

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, May 14, 2019**

The regular meeting of the Common Council of the City of Marshall was held May 14, 2019 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 4:00 P.M. by Mayor Robert Byrnes. In addition to Byrnes the following members were in attendance: Craig Schafer, Steven Meister (4:25 PM), 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; Jason Anderson, Assistant City Engineer/Zoning Administrator; Ilya Gutman, Plan Examiner/Assistant Zoning Administrator; Annette Storm, Director of Administrative Services; Sheila Dubs, Human Resource Manager; Dave Parsons, City Assessor; Preston Stensrud and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

With consensus from the Council Mayor Byrnes announced that the public hearing and award of bids agenda items will take place at 5:30 PM.

**Consider approval of the minutes of local board of appeal and equalization hearing held on April 23, 2019.**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the minutes of local board of appeal and equalization hearing held on April 23, 2019 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Consider approval of the minutes of the regular meeting held on April 23, 2019.**

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the minutes of the regular meeting held on April 23, 2019 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

**Approval of Consent Agenda.**

Councilmember Lozinski requested that agenda item number 12, Tree Policy, be removed from the Consent Agenda for further discussion.

Motion made by Councilmember DeCramer, Seconded by Councilmember Labat that the following consent agenda items be approved as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Approval to set a Public Hearing Date for MS4 Permit Program Summary of the 2018 Activities.

Approval for Tax Abatement – Harrison Truck Center – Call for Public Hearing.

Approval of a Temporary 3.2 Percent Malt Liquor Licenses for the Marshall Baseball Association.

Approval of the bills/project payments.

**Tree Policy.**

The Landscaping Ordinance Sec. 86-247 was amended last year based on community and Council input. The amended ordinance references the City Tree Policy for the public right of way tree planting regulations, allowing planting trees on boulevards was one of the changes that was requested and included in the revised ordinance. The Tree Policy was not in existence at that time and staff was given a direction to develop it.

The new policy should encourage people to plant trees on boulevards and will give them some guidelines for doing it. It will also improve traffic safety by considering visibility at intersections and projections onto streets and sidewalks. The Policy was reviewed by the Street and Park departments.

Motion made by Councilmember DeCramer, Seconded by Councilmember Labat to approve a new City of Marshall Tree Policy. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

At 4:25 P.M., Councilmember Meister joined the meeting.

**Consider Request of Mariachi Fiesta Mexican Restaurant for Private Use of Public Right-of-Way at 329 West Main Street.**

A request of Mariachi Fiesta Mexican Restaurant for private use of public right-of-way for the placement of tables and chairs on the sidewalk outside the establishment at 329 West Main Street.

Per Sec. 62-6 of the City Code of Ordinances prior to any private use of public streets, public rights-of-way, or publicly owned parking lots, an application for such use shall be made to the office of the Director of Public Works/City Engineer. The Director of Public Works/City Engineer shall review the application and may refer the application with a recommendation to the City Council.

Prior Council action at a similar establishment required the placement of the tables and chairs permit clear access 6 feet wide next to the building. In addition, said application was to be reviewed after one year and then at five-year intervals thereafter.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve the request of Mariachi Fiesta Mexican Restaurant for private use of public right-of-way for the placement of tables and chairs on the sidewalk outside the establishment at 329 West Main Street with clear access 6 feet wide next to the building.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**REQUEST FOR MAP AMENDMENT (REZONE) James Carr, Marshall, MN, 701, 703, 705, 800, 801, 803, 804, 805, 806, 807, 900, 901, 903, 904 and 905 Andrew Street.**

This is a request by James Carr, Marshall, MN to rezone properties at 701, 703, 705, 800, 801, 803, 804, 805, 806, 807, 900, 901, 903, 904 and 905 Andrew Street from R-1 One Family Residential District to R-2 One to Four Family Residential District.

The owner initially indicated that he intended to build tri-plex's in this area but then changed plans to build duplexes. To avoid a need for CUP for construction of duplexes, the lots must be rezoned to an R-2 One to

Four Family Residential District. The adjacent land south of the rezoning area is zoned R-2 One to Four Family Residential District.

Rezoning procedures are described in Section 86-30 Amendments.

At the April 10, 2019, Planning Commission meeting, a public hearing was held, and a motion was made by Carstens, second by Steen to recommend approval to City Council to rezone the property as recommended by staff. Motion passed with Fox abstaining. During the Planning Commission meeting, some neighborhood residents expressed concerns about increasing density in the area, the nature of property use, and parking. Planning Commission minutes were attached under the "Information Only" agenda item in the last council meeting packet.

