

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, May 26, 2020**

The regular meeting of the Common Council of the City of Marshall was held May 26, 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, Steven Meister, 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, Director of Public Safety; Karla Drown, Finance Director; Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator; Preston Stensrud, Parks Superintendent; Quentin Brunsvold, Fire Chief; 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 May 12, 2020.**

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the minutes of the regular meeting held on May 12, 2020 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Consider approval of the minutes of the Local Board of Appeal and Equalization Reconvene held on May 19, 2020.**

Motion made by Councilmember DeCramer, Seconded by Councilmember Meister that the minutes of the r the Local Board of Appeal and Equalization Reconvene held on May 19, 2020 be approved as filed with each member and that the reading of the same be waived. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Project Z76: South 1<sup>st</sup> Street Reconstruction Project -- 1) Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with The Proceeds of Tax-Exempt Bonds; 2) Resolution Accepting Bid (Awarding Contract).**

This project consists of reconstruction and utility replacement on South 1st Street generally between Southview Drive and George Street. Water, sanitary sewer, and storm sewer catch basins will be replaced along South 1st Street in this area. Sidewalk is proposed to be installed along the west side of South 1st Street from Southview Drive to a point approximately 215 ft. north of George Street. In addition to the utility replacement and street reconstruction on South 1st Street, sanitary sewer force main improvements are proposed at the intersection of South 1st Street and DeSchepper Street.

On May 22, 2020, bids were received for the above-referenced project. Two bids were received as shown on the Resolution Accepting Bid. The low bid was from Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$617,136.55. The engineer's estimate was approximately \$643,400.00.

The above-referenced project, or a portion thereof, may be financed by the sale of bonds with repayment coming from assessments and Debt Service Fund Levy. It is required that action be authorized by City Council via Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds.

The "Resolution Accepting Bid" awarding the contract to Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$617,136.55.

The estimated total project cost including 5% allowance for contingencies and 16% for engineering and administrative costs is \$751,672.32.

All improvements will 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 the project must include determination of funding sources.

The financing and cost participation will be forthcoming and addressed at the time of the Resolution Declaring Cost to be Assessed.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the Council adopt RESOLUTION NUMBER 4735, SECOND SERIES, which provides for Resolution Declaring Official Intent Regarding the Reimbursement of Expenditures with the Proceeds of Tax-Exempt Bonds for Project Z76: South 1st Street Reconstruction Project.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed.**  
**6-1**

Motion made by Councilmember DeCramer, Seconded by Councilmember Lozinski that the Council adopt RESOLUTION NUMBER 4736, SECOND SERIES, which provides for the Resolution Accepting Bid (Awarding Contract) and authorizing entering into an agreement with Duininck, Inc. of Prinsburg, Minnesota, in the amount of \$617,136.55 for Project Z76: South 1st Street Reconstruction Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed.** **6-1**

#### **Approval of the Consent Agenda.**

Councilmember Labat requested that item number 10, Consideration declaration of surplus items from the Marshall Fire Department be removed for further discussion.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer 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**

Authorization to declare vehicles as surplus property for the Marshall Police Department.

Approval to Set Public Hearing Date for MS4 Permit Program Summary of the 2019 Activities.

Approval for the request of the Marshall Downtown Business Association for Crazy Days (Thursday-July 16, 2020).

Approval for the request of Southwest Minnesota State University for Homecoming Parade (Saturday-October 10, 2020).

Acceptance of a 1997 SMART Trailer donation from the City of Eden Prairie.

Approval of the ratification of the Economic Development Authority Revolving Loan Fund.

Approval of the bills/project payments

**Consideration declaration of surplus items from the Marshall Fire Department.**

This past week the new self-contained breathing apparatus that was approved in October for purchase was delivered and put into service. We removed the previous SCBA from service and therefore, asking to declare it as surplus. The following list is what is being recommended to declare as surplus:

1. Quantity 61 – 4500 psi, 30-minute, composite cylinders.
2. Quantity 63 – Drager SCBA facemasks
3. Quantity 29 – Drager SCBA back plates with sentinels.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to declare the property as surplus. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Introduction of Ordinance Amending Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment and Call for Public Hearing**

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

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 motor-homes 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.

