

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, October 22, 2019**

The regular meeting of the Common Council of the City of Marshall was held October 22, 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 (5:38 PM), Glenn Bayerkohler, John DeCramer, Russ Labat and James Lozinski. Absent: None. Staff present included: Laura Wing, Payroll/ Benefit Specialist; Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Jason Anderson, Assistant City Engineer/ Zoning Administrator; Annette Storm, Director of Administrative Services; Dave Parsons City Assessor; Jim Marshall Director of Public Safety; Captain, Jeff Wenker; Sheila Dubs Human Resource Manager 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 two work sessions and regular meeting held on October 8, 2019.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the minutes of the two work sessions and regular meeting held on October 8, 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

Award of Proposal for Snow Removal Services at Tall Grass Liquor and MERIT Center for the 2019/2020 through 2020/2021 Winter Seasons.

Proposals were received for Snow Removal Services at the MERIT Center and Tall Grass Liquor on October 8, 2019. Two bids were received, one from Action Company, LLC of Marshall and one from Marathon Resource Management, LLC of Ashland, Virginia.

The bids were opened, and the bid received from Action Company, LLC was in accordance with the revised bidding documents. The bid from Marathon Resource Management, LLC did not comply with the revised bidding documents, so the bid was not read.

Three scenarios were bid as follows:

- 2"-4" of snow per occurrence
- >4" of snow per occurrence
- Callbacks per occurrence (drifting)

Per the "Initial Proposal", it was recommended to negotiate the required work area for potential reduction of the bid amounts. After negotiations, the reduced bid amounts are recommended for approval per the "Negotiated Revised Proposal".

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the Council award the proposal for Snow Removal Services at MERIT Center and Tall Grass Liquor to Action Company, LLC of Marshall, Minnesota for the 2019/2020 through 2020/2021 winter seasons in accordance with the "Negotiated Revised Proposal". Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motioned **Carried. 6-0**

Approval of the Consent Agenda.

Councilmember Bayerkohler requested that item number 4, Consider Resolution Revoking Conditional Use Permit at 101 Marlene Street, for further discussion.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer to approve the consent agenda. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Approval Resolution Number 4669, Second Series, a Resolution approving a Cable Franchise between the City of Marshall and Clarity Telecom, LLC d/b/a Vast Broadband.

Approval of Ordinance Number 743, Second Series, An Ordinance amending Chapter 2, Article VI, Division 12, MERIT Center Board.

Approval of a Tobacco License for Ton Kao.

Authorization to advertise for bids for Towing and Storage of vehicles.

Approval of a Resolution Number 4670, Second Series, A Resolution Amending the Authorization of the Commencing of Bid Letting for City Hall Renovation/Construction Project.

Approval for the City Clerk and authorized staff to approve and issue various applications, licenses and permits.

Approval for the Wastewater Treatment Facilities Improvement Project - Consider Payment of Invoice 1301748 to American Engineering Testing, Inc.

Approval of the bills/project payments.

Consider Resolution Number 4671, Second Series, a Resolution Revoking Conditional Use Permit at 101 Marlene Street.

Edward Winn and Lauren Winn (formerly Lauren Kocian) have petitioned the City to revoke the Conditional Use Permit No. 712 permitting a two-family dwelling at 101 Marlene Street Drive in an R-1 One Family Residence District.

The Conditional Use Permit was granted on July 21, 1997. Research by City staff found no direction in City Code for a revocation. State Statute 462.3595 provides for the ability to revoke for violations only. City Attorney Dennis Simpson has directed in the past that revocation may occur by City Council resolution.

It is the owner's responsibility to record the "Resolution Revoking A Conditional Use Permit" with the Lyon County Recorder and provide a copy of the recorded document with the City of Marshall Zoning Administrator. Upon receipt of the recorded Resolution, the City will initiate proceedings adjusting the surface water management utility fees associated with the revised single-family use. Any other reductions due to the change in use involve other entities and will be the responsibility of the owner. Surface Water Management Utility Fees will be reduced. The taxable value or taxation of the property will not be affected.

Councilmember Bayerkohler requested that the resolution be drafted to better conform with the voluntary surrender of the conditional use permit. Bayerkohler believes that the proper legal manner in which to handle this matter is for the owners of the property to voluntarily surrender the conditional use permit. The conditional use permit specifies that the city has the right to revoke the conditional use permit in the event that the applicant has breached the conditions contained in the permit. The owners of the property have not breached any of the conditions. Bayerkohler believes that the owners have a right to voluntarily surrender the permit. It is his opinion that the city attorney should prepare a voluntary surrender document to be signed by owners of the property and that their signatures should be notarized so that the document can be filed with the County Recorder's office.