The Ordinance Amendment to rezone 701, 703, 705, 800, 801, 802, 803, 804, 805, 806, 807, 900, 901, 902, 903, 904 and 905 Andrew Street from R-1 One Family Residential District to R-2 One to Four Family Residential District was introduced at the April 23, 2019, City Council meeting.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to adopt Ordinance Number 737, Second Series to rezone 701, 703, 705, 800, 801, 803, 804, 805, 806, 807, 900, 901, 903, 904 and 905 Andrew Street from R-1 One Family Residential District to R-2 One to Four Family Residential District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

#### **Special Assessments on Tax Forfeited Property Located at 620 W Main Street.**

On May 16, 2018 the bare lot located at 620 W Main Street, Marshall, MN forfeited to the State of Minnesota. Along with unpaid taxes are \$19,234.52 of unpaid City special assessments for this property. Minnesota State Statue 429.071 subd. 4 gives the municipality the authority to reassess any unpaid assessments that were canceled because of forfeiture.

On January 23, 2019, Council acted to reassess up to 50% of the unpaid special assessments for the tax forfeited property once returned to private ownership. Since that meeting the tax forfeited property did not sell at auction and has little interest due to a large assessment balance.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to allow staff to develop a plan of action regarding the property located at 620 W. Main Street to bring back to Council for approval. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motioned **Carried. 7-0**

#### **Vehicle Idling Policy.**

Unnecessary combustion engine idling impacts air quality and respiratory health increases operational costs and wastes vehicle fuel. The City has determined that unnecessary idling of the City's fleet can waste approximately one gallon of fuel per hour for diesel vehicles and three quarters of a gallon of fuel per hour for automobiles. In addition, vehicle idling can result in wear and tear on engines and cause premature corrosion damage to exhaust piping and mufflers. This policy has been developed in an effort to improve air quality and obtain savings in fuel and operating costs, as well as operating in an effective and efficient manner. This policy shall be enforced by all supervisors and failure to adhere to the policy shall be grounds for disciplinary action.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to approve a Vehicle Idling Policy Effective May 14, 2019. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motioned **Carried. 7-0**

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

- Byrnes            Regional Development Commission conducted a public hearing on their budget.
- Schafer           Airport Commission met and discussed future operations.
- MERIT Commission met and discussed the ongoing construction and other trainings.
- Meister           No Report
- Bayerkohler     Public Housing Commission reviewed a security report and discussed the revenues from the washers and dryers.
- DeCramer        No Report
- Labat             Library Board met and discussed their first look at the 2020 budget.
- Lozinski          No Report

### **Councilmember Individual Items**

Councilmember Labat commented on the parking in the area of West Side Elementary along West College Drive. Member Labat commented on his attendance with the Drug Task Force.

Councilmember DeCramer commented on the Drug Task Force and a conversation with the Attorney General's Office regarding Broadmoor Valley. Member DeCramer also attended the Cultural Conference. There was also discussion on the bike trail crossing along County Road 7.

Councilmember Schafer discussed the resent pipeline incident and commended area emergency responders. Member Schafer mentioned garbage removal from rental properties and removal of grass clippings from the City streets.

Councilmember Meister commended the Emergency Responders regarding a resent accident in the area.

Councilmember Bayerkohler discussed the Public Housing in Minnesota.

Mayor Byrnes discussed the bike trail conditions after the recent flood events as well as the roll out of the bike share program.

### **City Administrator**

City administrator Sharon Hanson commented on tru Shrimp and the City of Luverne, Commerce Industrial Park being shovel ready and introduced a new intern with the City of Marshall.

**Director of Public Works**

Director of Public Works/City Engineer Glenn Olson commented on a potential ordinance regarding sanitary sewer inspections, Construction projects and pot holes that have been or will be replaced by MN Dot.

**City Attorney**

No Report

**Sounds of Summer – Public Hearing on Private Use of Public Streets and Parking Lots, Approval of Private Use of Public Streets and Parking Lots and Approval of Parade (August 16-18, 2019).**

The following is the request from the Sounds of Summer Committee requesting permission for the following:

Entire Celebration: Closure of West College Drive (TH 19) from the corner of Main Street to Saratoga Street, and also closure of Marvin Schwan Memorial Drive from West College Drive (TH 19) to South 1st Street on Friday, August 16, 2019 from 3:00 p.m. to approximately 10:00 pm, and again on Saturday, August 17, 2019 from 6:00 am to Sunday, August 18, 2019, to approximately 3:00 am. to allow adequate time for clean up after the Saturday evening activities.

Closure of gravel parking lot adjacent to the Varsity Pub on Saturday, August 17, 2019 from approximately 6:00 am to approximately 6:00 pm.

Parade Line-Up: Closure of East Lyon Street, beginning at the corner of East Lyon Street and South Bruce Street to Jewett Street on Saturday, August 17, 2019 starting at approximately 12:00 noon to approximately 5:00 pm. Line-up would begin at 2:00 pm.

Parade: Closure of East Lyon Street from South Bruce Street to Main Street and closure of Main Street from East Lyon Street to North 6th Street Saturday, August 17, 2019 from 3:00 pm to approximately 6:00 pm. Parade would start at 4:00 pm with an estimated 5:30 pm end time.

