

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, March 12, 2019**

The regular meeting of the Common Council of the City of Marshall was held March 12, 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, John DeCramer, Russ Labat and James Lozinski. Absent: Glenn Bayerkohler. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Jim Marshall, Director of Public Safety; Annette Storm, Director of Administrative Services; 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 presented agenda with the addition of an agenda item, Approval of Various Boards and Commissions.

Consider approval of the minutes of the regular meeting held on February 26, 2019.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to that the minutes of the regular meeting held on February 26, 2019 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 DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Foley Addition – 1) Public Hearing on Preliminary Plat, Approval of Preliminary Plat, Consider Resolution Adopting the Final Plat.

As the property has not been platted before, the property needs to be subdivided prior to the subdivision and sale of a portion of the property.

The owner of the property has requested a subdivision of his parcel to allow the sale of the southwesterly portion of the property.

The property lines will be reviewed to ensure proper setbacks of the existing buildings within the proposed platted lots.

At their meeting on February 13, 2019, the Planning Commission recommended approval of the preliminary plat to the City Council with adjustments to be made to the following: property lines to accommodate existing buildings, required setbacks, and required utility easements.

Director of Public Works/City Engineer Glenn Olson provided information on the item.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski to close the public hearing on the Preliminary Plat of Foley Addition. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember DeCramer, Seconded by Councilmember Labat to approve the Preliminary Plat of Foley Addition. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Lozinski, Seconded by Councilmember Labat to adopt RESOLUTION NUMBER 4591, Second Series, which is the Resolution Adopting the Final Plat of Foley Addition, subject to City Attorney review of abstract of title and title opinion. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Vacation of Utility Easements in Carr Estates Fourth Addition -- 1) Public Hearing on Resolution Granting Petition to Vacate Utility Easements, Consider Resolution Granting Petition to Vacate Utility Easements.

A signed petition for vacation of the utility easements located between Lot 3 and Lot 4 of Carr Estates Fourth Addition, except for the northerly 7.5 ft. and southerly 7.5 ft. of said easements, was submitted from the owner(s) of the property where the easements are proposed to be vacated.

The purpose of the vacation is to construct a dwelling on the property, including a portion of the area to be vacated.

Director of Public Works/City Engineer Glenn Olson provided information on the agenda item.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adopt RESOLUTION NUMBER 4592, Second Series, which is the Resolution Granting Petition to Vacate Utility Easements. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Approval of Consent Agenda.

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

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

Approval for a Transient Merchant License for TNT Fireworks.

Approval of the renewal of the Minnesota Municipal Utility Association (MMUA) Service Agreement for Safety Management Program services for 2019.

Approval of City Farm Leases Parcel 2 Lease Extension and Parcel 7 Addendum

Approval of the bills/project payments

Consider a letter of support for United Community Action Partnership.

United Community Action Partnership (UCAP) is applying for funds to begin the planning process for a Regional Transportation Coordination Council (RTCC) in Southwest Minnesota.

City Administrator Sharon Hanson introduced the item. There was further discussion by Council.

Motion made by Councilmember Labat, Seconded by Councilmember Lozinski to approve a letter of support for United Community Action Partnership to apply for funds for a Regional Transportation Coordinating Council. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat, Councilmember Lozinski. Voting Abstaining: Councilmember DeCramer. The motion **Passed. 5-0-1**

Reject Farm Bid and Authorize Advertising to Re-bid Farm Lease.

The City is the owner of property located in Commerce Industrial Park. Significant work has been done on that property. The City did advertise for and solicit bids for the lease of Commerce Industrial Park for agricultural purposes. Bid was properly advertised, and one bid was received on the bidding date. Bid was for a 5-year period of time with bid of \$10 per acre for years 2019 and 2020, \$15 per acre for 2021, \$20 per acre for 2022 and \$25 per acre for 2023.

City staff has deemed the bid received to be insufficient. Because the property is held for rent, the City does have to pay real estate taxes for this property. City estimates that the taxes to be paid for 2019 would be approximately \$3,100.

City staff has also considered that the City could apply a cover crop to control weeds. Such internal costs are estimated to be approximately \$50 per acre for material and labor to have a cover crop to eliminate noxious weeds.

City staff is recommending that the one bid received be rejected. Staff recommends rebidding the property with the requirement that a minimum bid of \$30 per acre per year be required. Additionally, staff is recommended that notice of the bidding procedure be provided to each of the existing tenants in an attempt to solicit additional interest in this property.