Director of Public Works/ City Engineer Jason Anderson provided the background information on the agenda item. City Administrator Sharon Hanson discussed the options to host public hearings in multiple ways. There was further discussion on the agenda item by council and staff.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer that the Council introduce the amendments to City Ordinance Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment and call for public hearing to be held on June 23, 2020. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

#### **Introduction of Ordinance Amending Section 86-247 Landscaping and 86-248 Storage and Call for Public Hearing.**

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer 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**

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.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer that the Council introduce the amendments to City Ordinance Section 86-247 Landscaping and 86-248 Storage and call for public hearing to be held on June 23, 2020. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

### **Presentation of the 2019 Year-End Audit for the City of Marshall**

The 2019-year end audit for the City of Marshall. The City Auditors, Nancy Schulzetenberg and Andrew Grice of BergankDV will present the 2019-year end audit via PowerPoint.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski Approve the 2019-year end audit report for 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 Expediting and Streamlining Outdoor Patio Requests.**

On Wednesday, May 20, Governor Tim Walz and other state officials participated in the daily COVID-19 media briefing to provide updates on Minnesota's response to COVID-19.

The following was announced: Restaurants and bars:

- Starting June 1, can be open for outdoor dining only
- Six feet between tables o No more than 50 total people at a restaurant to keep that cap at a manageable level
- The party size, we're asking people to keep it to 4 total, or 6 if you're a family.
- Reservations will be required.
- All workers in these settings should wear masks. Customers are encouraged to wear masks too (obviously not when eating or drinking).
- For restaurants without outdoor seating, we're eager to see municipalities get creative to find ways to make makeshift outdoor space work. "We know that the different cities have different zoning restrictions on this, and we ask that they get creative on this and find ways to make this possible for restaurants who might not have access to that space."

The City currently permits use of public right of way sidewalk use by permit and anticipates possible increased demand for sidewalk use permits and or outdoor patios and wishes to expedite and assist Restricted Businesses. Temporary use of public parking spaces for sidewalk cafés is appropriate due to reduced demand that is a direct result of COVID-19 pandemic. The temporary nature of these measures and the urgency of the needs of affected businesses necessitates the need for certain City Ordinance provisions with regard to parking to be recalculated. Thus, parking standards required by Ordinance for any Restricted Business may be temporarily and proportionately reduced by any temporary reduction in occupancy ordered by the State of Minnesota.

Restaurants and Bars that own or operate within a privately-owned parking lot are not required to complete the Private Use of Public Streets/Parking Lots Permit application but must follow the guidance and direction provided by the State of Minnesota and City of Marshall.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer recommended the following:

- Restricted Businesses wishing to add onsite temporary outdoor seating may utilize temporarily public right of way sidewalks and unnecessary parking spaces by obtaining a Permit for Private Use of Public Streets (Rights-Of-Way) and Parking Lots. No fee is imposed for this Permit.
- Permit for Private Use of Public Streets (Rights-Of-Way) and Parking Lots Permits shall be issued administratively by the Public Works Director and shall terminate when the restrictions in place starting June 1st cease.
- Parking standards required by Ordinance for any Restricted Business may be temporarily and proportionately reduced by any temporary reduction in occupancy ordered by the State of Minnesota.
- Direct staff to assist with designation of parking stalls available and sectioning off of areas via appropriate markings, including possibly cones, temporary fencing/barriers.

- Make available the use of city-owned picnic tables by request, with damage deposit, and for a fee determined by the Council.
- The retailer must provide the city with proof that their liquor liability insurance covers alcohol sales in any expanded outdoor spaces.

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

**Consider Resolution Number 4737, Second Series, A Resolution Extending a Declared Emergency.**

On Tuesday, March 17, 2020, Mayor Robert Byrnes declared a state of emergency for the City of Marshall.