In accordance with Section 62-6 of the Marshall City Code, any private use of public streets and parking lots on either a temporary or permanent basis should be considered by the Marshall City Council. Due to the magnitude of the proposed event and potential impact to the businesses adjacent to the areas that are being requested to be blockaded, City Staff would recommend that the City Council hold a public hearing on this request prior to granting final approval. In the past, the City's Public Safety and Public Works Departments have been worked with applicants on the issues and public safety concerns that would have to be addressed as part of this request. In addition, it would be City Staff's intent to have a representative from the Committee present at the hearing to provide a brief overview of the activities and events that are going to occur during the celebration.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to close the public hearing regarding the private use of public streets and parking lots for Sounds of Summer (August 16-18, 2019).  
Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Passed. 6-0-1**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the private use of public streets and parking lots for Sounds of Summer (August 16-18, 2019) as requested, with the closure of

the gravel parking lot in Block 11 subject to the City retaining ownership of said lot or arrangements made with the new owner. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Passed. 6-0-1**

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve the Sounds of Summer Parade to be held Saturday, August 17, 2019, subject to Mn/DOT approval. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Passed. 6-0-1**

**Project Z50-2019: Chip Sealing on Various City Streets - Consider Resolution Accepting Bid (Award Contract).**

Bids were received on May 9, 2019 for the above-referenced project. Two bids were received.

The engineer's estimate for the bituminous chip sealing project is \$164,472.

\$175,200 has been included in the 2019 budget or funded as follows:

\$150,000 Street Department 2019 budget for bituminous chip sealing on various city streets and will be funded under Account #101-60211-2227 (General Fund- Street Department-Other Repairs & Maintenance)

\$7,800 Fire Department parking lot

\$17,400 Red Baron Arena & Expo parking lot

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer to that the Council adopt RESOLUTION NUMBER XXXX, which is the "Resolution Accepting Bid (Award Contract)" for Project Z50-2019: Bituminous Chip Sealing on Various City Streets to Allied Blacktop Company of Maple Grove, Minnesota, in the amount of \$164,452.00, with a not to exceed expenditure of \$175,200.

Mayor Byrnes provided discussion on a recent MN Dot report discussing the value in Chip Sealing.

Councilmember Lozinski retracted, Seconded by Councilmember DeCramer to retract the current motion.

There was further discussion by Council and Staff.

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

**Project Z72: Hahn Road Drainage Project - Consider Resolution Accepting Bid (Award Contract).**

The project consists of storm sewer replacement and new storm sewer on Hahn Road at the intersection of CSAH33/Erie Road & Hahn Road. This project will also include ditch cleaning and shaping along BNSF railroad and Schwan's rail spur. This is a utility only project not road reconstruction.

On May 7, 2019, bids were received for the above-referenced project. Four bids were received.

The "Resolution Accepting Bid" awarding the contract to A&C Excavating, LLC of Marshall, Minnesota, in the amount of \$136,970.00. The engineer's estimate was \$146,594.50.

The estimated total project cost including 5% allowance for contingencies and 16% for engineering and administrative costs is \$166,829.46.

The project will be funded by the Surface Water Management Utility Fund.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to adopt Resolution Number 4614, Second Series, which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with A&C Excavating, LLC of Marshall, Minnesota, in the amount of \$136,970.00 for Project Z72: Hahn Road Drainage Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Project Z73: Country Club Drive Utilities Improvement Project - Consider Resolution Accepting Bid (Award Contract).**

The project consists of watermain, sewer main, and storm sewer replacement on Country Club Drive between South 4th Street and South 2nd Street and street patching on South 4th Street and South 2nd Street. All utilities will be replaced, including watermain, sanitary sewer, and storm sewer on Country Club Drive. This is a utility only project not road reconstruction.

On May 7, 2019, bids were received for the above-referenced project. One bid was received. Marshall Municipal Utilities has reviewed the bid and concurs with the recommendation of the award and participation of funding.

The "Resolution Accepting Bid" awarding the contract to D&G Excavating, Inc. of Marshall, Minnesota, in the amount of \$408,462.50. The engineer's estimate was \$391,393.25.

The estimated total project cost including 5% allowance for contingencies and 16% for engineering and administrative costs is \$497,507.33.

The project will be funded by the Surface Water Management Utility Fund, Wastewater, and Marshall Municipal Utilities.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to adopt Resolution Number 4615, Second Series, a resolution which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with D&G Excavating, Inc. of Marshall, Minnesota, in the amount of \$408,462.50 for Project Z73: Country Club Drive Utilities Improvement Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Administrative Report**

There were no questions on the administrative report.

**Information Only**

There were no questions on the information items.

**Upcoming Meetings**

There were no questions on the upcoming meetings.

**Adjourn Meeting**

At 5:51 P.M., Motion made by Councilmember DeCramer, Seconded by Councilmember Labat.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor