

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S**

Tuesday, August 08, 2023

The regular meeting of the Common Council of the City of Marshall was held August 08, 2023, 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, Steve Meister, Amanda Schroeder, John Alcorn, See Moua-Leske and James Lozinski. Absent: None. 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; Lauren Deutz, Economic and Development Director; Jim Marshall, Director of Public Safety; Preston Stensrud, Park and Rec Supervisor; Lauren Deutz, EDA Director; and Steven Anderson, 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 from Meetings Held on July 25th and July 31st

There were no changes to the minutes.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the minutes from the meetings held on July 25th and July 31st. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Abstaining: Councilmember Meister. The motion **Carried. 6-0-1.**

1) Public Hearing for a New On-Sale Liquor License for Wings Axe Company 2) Approval of a On-Sale Liquor License Application for Wings Axe Company

Clerk Anderson opened the public hearing for Wings Axe Company. The permit location would be at 100 West College Drive Suite 1, and by statute and city ordinance only one location may be licensed per location unless differentiated by suites or units. One existing liquor license had already been approved for The Atlantic Place at the same address but no suite number.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve the on-sale intoxicating liquor application for Wings Axe Company located at 100 W. College Drive Suite 1. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

1) Public Hearing for the Purchase Agreement for Sale of Land Located at 116 S. 10th St. 2) Consider Approval of a Resolution for a Purchase Agreement with 2nd Ave. Investments LLC

Deutz opened the public hearing by explaining that the property is located at 116 South 10th Street which was adjacent to the former Wilmar Poultry Company. The developer wished to acquire the land for additional access to the building site. Mayor Byrnes noted that the site is irregularly shaped and Deutz confirmed that the parcel of land is unbuildable as it is now.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve Resolution 23-060 which was for a purchase agreement with 2nd Avenue Investments LLC. Voting Yea: Mayor Byrnes, Councilmember Schafer,

Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Approval of the Consent Agenda

There were no requests to remove an item for additional discussion.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

4. Consider Approval for the Data Practice Policy for Members of the Public
5. Consider Approval for a Raffle Permit for the YMCA on November 2, 2023
6. Consider Approval for a Temporary On-Sale Liquor License for the Knights of Columbus
7. Declare Air Compressor as Surplus Equipment for the Marshall Fire Department
8. Consider Approval for a Temporary On-Sale Liquor License for SMSU Ag Bowl
9. Consider Approval for a Temporary On-Sale Liquor License for SMSU University Gala
10. Consider Approval for a Temporary On-Sale Liquor License for SMSU Homecoming
11. Consider Approval for a Temporary On-Sale Liquor License for SMSU Gold Rush
12. Consider Approval of the Bills/Project Payments

Aquatic Center Contract Amendment-Design Documents, Construction Documents, Bidding, Construction Administration and Staking

Administrator Hanson gave a brief update to council on amendments done to the Aquatic Center design to get the project closer to the 18 million listed in the approved legislative bill. Jon Brown, President, and Principal Engineer for Stockwell Engineers presented new add alternates for consideration to council. Alternate options included an enclosed body slide for \$96,900, a lily pad water walk for \$324,900, additional shade structures for \$75,240, climbing walls and wibit for \$108,300, demolition of the existing facility for \$228,000, and a privacy wall along Highway 19/College Drive for \$638,400. Brown continued his presentation by explaining the bid process environment would be best if it could occur early spring, if council were to wait until after the November 7th special election the bidding process would most likely occur during the summer when bidding would be less favorable, and it would also push out the opening date of the Aquatic Center to 2026. Brown indicated that if council would like design work to begin before the November 7th special election to get into the best bidding timeframe and a 2025 opening date 1.1 million dollars in funds would need to be committed for Stockwell to continue work through December 31, 2023, regardless of the vote passing or not. Councilmembers asked for clarification on the timeline for constructions and how much prices might increase.

Many councilmembers voiced concerns with approving the amendment agreement for 1.1 million dollars and not knowing if Marshall citizens would approve the sales tax extension during the special election. Schafer asked if the vote was not approved do we have the funds available to honor the agreement or what project in 2024 would need to be pushed off. Whitmore added that if council would like to wait until November 8th for approval, the agreement would need to be updated to reflect the contingency.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the contract amendment with Stockwell Engineering contingent on the approval of the sales tax extension special election on November 7, 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Alcorn. The motion **Carried. 6-1.**

Consider a Resolution Calling for a Special Election to be Held on November 7, 2023

Minnesota Statutes, Section 297A.99 (the "Local Tax Act"), provides the City of Marshall, with authority to extend a local sales tax if that tax is approved by the voters at a general election and the State Legislature approves the local sales tax through the creation of a special law; The State of Minnesota (the "State") Legislature passed and the Governor of the

State signed Minnesota Laws, 2023, Regular Session, Chapter 64, Article 10, Section 14 (the “Special Law”) which authorizes the City to, among other things, extend a sales and use tax of one-half of one percent. The Special Law is effective upon approval by a majority vote of the City Council of the City (the “Council”) and the filing of a certificate with the Secretary of State accepting the Special Law (the “Certificate of Approval”), all in accordance with Minnesota Statutes, Section 645.021, subdivisions 2 and 3.

City Council had previously approved the special law and the certificate has been filed with the Secretary of State. As part of the special election process notice must be given to the Lyon County Auditor/Treasurer by resolution. Councilmember Lozinski asked if absentee voting would be available for the special election. Clerk Anderson verified that absentee voting would be available and would begin on September 22. All three Marshall wards would be used at their designated voting locations with polling locations opening at 7am and closing at 8pm.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve Resolution 23-061 authorizing the issuance of bonds for the purpose of a municipal aquatic center and calling for a special election. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Adoption of Ordinance Adding Article 2-VII Administrative Citations

Whitmore explained that when she began as City Attorney an alternative method of enforcement for city code violations was wanted, rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in City Code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened, and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. The penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address Code violations. The new code should provide more flexibility in addressing Code violations on an individualized basis that will be more efficient and effective an alternative enforcement process is necessary. A third-party hearing officer would oversee the procedure and make a ruling that would allow for better due process. This process would not be applied to traffic violations, alcohol licensing or tobacco licensing.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to adopt Ordinance 23-020 adding Article 2-VII Administrative Citations. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Commission/Board Liaison Reports

Brynes	Fire Relief Association Board of Trustees held their quarterly meeting.
Schafer	No report.
Meister	No report.
Schroeder	No report.
Alcorn	No report.
Moua-Leske	No report.
Lozinski	No report.

Councilmember Individual Items

Councilmember Schafer wanted to remind citizens that the Lyon County Fair was from August 9-13 and Sounds of Summer will be held August 17-20th.

Councilmember Lozinski praised the National Night Out event that was held on August 1st.

Mayor Brynes thanked Councilmember Schafer for filling in during the last meeting in his absence and had kind words for the Aquatic Center open house event held on August 8th.

City Administrator

Hanson thanked those that helped with the Nation Night Out event and that city staff will be participating in the Sounds of Summer parade on August 19th. Terrace 1872 will have a ribbon cutting ceremony on August 22nd at 5pm before the regular city council meeting. A community walk thru event at the Aquatic Center was being planned for some time in September. The Community Services Advisory Board met on August 2nd and good discussions was had about the Aquatic Center and ways to promote the special election.

Director of Public Works/City Engineer

Updates were given on the following constructions projects: Lyon and Third Street, Channel Parkway, mill and overlays, Highway 23 watermain crossing, Legion Field stormwater pond, and chip sealing. Wastewater was working with MPCA on the chloride grant to expand who the funds could be granted to. Scott Przybilla presented at the 24th Annual Salt Symposium regarding the City of Marshall's salt chloride reduction program.

City Attorney

No report.

Administrative Brief

There were no questions on the Administrative Brief.

Information Only

There were no questions on the Information Only items.

Upcoming Meetings

There were no questions on the Upcoming Meetings.

Adjourn

At 6:34 P.M. Motion made by Councilmember Schroeder, Seconded by Councilmember Schafer to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

City Clerk

Mayor