Motion made by Councilmember Labat, Seconded by Councilmember Bayerkohler that the Council adopt RESOLUTION NUMBER 4671, SECOND SERIES, which is Resolution accepting the voluntary surrender of a Conditional Use Permit at 101 Marlene Street (Planning Commission File No. 712). Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. the motion **Carried. 7-0**

Consider Approval for Auditing Service Contract for 2019-2022.

This item was tabled at the October 8th Council Meeting, staff have been interviewing the auditing firms. This item was to be discussed at the October 22nd Council Meeting but do to scheduling conflict for one firm we are unable to discuss at that meeting. It is recommended to continue tabling this item until November 12th. In the meantime, a Ways and Means Committee meeting will be called to discuss the results of the interviews in detail and final recommendation will be brought to Council at the November 12th meeting.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer to remove the item from the table. 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 Meister to table until the next regular council meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed. 6-1**

Implementation of Body-Worn Cameras for the Marshall Police Department

Body-Worn Cameras (BWC) are designed to capture evidence arising from police-citizen encounters. The City of Marshall has had discussions about the promise body-worn cameras bring to increasing transparency and accountability within our community. Other aspects discussed off-line with city leadership have included discussion of the costs involved in implementing a BWC program including purchasing hardware, software, data storage costs, preparing data for release and future independent audits of the BWC program.

Police department personnel believe we can successfully implement the BWC program in-terms of staffing, policy, responding to data requests and support from police officers. The current squad car video system utilizes the Watch Guard System and software which has been reliable and performed well for many years. The body camera system recommended from Watch Guard will seamlessly combine our current video system with the BWC system proposed below.

Under Minnesota Statute (MS 609.5315) property that has been subject to forfeiture has been sold and the proceeds placed into reserves to supplement the agency's operation in law enforcement. The police department's request is that revenues in the Forfeiture Fund be utilized for the costs associated with the BWC program and equipment.

The total dollar amount requested to purchase needed equipment that should meet our needs for many years to come is \$49,750.00. Installation of needed equipment in the eight squad cars is \$1,200.00.

Although we realize the significant commitment and cost associated with the implementation of a BWC program, police personnel are encouraged that BWC's will provide more convincing proof for use in criminal cases and evidence for protecting officers against false claims of wrongdoing.

Director of Public Safety, Jim Marshall provided the background information on the agenda item. Director Marshall introduced Captain Jeff Wenker to provide a demonstration of the proposed body camera system. There was a consensus by the council to explore the option to purchase the extended warranty for the Body-Worn Cameras.

Motion made by Councilmember Labat, Seconded by Councilmember Schafer to approve the implementation of the Body-Worn Camera program for the Marshall Police Department and purchase of equipment for \$50,950.00. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Request for a Variance Adjustment Permit for Charles Hess at 109 8th Street South.

The owner wants to subdivide the property and carve a piece out on the northwest side to sell. The property has a public roadway easement along the southwest property line that significantly reduces buildable area. Additionally, some buildings along this easement do have 15 feet yard opposite the easement. Based on the above considerations (uniqueness of a wide easement and fitting into essential character of the locality with other buildings) the staff believes a variance request is justified.

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

At the Planning Commission meeting on October 9, 2019, a motion was made by Knieff, second by Fox to recommend approval to the City Council of the request by Charles Hess for a Variance Adjustment Permit for reduction of the required rear yard from 25 feet to 15 feet as recommended by staff. All voted in favor of the motion.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat that the Council approve the request by Charles Hess for a Variance Adjustment Permit for reduction of the required rear yard from 25 feet to 15 feet. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried**

7-0

Request for Conditional Use Permit / Gun Range in A - Agricultural District

The original MERIT Center master plan included a shooting range shown west of the driving track north of Erie Road. A recent change of Ordinance added gun ranges as conditional use permits to A-Agricultural districts. Accordingly, this is a request to consider a conditional use permit for a gun range within MERIT Center located in an Agricultural district.

The conditional use permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86.

At the October 9, 2019, Planning Commission meeting, after a public hearing, a motion was made by Fox, seconded by Steen, to recommend approval to City Council as recommended by city staff. All voted in favor.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council approve the request for a Conditional Use Permit to have an outdoor gun range in an A – Agricultural District with the following conditions:

1. That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Conditional Use Permit in the event that any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default.
3. That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties.
4. That the gun range complies with NRA safety rules and clearances.

