

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, June 23, 2020**

The regular meeting of the Common Council of the City of Marshall was held June 23, 2020, at the Minnesota Emergency Response and Industrial Training (MERIT) Center, 1001 West Erie Road. 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 (5:33 PM), Steven Meister (5:40 PM), Glenn Bayerkohler, 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, Sheila Dubs, Human Resource Manager; 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 current agenda.

Consider approval of the minutes of the regular meeting held on June 9, 2020.

Councilmember Labat made one correction to the June 9, 2020 minutes.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski that the minutes of the regular meeting held on June 9, 2020 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Conduct Public Hearing of Ordinance Amending Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment.

These proposed changes are mostly based on staff experience with applications and voiced concerns. Some changes are purely technical in nature, some are a result of the development of the City Tree Policy, and others are related to the creation of an Interim permit concept that allows temporary deviations from the Ordinance. This opportunity was also used to clean up some language, clarify some concepts, and relax some requirements.

Below are the most significant proposed changes.

- Allowing to build a front door landing without a variance even if a house is located too close to the street.
- Requiring at least 3 feet of clearance along alleys for snow removal and more for garages for cars parking in front of them.
- Clarifying yard requirements for three street corner lots, flag lots, and lots open to roadway easements rather than streets.
- Allowing larger accessory structures for smaller existing houses.
- Allowing motorhomes and RV's to be placed on driveways for longer than 10 days by an Interim Use permit but limiting projection into the right of way.
- Allowing secondary detached garages without driveway and limiting required driveway pavement to the required front yard.
- Allowing accessory equipment in front yards if fully screened by the fence.

At the March 11, 2020, 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 April 30, 2020, Legislative and Ordinance Committee voted to recommend to council the approval of revisions to City Ordinance Sections 86-161 Height Modifications, 86- 162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment.

At the May 12, 2020, regular meeting, the Council tabled this item citing difficulty in getting public input. The Ordinance Amending 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment was introduced at May 26, 2020, City Council meeting.

Plan Examiner/ Assistant Zoning Administrator, Ilya Gutman provided the background information on the agenda item.

Councilmember Labat asked a clarifying question on fence height and required driveways.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer that the Council adopt Ordinance No. 750, Second Series, which is the Ordinance Amending Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Conduct Public Hearing of Ordinance Amending Section 86-247 Landscaping and 86-248 Storage

These changes are mostly technical in nature caused by the development of the City Tree Policy and creation of an Interim Use permit concept that allows temporary deviations from the Ordinance. It is similar to conditional use permit but allows time limits. It also cleans up some language and clarifies some concepts.

At the March 11, 2020, regular Planning Commission meeting, Schroeder made a motion, second by Lee to recommend to city council an approval as recommend by staff. All voted in favor of the motion.

At the meeting on April 30, 2020, Legislative and Ordinance Committee voted to recommend to council the approval of revisions to City Ordinance Sections 86-247 Landscaping and 86-248 Storage.

At the May 12, 2020, regular meeting, the Council tabled this item citing difficulty in getting public input. The Ordinance Amending Sections 86-247 Landscaping and 86-248 Storage was introduced at May 26, 2020, City Council meeting.

Plan Examiner/ Assistant Zoning Administrator, Ilya Gutman provided the background information on the agenda item.

Councilmember Labat asked a clarifying question of removing and replacing required trees.

Councilmember Lozinski asked a clarifying question on the tree policy and trees or vegetation interfering with the public right of way.

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 Schafer, Seconded by Councilmember DeCramer that the Council adopt Ordinance No. 749, Second Series, which is the Ordinance Amending Section 86-247 Landscaping and 86-248 Storage. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer. Voting Nay: Councilmember Labat, Councilmember Lozinski. The motion **Passed. 5-2**

Vacation of Utility Easement in Wilke-Miller-Buesing 7th Addition – 1) Public Hearing on Resolution Granting Petition to Vacate Utility Easement; 2) Consider Resolution Granting Petition to Vacate Utility Easement.

A signed petition for vacation of a utility easement has been received from the owners of all the real property that includes the proposed area for utility easement.

At one point in time, a property line was centered on the diagonal easement area that is proposed to be vacated. Once the diagonal property line was relocated with the most recent platting, utility easements were established around the perimeter of the new identified lot.

The diagonal easement area is not being used and is no longer necessary. We do not believe any utilities are located in this area.

The procedure for vacation of streets by resolution, included in Sec. 62-4 of the Marshall Code of Ordinances.

Prior to the public hearing and adoption of the resolution granting a petition for vacation, all utility companies were contacted for notification of the vacation and receipt of requirements they may have.

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

Motion made by Councilmember Meister, 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 Lozinski, Seconded by Councilmember Labat that the Council adopt RESOLUTION NUMBER 4740, SECOND SERIES, which is the Resolution Granting Petition to Vacate Utility Easement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Project Z77: Legion Field Stormwater Improvements - Phase I -- Resolution Accepting Bid (Awarding Contract).

