park Circle
Market Street	East College Drive to Mall Parking Lot
Whitney Street North	East College Drive to Fourth Street North
Poplar Avenue	Whitney Street North to Hill Street North
Boyer Drive	TH 23 to Margaret Avenue
Boyer Drive	Leveling 1”-20’ wide estimated

The items on Change Order No. 2 (Final Reconciling Change Order) for the project are the result of final measurements and changes in item quantities during construction. Change Order No. 2 (Final) resulted in a contract decrease in the amount of \$24,961.00, and a final contract amount of \$533,195.76. The original contract amount was \$587,422.58, for a net contract decrease of \$54,226.82. The 2024 Capital budget included \$650,000 for the project.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to approve Change Order No. 2 (Final) and acknowledge Final Pay Request (No. 3) in the amount of \$9,916.95 to Central Specialties Inc. of Alexandria. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Project WW-005: Highway 23 Lift Station Improvements Project-Phase IV Wet Well Renovation – Consider Final Change Order No. 1 and Acknowledgment of Pay Request-1 Final

All work had been completed in accordance with specifications and consisted of:

- Removal of the four existing submersible pumps, wet well piping and guide rails
- Renovation of wet well structure with concrete repairs as needed, and new coating system
- Installation of the four new pumps supplied by the city
- Installation of new piping in the wet well structure
- Bypass pumping of the lift station while renovations work is being completed

Final Change Order 1 resulted in a contract decrease of \$17,633.33 and a final contract amount of \$279,536.67. The original contract amount was \$297,200.00

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve Change Order No. 1 (Final) and acknowledge Pay Request 1 (Final) in the amount of \$279,536.67 to Rubin Construction of Tyler. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Project ST-012-2025: S Hill Street / S Minnesota Street / Charles Avenue Reconstruction Project - Consider Resolution Receiving Feasibility Report and Calling Hearing on Improvement

The project consisted of reconstruction and utility replacement on South Hill Street and South Minnesota Street from East College Drive to Charles Avenue, two alleys from East College Drive to Charles Avenue and Charles Avenue from South Whitney Street to South Minnesota Street. All utilities would be replaced, including watermain, sanitary sewer, and storm sewer within the areas identified. The project would also include new water and sewer services to the right-of-way. Other items of work included in the project are pavement removal, aggregate base, bituminous surfacing, concrete surfacing, sidewalks, curb and gutter and other minor work. The Feasibility Report authorized by the City Council covered the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule. The proposed improvements described in the report were necessary, cost-effective, and feasible from an engineering standpoint.

The total estimated project cost, including 10% allowance for contingencies and 16% for engineering and administrative costs was \$1,539,000.00. All improvements would be assessed according to the current Special Assessment Policy, including, but not limited to, participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation. Final approval of each project must include determination of funding sources.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to adopt Resolution 24-104 Receiving Feasibility Report and Call for Hearing to be held on January 14, 2025. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Project PK-012 / (SAP 139-090-007): East Lyon Trail Project – 1) Consider Resolution Authorizing Agent of Sponsoring Agency for Active Transportation Project; 2) Consider Resolution Identifying Responsibility for Operation and Maintenance for Active Transportation Project

City staff had secured a Transportation Alternatives (TA) (Federal) grant in 2023 in the amount of \$605,276 for the construction of a shared use path. TA grants require a local match of at least 20% of the project costs. City Engineering staff submitted a Letter of Intent for 2026 Active Transportation grant funds and have been approved to proceed with preparing a full application with the hope of the AT grant funds covering the remaining local share of the project costs. If an AT grant is not secured, the City's Municipal State Aid Street (MSAS) funds would be used to cover all costs more than \$279,724. MnDOT was currently soliciting for the 2026 Active Transportation (AT) grant applications. The AT grant is a State-funded grant that can be used to pay for the gap in funds between the awarded TA grant and the actual bid price for the project. The AT program's purpose was to help fund projects that connect communities and key destinations, boost public health by creating safer environments for people to walk, bike or roll to their destinations, and mitigate safety hazards related to interacting with vehicular traffic. The East Lyon Trail fits into these categories as it is a direct trail link between East Main Street (TH59) East to Jewett Street. City staff received letters of support from Holy Redeemer and Parkside Elementary for the project. The revised preliminary cost estimate showed \$279,724 of City participation, with nearly \$121,772 of this participation being City engineering services.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to adopt Resolution 24-105 Authorizing Agent of Sponsoring Agency for Active Transportation Project and adopt Resolution 24-106 Identifying Responsibility for Operation and Maintenance for Active Transportation Project. Voting Yea: Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Abstaining: Mayor Byrnes. The motion **Carried. 4-0-1.**