City Attorney Dennis Simpson provided the background information on the item. There was further discussion by Council and Staff on the item.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to reject the bid and to have the City seed the area with small grain crop and additionally exploring options to supplement the area with biosolids from the Waste Water Treatment Facility. With the additional expectation to re-advertise for bids in the Fall of 2019. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Project Z69: East Lyon Street Reconstruction Project - Consider Resolution Receiving Report and Calling for Hearing on Improvement.

The project consists of the reconstruction of East Lyon Street from TH 23 east approximately 800 feet to near the city limits.

This Feasibility Report as authorized by the City Council covers the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule.

The proposed improvements as described in the report are necessary, cost-effective, and feasible from an engineering standpoint.

Property owners will be contacted, and a meeting held with each/all of the owners concerning the proposed improvements and potential costs.

Director of Public Works/City Engineer Glenn Olson provided information on the item. There was further discussion by Council and Staff.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to adopt RESOLUTION NUMBER 4593, SECOND SERIES, which is the Resolution Receiving Feasibility Report and Calling Hearing on Improvement for the above-referenced project and setting the public hearing on improvement date for March 26, 2019. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Project Z74: Huron Road/Superior Road Reconstruction Project - Consider Resolution Receiving Report and Calling for Hearing on Improvement.

The project consists of watermain replacement on Huron Road between Superior Road and TH 59 and reconstruction on Superior Road from Huron Road to CSAH 33. All utilities will be replaced, including watermain, sanitary sewer, and storm sewer on Superior Road and watermain replacement only on Huron Road.

This Feasibility Report as authorized by the City Council covers the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility and proposed project schedule.

The proposed improvements as described in the report are necessary, cost-effective, and feasible from an engineering standpoint.

A public informational meeting will be held with the affected property owners to discuss proposed improvements and potential costs.

Director of Public Works/City Engineer Glenn Olson provided the background information on the item. There was further discussion by Council and Staff.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adopt RESOLUTION NUMBER 4594, SECOND SERIES, which is the Resolution Receiving Feasibility Report and Calling Hearing on Improvement for the above-referenced project and setting the public hearing on improvement date for March 26, 2019. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Consider approval of the proposed Police Department organizational structure and amended 2019 wage schedule.

City Administrator Hanson and Director of Public Safety Marshall have evaluated and are recommending amendments to the organizational structure for the Police Department.

The Personnel Committee reviewed the proposal on March 1, 2019 and recommended unanimously to approve the proposed organizational structure and amended 2019 wage schedule.

Director Marshall has provided a background memo included in the attachments that explains the proposal and financial impact. The proposed organizational structure, proposed amendments to the 2019 employee wage schedule, and draft job descriptions are also attached.

Two job descriptions have been submitted for evaluation of points by our Consultant, Wayne Brede.

- Captain—recommended at 588 points; exempt (not eligible for overtime) position
- Sergeant—recommended decrease from 441 to 421 points; remains a non-exempt (eligible or overtime) position. Positions pointed at 421 and 441 are within the same pay band, and therefore, have the same pay range.

The overall financial impact is estimated at \$2,704 to \$6,365. The proposal does not add additional personnel; rather, it involves changes to rank and command structure.

Human Resource Manager Sheila Dubs introduced the item to Council. Director of Public Safety Jim Marshall provided additional information on the request. Councilmember DeCramer, Meister and Schafer provided discussion from the Personnel Committee. There was further discussion by Council.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat approval of the proposed Police Department organizational structure and amended 2019 wage schedule. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Revised procedure to calculate special assessment amounts due for public infrastructure projects.

Mayor Byrnes opened the item and commented on the amount of work staff, Ways and Means and Councilmember Bayerkohler put into the agenda item.

City Attorney Dennis Simpson provided the background information on the item as follows:

The development of special assessment policies and the implementation of special assessments procedures have been complicated processes undertaken by municipalities in an attempt to comply with Minnesota Statutes Chapter 429. City of Marshall has been involved in special assessments policies and procedures for a period of time. The City of Marshall has developed and implemented a procedure which has been fairly successful for special assessment projects implemented by the City of Marshall since 2006. Numerous court cases undertaken in 2006 have developed the process to calculate special assessment amounts due for residential improvement projects.

City of Marshall staff (Administration, Engineering, Legal and Finance) have spent considerable time analyzing and reviewing special assessment policies for numerous municipalities within the State of Minnesota. The findings of that analysis have been reviewed with Ways & Means Committee members. In addition, Council Member Bayerkohler as Ways & Means Committee member has also conducted his own analysis and review of state municipality policies and procedures for calculation of special assessment amounts due for public improvement projects.

The analysis of Minnesota Statutes, Minnesota case law and review of additional municipality procedures has led to the proposal for a new procedure to calculate special assessment amounts. The first application of the new procedure will impact the public improvement Project Z67 Michigan Road/Superior Road construction project.

The review of Minnesota Statutes and case law has revealed that there are numerous procedures used by municipalities to calculate special assessment to be levied for public improvement projects. I believe that the most important ruling from Minnesota Supreme Court regarding establishment of special assessment policies is the following statement from the case entitled Continental Sales & Equip. Co. v. Town of Stuntz, 257 N.W.2d 546, 550 (Minn. 1977). The Minnesota Court stated as follows: "Any method resulting in a fair approximation of the increase in market value for each benefited parcel may be used. A method which on its face appears to be a fair approximation will be presumed valid with the burden resting upon the objector to show its invalidity." (emphasis added).

The term "any method" has been substantiated to support special assessments based upon front footage calculation of the lots. Any method as supported calculation of actual costs for the project based upon front foot cost. Other cities have used a conversion factor converting a general residential lot size compared to a commercial property. All of those various methods have been supported by Supreme Court action.

The property will receive the lesser of the various calculations done to determine the appropriate calculation for special assessment for each lot. The procedure as proposed (assuming a fee increase for residential lots to \$5,700 maximum) would indicate that the special assessments to be recommended for Project Z67 at the March 26, 2019 public hearing.

You will note that the amounts to be levied are approximately 63% of the amounts initially discussed and considered previously. The new policy to be implemented does considerably lessen the amounts due by the property owners. City Attorney will be presenting and discussing this matter at the Council meeting.

Councilmember DeCramer provided discussion from the Ways and Means Committee. There was continued discussion by Council and Staff.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer to direct staff to implement the new procedure to calculate special assessments. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Resolution Amending the 2019 Fee Schedule

The Ways & Means Committee reviewed the amendments to the Fee Schedule at their meeting on February 26, 2019. Staff and Ways & Means Committee are recommending Council approval of amendments. Amendments are pertaining to the street special assessment fees.

City Administrator Sharon Hanson commented that the proposed increase is still lower than what it could be, with the support from a licensed appraiser. There was further discussion by Council.

Motion made by Councilmember DeCramer, Seconded by Councilmember Lozinski to Approve Resolution Number 4595, Second Series approving specific fees to be charged by the City of Marshall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed. 5-1**

Approval of Various Board and Commissions.

Mayor Byrnes introduced the item and recommended the follow appointments.

Planning Commission Cathy Lee
Term set to expire 5/31/2019

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

Commission/Board Liaison Reports

Byrnes Area Transportation Partnership met and discussed the 2023 ATV plan.

Schafer No Report

Meister No Report

DeCramer No Report

Labat Library Board met and discussed delinquent taxes that need to be resolved prior to closing their 2018 reports. Labat mentioned there is snow blocking fire exits that will be addressed.

Lozinski No Report

Councilmember Individual Items.

Councilmember Schafer discussed the success of snow removal both by staff and residence. Schafer cautioned residence with rapid snow melting.

Councilmember Lozinski mentioned efforts by citizens to remove snow.

Councilmember Labat commented on his visit to the Law Enforcement Center and a recent ride along with a Police Officer.

Councilmember DeCramer discussed the Race Equity Cohort that the City is taking part in. DeCramer mentioned he'd like to see work done in the future on handling lot sizes regarding special assessments.

Mayor Byrnes mentioned the State of City event he and Administrator Hanson will be partaking in hosted by the Marshall Area Chamber of Commerce. Byrnes also introduced Director of Public Safety Jim Marshall to discuss his role as the Emergency Operations Commander for the City of Marshall regarding the potential rapid snow melt that may cause river levels to rise and internal flooding. Director Marshall discussed the emergency operation plan.

City Administrator

City Administrator mentioned that Springsted will merger with another company. Administrator Hanson also commented on the State of the City she will be attending with the Mayor. Lyon County Co-op will be consolidating with other area Co-ops, the City of Marshall is a shareholder within that organization and is intitled to a vote on the merger, Mayor Byrnes will vote in favor of the proposal.

Director of Public Works

Director of Public Works/City Engineer commented on Staff efforts in snow removal. There have also been efforts by Marshall Municipal Utilities to help with efforts clearing snow basis. There has also been discussion with Lyon County in removal of snow from county ditches. Director Olson mentioned efforts by residence to remove snow from their own properties. The Waste Water Treatment Facility improvement bids will by coming in the near future.

City Attorney

No Report

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 7:10 P.M., Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0**

Mayor

Attest:

City Clerk