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) by Four Seasons LLC at 800 West College Drive

This is a request by Four Seasons, LLC, Marshall, MN to rezone 800 West College Drive from I-2 General Industrial District to B-3 General Business District. The owner wants to lease the building to UCAP for a daycare use until the new Headstart daycare facility is built. The area where this building is located is currently zoned I-2 General Industrial District, where daycare is not a permitted use. The City's comprehensive plan shows a strip north of West College Drive between Legion Field Road and the BNSF railroad tracks to the west as commercial use. In light of the comprehensive plan apparent intent, it seems reasonable to rezone this property to B-3 General Business District, where daycare is a permitted use.

An area to the east of this property is already zoned B-3 General Business District, so staff proposes to rezone a portion of 750 West College Drive property located between the existing B-3 General Business District area and the property in question to B-3 General Business District as well to provide continuity of zoning district and avoid spot zoning. The State Lottery office is occupying the building located in the area staff proposes to rezone, so the use will go from nonconforming to permitted. Rezoning procedures are described in Section 86-30 Amendments.

At the October 9, 2019, Planning Commission meeting, a public hearing was held, and a motion was made by Schroeder, second by Fox 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 DeCramer that the Council introduce an ordinance to rezone 800 West College Drive and 750 West College Drive from I-2 General Industrial 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**

Consider Approval of Ordinance Number 744, Second Series, An Ordinance Establishing Licensing and Regulations for Mobile Food Units and Food Carts.

Staff have drafted an ordinance regarding Mobile Food Units and Food Carts. At the August 21 Legislative & Ordinance Meeting the committee approved the draft ordinance for final approve by the City Council.

City Clerk Kyle Box provided the background information on the agenda item. There was further discussion on the agenda item by council and staff.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer to approve Ordinance Number 744, Second Series, An Ordinance Establishing Licensing and Regulations for Mobile Food Units and Food Carts. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider a two-year renewal with Delta Dental for 2020-2021

The City currently offers employee dental insurance through Delta Dental. Delta Dental has offered a 24-month rate lock renewal contract for 2020-2021, with a 2% premium increase. The prior premium increase for 2018-2019 was 6.39%.

Staff are recommending the Council approve the renewal contract with Delta Dental. Staff have proposed, in the tables below, the same premium cost-share design as was approved on the prior renewal, an 80%/20% cost share between the Employer and Employee, respectively.

Bill Chukuske, the City's health insurance agent, will be present to address any questions about the renewal. Staff presented this renewal information at the Council work-session on October 8, 2019.

Human Resource Manager Sheila Dubs provided the background information on the agenda item.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve the two-year Delta Dental renewal. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Consider approval of Health Insurance Plan for 2020

Since 2011, the City has offered high deductible health care plans to employees through Blue Cross and Blue Shield of Minnesota, through the Southwest West Central Service Cooperative (SWWC Coop).

This year, the City requested quotes from other health insurance providers. The most favorable quotes came from SWWC Coop (Coop) and Public Employees Insurance Program (PEIP). After negotiations, the Coop has offered a renewal rate increase of 7.44%. PEIP has offered premium rates that reflect a 6.3% increase over our existing rates.

On October 8, the Council met in a work-session on health insurance options for 2020. Bill Chukuske, our health insurance agent, and Staff provided the following information at the Council work-session:

1. 2020 CCOGA Pool Renewal (SWWC Service Cooperative)
2. Request for Quotes—Results from health insurance providers
3. History of premium rate increases
4. Public Employee Insurance Plan (PEIP)
5. Insurance Cost-Share Options---A and B with cost projections
6. 2020 Wellness Benefits—Compare/Contrast
7. Employee Insurance Committee feedback

After the Council work-session, two employee informational meetings were held. Bill Chukuske reviewed the renewal rates from the SWWC Service Cooperative, the PEIP plans and premium rates, and the draft options (A&B) presented to the Council at the work-session. Forty-three (43) employees attended the informational meetings. All employees who are eligible for health insurance were then asked to complete a short 5-question feedback survey.

Survey results summary:

- There were 57 respondents.
- 96% of those responding to the survey currently have insurance through the City
- 33 respondents (57.9%) preferred the PEIP plans ☐ 16 respondents (28.1%) preferred the current plan with the Coop
- 8 respondents (14%) had no preference

The Employee Health Insurance Committee met on October 16 to review the survey feedback and discuss the plan options. The Committee is recommending the Council approve the PEIP plans.