Project SWM-003: Legion Field Stormwater Improvements Project-Phase III – Consider Acceptance of MPCA Stormwater Resiliency Grant

The Minnesota Pollution Control Agency Grant Agreement had been awarded to the City in the amount of \$867,894.00. The MPCA solicited project proposals to distribute \$35M to communities for projects to prepare local stormwater infrastructure for the impact of climate change. The intent of the funding was specifically identified to address water quantity and prevent localized flooding. City staff had identified the Legion Field Stormwater Improvements—Phase III project as an ideal candidate project for the funding. Phase III was the final project that was identified in the 2019 Legion Field Stormwater Study. Phase III would help remedy stormwater flooding in the areas of Kendall Street, Peltier Street, Glenn Street, and Simmons Street, as well as property east and north of the Nexus Apartments on Legion Field Road. The project included a clearing and grading of approximately 1,100 FT of Burlington Northern Santa Fe railroad ditch that conveyed city stormwater from Legion Field Road to the north and east, a new stormwater pipe crossing of the BNSF railroad near Turkey Valey Farms, and new large diameter stormwater pipe to convey the water to a new stormwater pond to be constructed on city-owned land north of the Nexus Apartments. The Phase III project was currently identified for 2025 in our CIP. The project had been deferred for numerous years due to lack of funding. Per the MPCA, extreme storms have pushed aging and undersized stormwater systems in communities across the state to the breaking point. Over the last 20 years, Minnesota has experienced 10 “mega-rain” events, when at least six inches of rain falls over an area of at least 1,000 square miles.

Motion made by Councilmember Moua-Leske, Seconded by Councilmember Schafer to authorize acceptance of a Minnesota Pollution Control Agency Grant Agreement in the amount of \$867,894.00 for State compensation and reimbursement to the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Memorandum of Agreement providing Land Rights for FAA Navigational Facilities and Weather Observation Equipment at Airport (FAA Contact No. 697DCM-25-L-00010)

The Memorandum of Agreement from the Federal Aviation Administration (FAA) was for the operation and maintenance of the FAA-owned Remote Communications Outlet (RCO) and Automated Weather Observation System (AWOS) at the Airport. The FAA had already been using their equipment at the airport and the memorandum would continue the use of the airport facility. The agreement succeeded Lease Number DTFAGL-06-A-00014 which was set to expire September 30, 2025. The new agreement would commence October 1, 2025, and continue to September 30, 2045.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to authorize execution of the Memorandum of Agreement providing Land Rights for Federal Aviation Administration Navigational Facilities and Weather Observation Equipment at the Marshall Municipal Airport. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Consider Award of Contract for the Pickup of Refuse at Various City Locations

A request for proposals was sent in September for the four licensed refuse haulers in the City of Marshall. Quotes were received on October 17th, 2024, for the removal of garbage and trash from numerous municipal locations within the City of Marshall. During the October 22nd meeting the Council advocated using a local contractor and voted to allow the current service provider, Southwest Sanitation, the opportunity to match or beat the low quote of \$12,990/year. The council had also suggested that as part of the negotiations with Southwest Sanitation that an increased duration of the term be looked at. Staff met with representatives of Southwest Sanitation and reached a tentative agreement. The proposed contract would be for a period of 5 years with the first two years being \$12,678, which is \$312 lower than the low quote that was presented on October 22nd. The following three years of the contract would be increases to cover landfill tip fee increases and other increased costs. Lyon County in 2023 increased tip fees 7% to \$42/ton and then another 7% to \$45/ton in 2024 with an additional 8% increase per year in 2025 and 2026. The increase in tip fee for 2027-2029 was anticipated to be 8%/year as well. The proposed contract payment amounts to Southwest Sanitation would be as follows:

2025/2026: \$12,678

2027: \$13,400
2028: \$14,000
2029: \$14,700

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to award the 2025-2029 Garbage/Refuse Hauling contract to Southwest Sanitation of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Authorize Use of ARPA Funds

In March of 2021, the American Rescue Plan Act (ARPA) was signed into law and established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program. The program was intended to provide support to state, territorial, local and tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents and businesses. Recipients may use SLFRF funds to cover eligible costs that an organization incurred during the period that began on March 1, 2021, through December 31, 2024. The Federal ARPA guidelines required the city to decide how the funds would be spent by December 31, 2024, as long as those obligated funds were expended by December 31, 2026. The city cannot re-obligate funds or obligate additional ARPA monies after the December 31, 2024, deadline. The City of Marshall received a total of \$1,473,889.54 in 2022 and 2023, and had \$655,889.54 remaining as available, unspent funds. In addition, the City received \$200,000 from Lyon County in 2023 and had \$172,150 available, unspent funds to go towards the aerial truck ordered by the City in 2022 to be delivered in 2025. Staff recommended to disburse funds before year-end and not to deal with obligation requirements, by doing the following: attempt to obtain an invoice and make payment for the \$172,150 ARPA received from Lyon County for the aerial truck ,and use remaining ARPA funds of \$655,889.54 for the aquatic center architect/engineer costs paid in 2024, which would lower the transfer needed from General Fund from the deficit cash of the Aquatic Center Fund and reduces amount of “reimbursable costs” from bond proceeds, which adds to available balance for the project. Architect/engineer costs of \$781,671 paid in 2024; \$1,251,476 paid since inception, with \$108,824 remaining to be paid on the existing agreement.

Motion made by Councilmember Moua-Leske, Seconded by Councilmember Alcorn to authorize the use of remaining ARPA monies in December 2024, including payment of \$172,150 toward the aerial truck for the Fire Department and allocating the remaining \$655,889.54 for the aquatic center design and pre-construction costs paid in 2024. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske. Voting Nay: Councilmember Lozinski. The motion **Carried. 4-1.**

Mayor Nomination for City Attorney

Per the City of Marshall Charter, the Mayor is to recommend to the City Council the person(s) to be appointed as City Attorney. Mayor Byrnes has met with Attorney Pam Whitmore, Kennedy and Graven Law Firm and Attorney Matt Gross, Quarnstrom and Doering Law Firm. The mayor nominated Whitmore as City Attorney and on civil matters and Matt Gross as City Prosecuting Attorney.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to confirm the Mayoral nomination of Pamela Whitmore as City/Civil Attorney and Matthew Gross as Criminal Attorney for the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 5-0.**

Commission/Board Liaison Reports

Byrnes	No report.
Schafer	No report.
Meister	No report.

Schroeder	No report.
Alcorn	Absent.
Moua-Leske	The Library Board received annual reports from the librarians. The Plum Creek database has converted to an all-digital version.
Lozinski	No report.

Councilmember Individual Items

Councilmember Lozinski asked Director Anderson about the status of the rental registration program.

City Administrator

Community Services now has gift cards available that can be used for community education classes or for Aquatic Center passes.

Director of Public Works/City Engineer

No report.

City Attorney

No report.

Administrative Brief

There were no questions about the Administrative Brief.

Information Only

There were no questions about the Information Only items.

Upcoming Meetings

There were no questions about the Upcoming Meetings.

Adjournment

At 6:45 PM Mayor Byrnes adjourned the meeting.

Attest:

Steven Anderson, City Clerk

Robert Byrnes, Mayor