

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, July 28, 2020**

The regular meeting of the Common Council of the City of Marshall was held July 14, 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 (5:35 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; Jessie Dehn, Assistant City Engineer; Annette Storm, Director of Administrative Services; Lauren Deutz, Economic Development Director; Ilya Gutman, Plan Examiner/ Assistant Zoning Administrator; Quentin Brunsvold, Fire Chief; Preston Stensrud, Parks Superintendent 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 work session and the regular meeting held on July 14, 2020.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the minutes of the work session and the regular meeting held on July 14, 2020 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

Public Hearing and Adoption 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

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.

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 was introduced at the July 14, 2020, City Council meeting.

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

Motion made by Councilmember Schafer, Seconded by Councilmember Meister that the Council close the public hearing on 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.

Councilmember Meister discussed the turkey producer located in Marshall and how they were compliant if butchering was not allowed in city limits. Gutman commented that the business would have been grandfathered in.

Councilmember Labat clarified that if a business was granted a conditional use permit that the permit would stay with the property.

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 Lozinski that the Council adopt Ordinance Number 753, Second Series, Amending Section 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. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Award of Bids for fire station electrical service change out.

The 2020 City of Marshall capital improvement plan included this project to change out the electrical service and all the breakers at the Marshall fire station. The project would convert 480/277v, 600-amp, 3 phase switch gear Federal Pacific breakers to 208/120v 600-amp 3 phase switch gear square D breakers. This proposal would also include an automatic transfer switch for the addition of a generator. This will be crucial in the event of power loss so we can get the equipment out of the fire station. The above description is tabulated in the base bid. There was an alternate bid option to supply a 90 kw, natural gas-powered generator. This project will be coordinated with MMU so they can also change out the transformer behind the building as they've been wanting to complete this project for a long time.

The justification for this project is that Federal Pacific circuit breakers are notorious for sticking open and catching fire. Multiple tests done on the breakers since the 1980s have proven that one in four Stab-Lok breakers (currently in the fire station) are defective and will not properly trip off. Unfortunately, when the testing began in the early 1980s, a New Jersey court later ruled that Federal Pacific Electric committed testing

fraud and a cover-up, labeling the breakers as meeting the standards set by the UL (Underwriters Laboratories) when they were defective. In 1983, the Consumer Product Safety Commission closed its two-year investigation and felt it impossible to create a product recall at the time because of budget issues, even as Federal Pacific panels and breakers continued to be installed in millions of homes and businesses that to this day still run the risk of an electrical fire. An estimated 2,800 fires each year directly result from Federal Pacific panel breaker malfunction. Federal Pacific Electric has been out of business for many years, but the danger is still ever present.

The only price not included in this project is the stand for the transfer switch, which will be fabricated by a 3rd party local vendor. Estimate received for this stand to fabricate is not to exceed \$400.00.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer Accept base bid from Heartland Electrical, Inc. for \$30,766.91 with no alternate. Transfer switch stand cost to be paid direct to the vendor.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Abstaining: Councilmember Labat. The motion **Passed. 6-0-1**

Consider Approval of the Consent Agenda

Councilmember Bayerkohler requested that item number 6, Review and approve amended Resolution No. 4042, being a resolution for vacation of a city street in the City of Marshall pursuant to City Charter and State Statutes, be removed for further discussion.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski 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 of the ADA Transition Plan for Public Sidewalks & City Rights-of-Way – Call for Public Hearing.

Approval of the bills/project payments.

Review and approve amended Resolution No. 4042, being a resolution for vacation of a city street in the City of Marshall pursuant to City Charter and State Statutes.

The City of Marshall is proposing to improve drainage in the Merit Center and driving track region of the City of Marshall. There is an existing former township road (290th Street) in the region. That township road is now a City street pursuant to annexation of the surrounding property into the City of Marshall.

In 2014, a resolution was present to the City Council regarding a vacation of the portion of 290th Street between trunk Hwy 59 and CSAH 33. The previous Resolution No. 4042 was approved by Council action. That resolution, however, has never been filed of record in the recorder's office and as such 290th Street still appears to be as a City Street located within the City of Marshall.

The amended resolution hereto does address various deficiencies in the prior resolution. It is proposed that the amended resolution herein would be submitted to the appropriate county officials and would then be recorded of record so that the existing 290th Street would then be vacated between trunk Hwy 59 and CSAH

33. By operation of law, the vacation of the roadway would transfer ownership of that roadway to abutting property owners. The resolution, however, does retain all utility easements and does authorize for a drainage easement to be retained by the City. The City is also negotiating with abutting property owners for the conveyance of the road right of way back to the City for future utility and drainage purposes. City officials believe that the vacation of the roadway and retention of easements is in the best interests of the City and that such action will allow for increased drainage in the area. There have been several complaints about area drainage in the Hwy 59 area. It is believed that the vacation of the roadway and improved drainage will address a number of pending concerns.

Councilmember Bayerkohler asked for an updated on the agenda item and why it was coming before the council again. City Attorney Dennis Simpson provided the background on the agenda item and commented that the document has been rejected by the County Recorder's Office due to the legal description needing to be updated.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the City Council approve the amended resolution and direct the appropriate City officials to file the resolution of record and to continue discussions with property owners regarding transfer of vacated roadway back to the City. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Award of Bids for Street Sweeper for the Street Department.

The City opened bids on July 10, 2020 for replacement Dump Box, Plow and Wing for Street Department. This is a replacement of the existing 2015 Elgin Pelican street sweeper.