On Friday, March 20, 2020, the city council met in special session to extend the declared emergency by Mayor Byrnes until April 30, 2020.

On Tuesday, April 28, 2020, the city council met in to extend the declared emergency by Mayor Byrnes until May 26, 2020.

This is a Resolution enacted under authority of Minnesota Statutes Sections 12.29 and 12.37 to extend the period of a declared local emergency.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve Resolution Number 4737, Second Series. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Authorize Acceptance of FAA CARES Act Grant Funding (MML-GLG-3-27-0056-016-2020-Grant Agreement).**

The City has received notice that the FAA has approved the Grant Application for the airport. The grant is provided in accordance with the CARES Act to provide eligible airports with funding to help offset a decline in revenues arising from diminished airport operations and activities as a result of the COVID-19 Public Health Emergency. The purpose of this grant is to maintain safe and efficient airport operations. It is the intent to use these grant funds for roof repairs at the Arrival/Departure Building.

The amount payable by the FAA under this grant agreement is \$69,000.00. The grant is issued by reimbursement of eligible expenses.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski That the City Council authorize acceptance and execution of the FAA CARES Act Grant Funding (MML-GLG-3-27-0056-016-2020-Grant Agreement) in the amount of \$69,000.00 for roof repairs at the Arrival/Departure Building at the Airport. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Consider a LG220 Application for Exempt Permit for SMSU Foundation for September 19, 2020.**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to SMSU Foundation to hold a raffle on September 19, 2020, at Southwest Minnesota State University , 1501 State Street, Marshall, Minnesota, (2) acknowledges the receipt of LG220 Application of Exempt Permit, (3) waives the 30- day waiting period, and (4) authorizes and directs the appropriate city personnel to complete and sign the LG220 Application for Exempt Permit on behalf of the City of Marshall Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Abstaining: Councilmember Bayerkohler.

The motion **Passed. 6-0-1**

**Commission/Board Liaison Reports**

Byrnes Southwest Regional Development Commission met and discussed opportunities for funding through the CARES Act for EDA contracts.

Schafer Southwest Amateur Sports Commission met to discuss getting the ice ready on the Lockwood rink.

Meister No Report

Bayerkohler No Report

DeCramer Economic Development Authority met and called for a public hearing for the sale of additional lots as well as acted on.

Marshall Municipal Utilities met and updated its performance indicated goals and held special meetings to conduct interviews for the general manager position.

Labat Convention and Visitors Bureau met and have decided to update their website and also voted not to participate in the City of Marshall application due to the excessive yearly costs. Hotel reservations are estimated to be down 70%.

Lozinski City Hall Committee met and commented that the project is still on scheduled and that the redesign of the east wall is being redesigned at this time with the formal Marshall hotel being demolished.

**Councilmember Individual Items**

Councilmember Labat commented on the 2021 budget schedule and asked the council to reflect on upcoming purchases. Member Labat also mentioned communication between staff and the council will be critical in the upcoming months.

Councilmember DeCramer discussed the 2019 Audit presentation and recognized on how well the Finance Department operates.

Councilmember Schafer commented on actions that the City has taken in response to COVID-19.

Mayor Byrnes commented on the communication efforts the City has taken.

**City Administrator**

City Administrator Sharon Hanson responded on the financial picture and its effect on the city budget. Administrator Hanson also commented on property tax payments and sales tax revenue. Administrator Hanson discussed the amount of communication that happens throughout the day with staff and council.

**Director of Public Works**

Director of Public Works/ City Engineer Jason Anderson provided an update on Legion Field storm water project.

**City Attorney**

City Attorney Dennis Simpson mention ongoing items his office is working on, such as; MAHA Agreement, Buffalo Ridge plat, Commerce Park property transfer to MMU and enforcing junk ordinances.

**Information Only**

There were no questions regarding the information items.

**Upcoming Meetings**

There were no questions on the upcoming meetings.

**Adjourn**

At 7:22 P.M., Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski 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