

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, December 22, 2020**

The regular meeting of the Common Council of the City of Marshall was held December 22, 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, Steve 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; Karla Drown, Finance Director; Preston Stensrud, Parks Superintendent; Lauren Deutz, Economic Development Director; Sheila Dubs, Human Resource Manager; Ilya Gutman and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

Introduce MN Green Corps Member Kelly Herfendal

Parks Maintenance Superintendent Preston Stensrud introduced MN Green Corps Member Kelly Herfendal to the City Council. Herfendal will be with the City through mid-2021 as a Green Corps member.

Consider approval of the minutes of the regular meeting held on December 8, 2020.

Motion made by Councilmember Labat that the minutes of the regular meeting held on December 8, 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 Consent Agenda.

Items; 5 Consider approval of 2020 Workers Compensation Insurance; 8, Consider Approval Resolutions Authorizing Transfer and Closure of Capital Project Fund 456 & 493; and 10, Consider Approval Resolution Authorizing Transfer of Funds from Fund 256 to Special Revenue Fund 258 were removed for further discussion.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister 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 employee retirement resolutions; 4768, 4769, 4770, Second Series.

Consider Transfer of Funds to Establish EDA Response Funds to Impacted Establishments.

Call for a Public Hearing Regarding Proposed Property Tax Abatement at 500 Elizabeth Street.

Approval of Resolution Number 4773, Second Series, a Resolution Authorizing an Interfund Loan for Advance of Certain Costs In Connection With Tax Increment Financing District 2-2.

Approval of the Wastewater Treatment Facilities Improvement Project – Consider Payment of Invoice 0261320 to Bolton & Menk, Inc.

Approval of the bills/project payments

Consider approval of 2020 Workers Compensation Insurance.

The premium for 2020 and estimated premium for 2021 are included for review. The renewal is effective January 1, 2021 with the League of Minnesota Cities Insurance Trust.

The workers compensation insurance covers City employees, elected and appointed officials, volunteer firefighters, all other volunteers, Library employees and Marshall Municipal Utilities employees. Staff recommends keeping the deductible at \$5,000. This will be an additional \$22,282 credit amount to the standard premium of \$297,089

Manual Premium	\$ 495,148
Experience Mod. 0.60	-198,059
Standard Premium	297,089
Deductible Credit 6.50%	- 22,282
Premium Discount	- 32,479
Net Deposit Premium	\$242,328

This premium is paid by the following:
City Portion \$198,413
Library Portion \$2,567
MMU Portion \$41,348

This is a \$18,341 or 8.19% increase from 2020 to 2021. The experience modifier has decreased from 0.63 in 2020 to 0.60 in 2021. That would indicate that staff are continuing to keep a safe work environment as well as continued training for staff in safety at the workplace.

The rate increase also reflects the upward trend in overall insurance costs. An excerpt from the League of Minnesota Cities has also been included in the attachments for further reference to the increase in insurance premiums.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer Approve renewal of the 2021 City's Workers Compensation Insurance with the League of Minnesota Cities Insurance Trust. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Approval Resolution Number 4771 and 4772, Second Series; Authorizing Transfer and Closure of Capital Project Fund 456 & 493.

Councilmember Bayerkohler requested that the language "That the balance remaining in Capital Project Fund 456 be transferred to Debt Service Fund 322; and" be removed from the resolution.

Motion made by Councilmember Bayerkohler, Seconded by Councilmember Schafer to approve the resolution with the suggested amendment. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister,

Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Approval Resolution Number 4774, Second Series; Authorizing Transfer of Funds from Fund 256 to Special Revenue Fund 258.

Councilmember Bayerkohler requested that the resolution be amended to add the clarifying language “food beverage & lodging funds” to the resolution.

Motion made by Councilmember Bayerkohler, Seconded by Councilmember Schafer to approve the resolution with the suggested amendment. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Coalition of Greater Minnesota Cities update.

Marty Seifert from Flaherty & Hood P.A. provided an update on CGMC issues that came up before the legislature in 2020.

Acceptance of Donations to Parks Department for Fiscal Year 2020.

The Parks Department receives generous donations from many entities each year that allow for improvements to our facilities.