This project consists of the following: Construction of normally dry stormwater detention basins and associated stormwater piping and improvements. Minor street patching and repair will be required. The project will occur on and between Out lot A of Buffalo Ridge Addition and Legion Field Park.

On June 16, 2020, bids were received for the above-referenced project. Four bids were received as shown on the Resolution Accepting Bid. The low bid was from Towne & Country Excavating LLC of Garvin, Minnesota, in the amount of \$277,943.00. The engineer's estimate was \$334,000.00.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer that the Council adopt RESOLUTION NUMBER 4741, SECOND SEIRES, which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement Towne & Country Excavating LLC of Garvin, Minnesota, in the amount of \$277,943.00 for Project Z77: Legion Field Stormwater Improvements - Phase I. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Meister, Councilmember Labat. The motion **Passed 5-2.**

Consider Approval of the Consent Agenda

Councilmember DeCramer requested that item number 8, Consider authorization to declare bicycles as surplus property for the Marshall Police Department, be removed for further discussion.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer 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 to declare vehicles as surplus property for the Marshall Police Department.

Approval of the bills/project payments

Consider authorization to declare bicycles as surplus property for the Marshall Police Department.

There are 36 bicycles that have been abandoned or seized by the Marshall Police Department and have gone through the notification processes and required periods for disposal.

Councilmember DeCramer requested that the bicycles be offered to a nonprofit organization out of Minneapolis and in return they will donate bikes to be given away in the Marshall area.

Motion made by Councilmember DeCramer, Seconded by Councilmember Meister That the bicycles be declared as surplus property by 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**

Consider approval of City of Marshall COVID-19 Preparedness Plan

Under Gov. Tim Walz's Executive Order 20-74, businesses that are in operation during the peacetime emergency are required to establish a COVID-19 Preparedness Plan. Per the order, this includes both critical and non-critical businesses. This plan must be approved by June 29, 2020.

The State released a guidance template on preparedness plans on June 15. Staff utilized this template to draft the plan for your consideration. This COVID-19 Preparedness Plan establishes and explains the policies, practices and conditions the City will implement to meet the industry guidance that are based on Centers for Disease Control and Prevention (CDC) and Minnesota Department of Health (MDH) guidelines, federal Occupational Safety and Health Administration (OSHA) standards and applicable executive orders related to

safety and health in the workplace. The plan is required to demonstrate the strong commitment of management and be developed and implemented with the participation of employees. Plans must be communicated to employees and posted at the workplace in a manner that is accessible for employees to review. The Minnesota Department of Labor and Industry (DLI), in consultation with the Minnesota Department of Health (MDH), has the authority to determine whether a plan is adequate.

The plan is required to be posted at all city facilities and communicated to all employees.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister That the Council approves the City of Marshall COVID-19 Preparedness Plan. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Introduction of Ordinance amendment to permit some slaughtering of animals in butcher shops in general business district and industrial districts and permit landscaping business in general industrial district and Call for Public Hearing.

There is currently a business owner interested in opening a butcher shop in Marshall. Part of his operations would involve some limited slaughtering of animals. Staff reviewed the Ordinance and determined that no district currently allows slaughtering operations either as a permitted or conditional use. Considering that this type of business is relatively common, it makes sense to add it to appropriate zoning districts. Since slaughtering may seem objectionable in some circumstances, it is added as a conditional use in all districts to retain some control. It is also described as limited in General Business and Limited Industrial districts, mostly to convey the limited nature to applicants, as the final determination of the limitations would be established during the conditional use permit process based on location and other applicable factors. Most other cities do not explicitly list butcher shops in the ordinance.

During the same review, it was determined that landscaping business is not listed in any of the zoning districts either. To correct this, it is suggested to add this type of use to general industrial district. Meat processing facilities were also added to the I-2 General Industrial district as a conditional use, since this use is not listed anywhere either. Several other cities allow stockyards, including slaughtering, in industrial districts as a conditional use.

At the June 10, 2020, regular Planning Commission meeting Lee made a motion, second by Carstens to recommend to city council an approval as recommend by staff. All voted in favor of the motion.

At the meeting on June 18, 2020, Legislative and Ordinance Committee voted to recommend to council the approval of the Ordinance amendment to permit some slaughtering of animals in butcher shops in general business district and industrial districts and permit landscaping business in general industrial district as recommended by staff.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council introduce the Ordinance revisions amending Section 86-104 – general business district and 86-106 limited industrial district by adding butcher shops with limited slaughtering as a conditional use, and 86-107 general industrial district by adding butcher shops and meat processing plants as a conditional use and landscaping business as a permitted use and call for Public Hearing to be held on July 14, 2020.

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

Request for a Variance Adjustment Permit Trent and Becky White at 101 West Marshall Street

A portion of the existing house is located right against the property line with no setback. The owner desires to add an entryway in front of the main entrance door, which is positioned in the wall that is set back from the front portion of the house. The new addition will not project past the front portion protruding to the property line. A house across Park Avenue is also located at the property line.