At the July 14, 2020 City Council meeting, Council requested city staff to consider keeping the 2015 Elgin Pelican street sweeper instead of trading it in for \$68,200. By keeping the 2015 sweeper, the city is afforded redundancy with operations, the city may run two machines in tandem during early spring and fall time when demand is high, and the city could defer future street sweeper replacements by spreading machine time between two sweepers.

At their meeting on July 14, 2020, the City Council tabled action on this item to the July 28, 2020 meeting to allow for staff to review the Surface Water Management Utility budget to ensure that the fund could absorb the additional \$68,200 cost of not trading in the sweeper. After reviewing the budget, it has been determined that this purchase could be financed by utilizing Surface Water Management Fund reserves.

Motion made by Councilmember Meister, 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**

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer that the Council authorize the purchase of a new 2020 Elgin Pelican NP Dual Street Sweeper for the Street Department from MacQueen Equipment of St. Paul, Minnesota, in the amount of \$240,259. The current 2015 Elgin Pelican street sweeper will be retained by the City Street Department and will be used to supplement city street sweeping operations. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember DeCramer. Voting Nay: Councilmember

Meister, Councilmember Bayerkohler, Councilmember Labat, Councilmember Lozinski. The motion **Failed. 3-4**

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to delay the purchase and reintroduce the item after the 2021 budget is complete. Voting Yea: Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember Labat, Councilmember Lozinski. Voting Nay: Mayor Byrnes, Councilmember DeCramer. The motion **Passed. 5-2**

Authorization for ADA Ped Ramp and Bike Trail Improvements

For the past couple years money has been allocated in the Parks Budget for bike trail maintenance and repairs. This year \$80,000 is included in the budget. This year's funds are proposed to be used towards repairs in numerous locations. Staff is working towards getting all trail sections on a preservation maintenance plan and has been working with the Engineering Dept. to rate the conditions of each section of trail to help prioritize maintenance needs in the future.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski Authorize staff to proceed with ADA Ped Ramp and Bike Trail Improvements not to exceed \$80,000. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Marshall EDA CARES Grant Program.

City Administrator Sharon Hanson provided the background information the agenda item. Administrator Hanson introduced Economic Development Director Lauren Deutz to present the application process for the Marshall EDA CARES Grant Program.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer to approve the Marshall EDA CARES Grant Program. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider adoption of the ordinance amending salaries and compensation of mayor and councilpersons.

Chapter 2, Sec. 2.07 of the City of Marshall Charter requires salaries of the Councilmembers and Mayor to be discussed as an agenda item at the first council meeting in July of each year. After said discussions, the council shall set and determine said salaries in accordance with the applicable state law.

Minnesota State Statute 415.11 allows for the governing body fix their own salaries by ordinance in such amount as they deem reasonable. No change in salary shall take effect until after the next succeeding municipal election.

Staff have adjusted the proposed salaries to be in line with the nonunion employee general wage increases through December 31, 2021. The proposed ordinance will become effective January 1, 2021.

Motion made by Councilmember Meister, Seconded by Councilmember DeCramer to adopt the ordinance with no change to the salaries and compensation of the mayor and councilpersons.

Councilmember Meister withdrew his motion, Councilmember DeCramer withdrew his Second to allow for further clarification and discussion on the agenda item.

Motion made by Councilmember Labat, Seconded by Councilmember Meister to adopt Ordinance Number 754, Second Series, an ordinance amending the salaries and compensation of the mayor and councilpersons and to readdress the COVID-19 salary reduction in January or February 2021. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Labat. Voting Nay: Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. The motion **Passed. 4-3**

Consider a LG220 Application for Exempt Permit for SMSU Foundation for February 13, 2021.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer BE IT RESOLVED, that the City Council hereby (1) grants local unit of government approval to SMSU Foundation to hold a raffle on February 13, 2021, 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 Fire Relief Association met and presented their annual report and schedule for 2021

Region Development Commission met and discussed its revolving loan fund.

Schafer No Report

Meister Economic Development Authority met and discussed the CARES Act

Bayerkohler No Report

DeCramer Marshall Municipal Utilities Commission met and discussed the water treatment facility

Economic Development Authority met and discussed the CARES Act, its work plan and budget for 2021.

Labat Library Board met to discuss the 2021 budget.

Lozinski City Hall Committee met to discuss the construction of the elevator shaft and met with the owners of Mainstay Café to discuss the next steps of the project with the shared wall.

Councilmember Individual Items

Councilmember Meister addressed an article from the New York Times titled, "Can you get COVID-19 Again? It's Very Unlikely, Experts Say".

Councilmember Labat requested an update on the Helena Chemical property and MAHA agreement.

Councilmember Lozinski acknowledged the mask mandate put into place by Governor Tim Walz.

Mayor Byrnes commented how the city of Marshall appreciates the diversity in the community.

City Administrator

City Administrator Sharon Hanson commented on the mayor and councilperson salary compensation and the amount of work and time that elected officials put in.

Director of Public Works

Director of Public Works/ City Engineer Jason Anderson responded to a question by Councilmember Labat on sidewalks at a residential property.

City Attorney

City Attorney Dennis Simpson commented that the MAHA agreement is still pending, the Helena Chemical property is continuing to move forward with phase I inspection being completed and work completed for the Commerce Park land transfer.

Information Only

There were no questions on the information items.

Upcoming Meetings

City Clerk Kyle Box reminded the council that the next regular meeting on August 11 will begin at 4 PM and end at 6 PM.

Adjourn

At 7:05 P.M., 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