Two plan options are provided based on the history of prior Council decisions, one for Coop plans and one for PEIP plans. Staff will review the two options in more detail at the Council meeting. Staff recommendation: moving to the Public Employee Insurance Plan (PEIP). Open enrollment meetings are scheduled for Wednesday, November 6.

Human Resource Manager Sheila Dubs provided the background information on the agenda item. Bill Chukuske, the City's health insurance agent provided additional information on the plan options.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer for the approval of the Public Employee Insurance Plan (PEIP). Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Carried. 6-0-1**

Economic Development Director

As a follow-up to the October 8th Council Work Session on Economic Development, staff is presenting a request to approve the Economic Development Director pay range, Organizational structure and authorization to post the position.

City Administrator Sharon Hanson introduced the agenda item and provided additional information regarding bringing the current contracted service within the City of Marshall organizational structure.

Motion made by Councilmember DeCramer, Seconded by Councilmember Meister to Approve Economic Development Director pay range, Organizational structure with the ED Director position under the City structure as a city employee. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

Red Baron Arena & Expo Parking Lot Project - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request No. 3.

The project included construction of curb and gutter, aggregate base, bituminous pavement surfacing, storm sewer and miscellaneous work to construct the parking lot on the south side of the Red Baron Arena & Expo. The items on Change Order No. 2 (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.

Change Order No. 2 (Final) results in a contract decrease in the amount of \$19,788.26 and a total contract amount of \$403,907.04. The original contract amount was \$423,380.30. The final payment, including release of retainage, will be funded from Account #456-70579-2227.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer that the Council approve Change Order No. 2 (Final), resulting in a contract decrease in the amount of \$19,788.26 and acknowledge Final Pay Request (No. 3) in the amount of \$23,140.35 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**

Project Z51-2019: Bituminous Resurfacing on Various City Streets Project - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request No. 3.

The items on Change Order No. 2 (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. At the April 23, 2019 City Council meeting, the City Council awarded the contract for up to \$575,000.00. The final contract amount, including final change order, is \$557,352.25.

The final payment in the amount of \$16,266.83, including the final change order and release of retainage, will be paid from Account #495-60211-5570 (Public Improvement Revolving Fund-Streets-Infrastructure) per Finance. Motion made by

Councilmember Schafer, Seconded by Councilmember Lozinski that the Council approve Change Order No. 2 (Final) with Duinick, Inc. of Prinsburg, Minnesota, resulting in a contract decrease in the amount of \$3,379.45 and acknowledge Final Pay Request (No. 3) in the amount of \$27,867.61 for the above-referenced project. 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 Region Development Commission in preparation for the MnDOT Area Transportation meeting to discuss 2025 Hwy 19 project funding. The Highway 23 Corridor Board held their annual membership meeting was held.
- Schafer MERIT Center will hold their open house to show the latest expansion of the MERIT Center track.
- Meister No Report
- Bayerkohler Public Housing Commission received a low loss achievement award recognizing their low loss ratios
- Legislative and Ordinance Committee meeting has convened to discuss interim use permits.
- DeCramer Economic Development Authority discussed the next steps with EDA Director position as well as request for façade improvements.
- Marshall Municipal Utilities Commission discussed the electrical and water rate study.
- Labat Library Board met and is finalizing a new drive up book deposit as well as the installation of LED lighting throughout the facility.
- Lozinski No Report

Councilmember Individual Items

Councilmember Lozinski asked for an updated the change order regarding the MERIT Center. Assistant City Engineer/ Zoning Administrator Jason Anderson commented that the firm has received the letter drafted by staff.

Councilmember DeCramer reminded council to be mindful of the attending public during public hearings to allow all a chance to speak and to explain the process for new comers.

Councilmember Bayerkohler discussed a snow removal assessment and the way snow was removed from a certain property area.

Mayer Byrnes discussed the MMUA Rodeo held at the MMUA site in Marshall.

City Administrator

City Administrator commented on a work session in December to discuss strategic planning and communication facilitated by the League of Minnesota Cities. Administrator Hanson also attended the annual Lyon County Museum meeting.

Director of Public Works

Assistant City Engineer/ Zoning Administrator Jason Anderson commented that a traffic study regarding the new Marshall Public School construction has been completed.

City Attorney

City Attorney Dennis Simpson discussed ongoing items; MMU/MMUA purchase agreement, Electric car charging stations and Block 11.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn Meeting

At 7:58 PM, Motion made by Councilmember Schafer, Seconded by Councilmember Meister 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:

City Clerk