Based on the above considerations and considering that the current house location is unique, and the new addition will not alter the neighborhood's essential character, staff believe a variance request is justified.

The variance regulations and procedures are found in Section 86-29.

At the Planning Commission meeting on June 10, 2020, a public hearing was held and a motion was made by Lee, second by Carstens to recommend approval to the City Council of the request by Trent and Becky White for a Variance Adjustment Permit for building an entry addition within required front yard as recommended by staff. All voted in favor of the motion.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council approve the request by Trent and Becky White for a Variance Adjustment Permit for building an entry addition within required front yard with the condition that it does not project beyond front wall of the existing front portion of the house already located in the required front yard. 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 R Swenson and Teah Swenson at 1111 Canoga Park Drive

This is a request by James R Swenson and Teah Swenson Marshall, MN to rezone 1111 Canoga Park Drive from R-2 One to Four Family Residential District to B-3 General Business District. The owner wants to use this lot for parking, together with two lots to the north, which are already zoned B-3 General Business District. Parking lot is a permitted use in a B-3 General Business District. Based on the Parking and Landscaping Ordinance, a fence or planting screen will be required along the south side of the property since it borders residential district. Rezoning procedures are described in Section 86-30 Amendments

At the June 10, 2020, Planning Commission meeting, a public hearing was held, and a motion was made by Carstens, second by Lee to recommend approval to City Council to rezone the property as recommended by staff. All voted in favor.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski that the Council introduce the ordinance to rezone 1111 Canoga Park Drive from R-2 One to Four Family Residential District to B-3 General Business District. 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) Action Company LLC at 1209 and 1211 West Main Street.

This is a request by Action Company, LLC, Marshall, MN to rezone 1209 and 1211 West Main Street from B-3 General Business District to I-2 General Industrial District. The owner wants to use this area for landscaping business that is not a permitted or conditional use in a business district and better fits into industrial district. Area to the north and west is already zoned industrial, as the area across West Main Street.

Rezoning procedures are described in Section 86-30 Amendments

At the June 10, 2020, Planning Commission meeting, a public hearing was held, and a motion was made by Carstens, second by Lee to recommend approval to City Council to rezone the property as recommended by staff. All voted in favor.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council introduce the ordinance to rezone properties at 1209 and 1211 West Main Street from B-3 General Business District to I-2 General Industrial District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Project Z67: Michigan Road/Superior Road Reconstruction Project - Consider Change Order No. 3 (Final) and Acknowledgement of Final Pay Request No. 8.

This project consisted of the following: Reconstruction and utility replacement on Michigan Road between Superior Road and Hahn Road and on Superior Road from a point approximately 175 feet north of Ontario Road to Huron Road. All utilities have been replaced, including watermain, sanitary sewer, and storm sewer.

The items on Change Order No. 3 (Final Reconciling Change Order) for the above project are the result of final measurements and changes in item quantities during construction. All work has been completed in accordance with the specifications.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council approve Change Order No. 3 (Final), resulting in a contract increase in the amount of \$608.25 and acknowledge Final Pay Request (No. 8) in the amount of \$55,607.84 for the above-referenced project to D&G Excavating, Inc. of Marshall, Minnesota. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Commission/Board Liaison Reports

Byrnes Southwest Regional Development Commission discussed the eligibility for a \$1.48 million COVID relief revolving loan fund.

Schafer No Report

Meister No Report

Bayerkohler Planning Commission met and discussed agenda items that were acted on at this meeting.

Legislative and Ordinance Committee met and discussed an agenda item acted on tonight.

DeCramer Economic Development Authority elected new officers to the Authority and welcomed its newest member, Brad Strootman.

Marshall Municipal Utilities has received a Community Leader Award from the Missouri River Energy Services.

Labat No Report

Lozinski No Report

Councilmember Individual Items

Councilmember Labat discussed that he had spoken with local engineers regarding the chiller issue at the Red Baron Arena and Expo.

Councilmember Schafer commented on leash law that the City of Marshall enforces. Member Schafer ask for staff to review and look for any inconsistencies.

Councilmember Meister provided discussed he had with a resident of Marshall about activating a Human Rights Commission in the city.

Mayor Byrnes commented on tree policy and future enforcement of the removal of diseased trees within the city.

City Administrator

City Administrator Sharon Hanson commented on starting a diversity commission as a part of the City's newly adopted strategic plan. Administrator Hanson also summarized the community wide COVID-19 testing Avera organized. City Administrator Hanson commented on that economic development discussions have increased in Marshall, the CARES Act grant for Minnesota cities and counties and the 2021 budget

Director of Public Works

Director of Public Works/ City Engineer Jason Anderson provided an update on construction projects taking place within the city.

City Attorney

City Attorney Dennis Simpson commented on grass, weeds and unlicensed vehicles complaints.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings

Adjourn Meeting

6:34 P.M. Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski. 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