The donations to the department this year are from:

- Marshall Area Hockey Association in the amount of \$2,500.00 for the installation of heaters scorer’s table areas in the Reinhart Rink and Lockwood Rink at the Red Baron Arena & Expo.
- Coleman Electric in the amount of \$1,380.00 for the installation of heaters scorer’s table areas in the Reinhart Rink and Lockwood Rink at the Red Baron Arena & Expo.
- Marshall Area Youth Baseball Association in the amount of \$3,800.00 for the purchase and installation of bat and helmet racks at Independence Park.
- Friends of the Strootman Family in the amount of \$4,000.00 for custom-made table in memory of Aaron Strootman to be placed at the Boards and Blades Skatepark.
- Marshall United Soccer Association in the amount of \$5,000.00 for the purchase of 3 sets of soccer goals to be placed in various parks.
- D&G Excavating in the amount of \$1,000 for dirt work done around Carter’s Court at Independence Park.
- US Bank in the amount of \$1,000 for dirt work done around Carter’s Court at Independence Park.
- The Parks Department also received donations exceeding \$10,500 for the construction of the Archery Park and donations exceeding \$250,000 for the construction of the Veteran’s Memorial at Memorial Park. These donations are greatly appreciated and have made significant impacts on the community and our parks.

Motion made by Councilmember Meister to approve the resolutions accepting the donations to the Parks Department for 2020. 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 / Tower 139' Tall.

This is a request by the Owner and Verizon Wireless to build a wireless communication tower taller than allowed by the City Ordinance.

This tower is proposed to be 139 feet tall and will be located in an I-2 General Industrial. The Ordinance permits towers up to 75 tall in that district and all towers taller than that require a conditional use permit. Article VI Supplemental Regulations, Division 6 Towers and antennas describes requirements for new towers. This tower seems to comply with all requirements and all required submittals have been received. The conditional use permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49.

At the Planning Commission meeting on November 9, 2020, after a public hearing, a motion was made by Fox, seconded by Schroeder, to recommend approval as recommended by city staff to City Council. ALL VOTED IN FAVOR.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve the request by Donovan McCain, Verizon representative, and Sandra Mosch, owner, to grant a conditional use permit for a 139 feet tall communication tower in an I-2 General Industrial 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 first, that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable amount of time in which to repair such default.
3. That the property is maintained to conform to the Housing Code, Zoning Code, Building Code, and not cause or create negative impacts to adjacent existing or future properties.
4. That the tower meets all requirements of, and receives all required approval from, FAA and MnDOT Aeronautics.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski

Project Z96: C Street/Southview Drive Bike Trail Project – 1) Consider Resolution Number 4784, Second Series; Authorization of Sponsoring Agency for Transportation Alternatives Project; 2) Consider Resolution Number 4785, Second Series; Identifying Responsibility for Operation and Maintenance for Transportation Alternatives Project.

MnDOT District 8 is currently soliciting for 2025 Transportation Alternatives (TA) grant applications. The TA grant is an 80-20 grant to match program that provides funds for ped and bike facilities, historic preservation, Safe Routes to School, and more. The last project that the City had funded through this program was the RRFB school crossings project which is scheduled for construction in 2022.

For several years there has been discussion about providing a direct trail link between trail at the intersection of C Street and Progress Drive down to Southview Drive. Included in the Council packet is a preliminary route and cost estimate to complete this work.

City Engineering and Community Services Department staff have met with Marshall Public Schools staff to discuss shared participation in this project. City staff would propose a partnership that generally splits grant match costs with Marshall Public Schools, with the City providing and covering the costs associated with engineering services.

Included with the Council packet is Exhibits A, B, and G from the grant application. Exhibits A & B visually identify the project and Exhibit G is the preliminary cost estimates.

The preliminary cost estimate shows \$117,889.10 of city participation, with nearly 66,000 of this participation being City engineering services. The school district's estimated cost is \$30,556, and this is construction costs only.

Staff brought this grant application before the Council on October 27, 2020 to gauge interest in submitting a letter of intent to apply for this grant opportunity. Community Services and Engineering staff now have an application completed and prepared for submittal. To complete the grant application process, staff would like the City Council to offer their support for our grant application and we will need two resolutions to be approved. One resolution identifies the City as the grant sponsoring agency and the entity responsible for managing the grant. The other resolution identifies the City as the responsible party for continued operation and maintenance of the shared use path.

There is no fiscal impact today. If we are awarded a grant, we will be notified in Spring 2021. In today's dollars, our cost estimate for City participation is \$51,913.50 in cash with the City also providing the services for grant application, project design, project permitting, and construction administration. These engineering services are valued at \$65,975.60.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer that the Council adopt RESOLUTION NUMBER 4784, SECOND SERIES, which is the Resolution Authorizing Agent of Sponsoring Agency for Transportation Alternatives Project and RESOLUTION NUMBER 4785, SECOND SERIES, which is the Resolution Identifying Responsibility for Operation and Maintenance for Transportation Alternatives Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed**.
6-1

Consider Resolution Amending the Resolution Establishing and Providing for the City of Marshall Special Assessment Policy.

The current version of the Special Assessment Policy was created in 2004. It was amended in 2005, 2007, and 2018. In 2019, staff held numerous Ways & Means Committee meetings to work on a fourth revision to the policy. The most notable changes that were being discussed revolved around the street reconstruction assessment procedure for commercial/industrial properties. The policy amendments being proposed in 2019 were never brought to Council for ratification.

In the current policy, street reconstruction costs for commercial/industrial properties are paid 100% by those properties. In 2018, the city was confronted by industrial property owners who challenged the city's policy toward commercial/industrial properties regarding street reconstruction costs. During that time, staff and committee resolved the confrontation by creating commercial/industrial street reconstruction cost maximums for the 2018 project.

Included with this memo is a 'redlined' policy, a summary page that displays the new policy language regarding the street reconstruction assessment portion of the document, and a summary of some examples that shows how the new maximum assessment formulas would limit cost for a few selected properties. In the redlined policy the maroon changes are items that were identified in 2019 when staff originally brought revisions before committee. The blue changes are items that have been added this fall.

The purpose of making these amendments is two-fold. We must have a policy that is defensible and results in street assessment costs that are not greater than the benefit that the property receives from the street improvement project. Staff would also like a policy that is simple enough that staff can estimate project costs before a project is designed or constructed. We hold public informational meetings and project improvement hearings before we complete design, so it is important that staff has methods available to us that allow for quickly and efficiently estimating project assessments for property owners.

At their meeting on December 10, 2020, the Ways & Means Committee recommended bringing the policy to the City Council for approval, subject to City Attorney review.

Motion made by Councilmember DeCramer, Seconded by Councilmember Bayerkohler that the Council adopt RESOLUTION NUMBER 4786, SECOND SERIES, which is the Resolution Establishing and Providing for the City of Marshall Special Assessment Policy. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Passed. 6-1**

Reaffirm Commercial Tax Abatement Guidance/Policy.

The EDA Board recommended to the Council that consider commercial tax abatement applications with no penalty as per a revised policy or council directive. This is based on the following:

- The policy is new and there is still awareness to be gained and thus there has been interest from expanding businesses, after construction, for the commercial tax abatement.
- The pandemic has resulted in less awareness by the general business community of this tax abatement.

Staff recommends that the Council provide staff with the guidance to bring forward applications for abatement with no penalty if applications and construction started after the effective date of the policy and until 12/31/2021 at which time staff can evaluate the guidance and if at that time the policy is no longer new and thus approval prior to construction can be achieved starting 1/1/2022.

Furthermore, the city's policy states:

- The City reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on City services in relation to the potential benefits from the project.

- The City Council can deviate from this policy for projects that supersede the objectives identified herein.

Thus, at this time staff does not recommend formal policy revision, rather act upon the Council's direction provided and voted upon by the majority of the Council.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve the policy guidance that staff be directed to bring forward applications for abatement with no penalty if applications and construction started after the effective date of the policy and until 12/31/2021 at which time staff and Council can evaluate the guidance and if at that time since the policy is no longer new and awareness is gained and thus approval prior to construction can be achieved starting 1/1/2022. Any tax abatement would still be evaluated and in compliance with MN Statutes. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

Consider Resolution Number 4787, Second Series Adopting Tax Levy for 2021

MN State Statute 412.711 Consideration of Budget; Tax Levy states "The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund." At the August 18th council work session, staff proposed a general levy increase of \$456,584 or 6.47%. The main contributing factors for this increase were an increase for the street capital revolving fund, increased salary and health care costs.

Staff were directed by the Council to reduce this increase for the preliminary levy that that was set on September 8, 2020. The 2021 preliminary levy was set at 7,303,007, which was an increase of \$246,894 or 3.50% from the 2020 levy.

Staff are recommending that the final 2021 levy be set at 7,254,007, which is an increase of \$197,894 or 2.80% from the 2020 levy.

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve Resolution Adopting the 2021 Tax Levy at 7,254,007. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer. Voting Nay: Councilmember Bayerkohler, Councilmember Labat, Councilmember Lozinski. The motion **Passed. 4-3**

Consider Resolution Number 4788, Second Series Adopting a Budget for 2021

Motion made by Councilmember Schafer, Seconded by Councilmember DeCramer to approve the resolution adopting the 2021 budget. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer. Voting Nay: Councilmember Bayerkohler, Councilmember Labat, Councilmember Lozinski. The motion **Passed. 4-3**

Consider Approval of the 5 Year Capital Improvement Plan (CIP)

Attached is the 5-year (2021 – 2025) Capital Improvement Plan (CIP). The 5-year CIP serves as a guide that lays out capital expenditures over the next 5 years by department as well as by the funding sources. The CIP is meant as a guide for Council and Management and does not give authorization for the projects until formally approved based on the City's Purchasing Policy.

The 5-year CIP is a fluid document that is updated on an annual basis. Some projects get pushed back to later years, some projects drop off and some projects move up in years depending on priorities. Ultimately, the funding is a major factor in determining which projects within the 5- year CIP get completed.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to approve and adopt the 5 Year Capital Improvement Plan. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler, Councilmember Labat. The motion **Passed. 5-2**

Consider Approval of a Memorandum of Understanding for the Appointment of the City Attorney.

In accordance with Section 3.03 of the Marshall City Code the Mayor and Council are required to appoint City Attorney to serve for an additional two-year period of time. Marshall City Code indicates that the “Mayor shall nominate to the City Council a person to be appointed as City Attorney for the City of Marshall. The City Council and Mayor shall vote and confirm said appointment by majority vote.” The nomination and vote for the City Attorney shall be effective the first meeting in January 2021. The present City contract runs through January 12, 2021. The appointment for City Attorney shall be effective January 13, 2021 and would run through January 10, 2023.

Motion made by Councilmember Schafer, Seconded by Councilmember Labat to approve the Memorandum of Understanding. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Consider Appointments to the Various Boards, Commissions, Bureaus and Authorities.

Mayor Byrnes made the following recommendations to the Library Board.

- Eric DeGroot to an unexpired term to expire 12/31/2023
- Anita Gual to an expired term to expire on 12/31/2021

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

The Mayor and Council would like to recognize outgoing Council Member Glenn Bayerkohler for his years of service to the City of Marshall.

Mayor Byrnes led the council by congratulating councilmember Bayerkohler on his years of service on the Marshall City Council.

Commission/Board Liaison Reports

Byrnes Southwest Regional Development Commission met and reviewed its revolving loan funds for COVID impacted businesses along with the traditional revolving loan fund.

Schafer No Report

Meister Economic Development Authority met and discussed the council action items.

Bayerkohler No Report

DeCramer Marshall Municipal Utilities Commission met and discussed the electrical rate change beginning in 2023 from Missouri River. Missouri River also approved to purchase 80 acres for a future solar farm.

Labat Library Board met and reviewed its operations throughout 2020.

Police Advisory Board met and interviewed the open position for Police Detective

Convention and Visitors Bureau met and discussed council related items along with the future replacement and protection on the mural on the side of the Varsity Pub.

Lozinski City Hall Committee met and conducted a walkthrough of the project site. Exterior brick will begin soon, and weather permitted the exterior will be installed by the end of January 2021. The project is roughly 1-3 weeks behind the original schedule.

Councilmember Individual Items

Councilmember Lozinski reminded residents of Marshall to remove their vehicles from the streets during heavy snow fall.

Councilmember Meister asked staff to review the ordinance or policy regulating the fishing age limit in city parks.

Councilmember Bayerkohler commented on his time on the City Council and commented on his appreciation for city staff, healthy debate, Mayor Byrnes' leadership on the Council and City of Marshall and thanked the citizens of ward 1 for the opportunity to serve them.

Mayor Byrnes discussed the council appointments to various commission as well as future appointments to the Charter Commission.

City Administrator

City Administrator Sharon Hanson commented on the positive activity on the recently approved grant program.

Director of Public Works

Director of Public Works/ City Engineer Jason Anderson provided an update on the review of an electronic bidding solution, future Special Assessment Projects and at a Planning Commission meeting there was a request to review the ordinance directing the material and colors allowed in downtown Marshall.

City Attorney

City Attorney Dennis Simpson thanked the City Council for the reappointment as the Marshall City Attorney.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 7:25 P.M., Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer 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