

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, July 26, 2022**

The regular meeting of the Common Council of the City of Marshall was held July 26, 2022, at City Hall, 344 West Main 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, Steve Meister, Russ Labat, John DeCramer, and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Jim Marshall, Director of Public Safety; Jason Anderson, Director of Public Works/City Engineer; E.J. Moberg, Director of Administrative Services; Sheila Dubs, Human Resource Manager; Quentin Brunsvold via Zoom, Fire Chief; and City Clerk Steven Anderson.

The Pledge of Allegiance was recited at this time.

Consider approval of the minutes from the work session and regular meeting held on July 12, 2022.

Motion made by Councilmember Meister, seconded by Councilmember DeCramer that the minutes from the regular meeting held on July 12, 2022, 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.**

Annexation of N. 7th Street Property. Owned by Western Minnesota Municipal Power Agency. 80.52 Acres

The public hearing for the annexation of N. 7th St property was conducted by City Attorney Dennis Simpson. The City of Marshall has received a petition requesting annexation of 80.52 acres of Fairview Township property to be annexed into the City of Marshall. Property owner Western Minnesota Municipal Power Agency has requested the annexation for the property to be used as a solar farm/field by the owner.

In 1982, an Orderly Annexation Agreement was signed between the City of Marshall, the Township of Lake Marshall, and the Township of Fairview designating properties that could be orderly annexed into the City of Marshall. The property presently owned by Western Minnesota Municipal Power Agency is identified in the Orderly Annexation Agreement. Minnesota Law requires that the City of Marshall and Fairview Township each hold a public meeting to consider the annexation request. A Joint Resolution for Orderly Annexation has been prepared and is submitted for the City of Marshall public hearing regarding the annexation request. No comments from the public were made.

Motion made by Councilmember Decramer, seconded by Councilmember Lozinski that the public hearing be closed. 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 DeCramer to approve the annexation of N. 7th Street property owned by Western Minnesota Municipal Power Agency. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Surface Water Management Ordinance Amendment – Chapter 30, Article II, Section 30-43 and Section 30-45 of the City Code of Ordinances – 1) Public Hearing; 2) Adoption of Ordinance.

Jason Anderson, Director of Public Works/City Engineer conducted the public hearing regarding Surface Water Management Ordinance Amendment – Chapter 30, Article II, Section 30-43 and Section 30-45. The included ordinance amendments are being proposed to simplify the City's stormwater management ordinance by referencing the State of Minnesota's stormwater management requirements. Section 30-43 will reference the most current version of the Construction Stormwater (CSW) General Permit as adopted by the Minnesota Pollution Control Agency (MPCA). The Construction Stormwater General Permit outlines numerous minimum standards that must be met for all construction site development plans for projects that exceed one (1) acre in land disturbing activities. City staff believes that it is redundant for the city to outline its own standards when the intent is to match the State requirements. By referencing the most current CSW permit, the city can likely reduce the number of times that ordinance amendments must be made in

the future. Section 30-45 will reference the most current version of the Small Municipal Separate Storm Sewer Systems General Permit as adopted by the MPCA. The Municipal Separate Storm Sewer Systems (MS4) permit outlines numerous criteria that must be met regarding surface water management, including many references to the Construction Stormwater (CSW) permit. Further, for projects greater than one (1) acre in land disturbance, the MS4 permit outlines requirements for water quality treatment and water volume reduction where possible. City staff believes that it is redundant for the city to outline its own standards when the intent is to match the State requirements. By referencing the most current MS4 permit, we can likely reduce the number of times that ordinance amendments must be made in the future. This item was presented to the Legislative & Ordinance Committee at their meeting on June 28, 2022.

Motion made by Councilmember Schafer, seconded by Councilmember Lozinski that the public hearing be closed. 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 Meister to adopt the proposed ordinance amendment. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Consider Approval of the Consent Agenda

Request by Councilmember Labat to remove consent agenda item: Project ST-008: Channel Parkway Pavement Replacement Project - Consider Authorization to Advertise for Bids.

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

- Floodplain Management Ordinance Amendment – Chapter 38, Article II, Section 38-21 to Section 38-34 of the City Code of Ordinances – Introduce Ordinance and Call for Public Hearing.
- Consider approval for a Transient Merchant License for Country Fresh Farms.
- Consider approval of a Temporary On-Sale Intoxicating Liquor Licenses for the Convention and Visitors Bureau
- Consider approval for a LG230 Application to Conduct Off-Site Gambling for the American Legion
- Consider Amended Resolution Approving the Final Plat of CDI Addition.
- Consider approval of the bills/project payments

Project ST-008: Channel Parkway Pavement Replacement Project - Consider Authorization to Advertise for Bids

Project ST-008: Channel Parkway Pavement Replacement Project proposes to remove the existing bituminous pavement on Channel Parkway and replace with a concrete paved surface. The project would utilize the existing gravel base, drain tile, and curb and gutter, replacing the bituminous surfacing only. Also included with the project would be several segments of curb replacement and ADA improvements at pedestrian ramps along the corridor. Currently, the pavement surface is exhibiting stresses indicative of excessive loading; this is evidenced by the longitudinal fatigue cracking within the wheel paths of the roadway.

The City of Marshall recently completed some repairs of severe rutting (34") at the intersection of Channel Parkway and MN Highway 68. The life of a new concrete pavement should exceed 30 years with minimal maintenance, covering the life span of multiple mill and overlay projects. The project is included in the 2023 capital improvement plan (CIP). The city has been awarded a maximum Local Road Improvement Program (LRIP) grant award in the amount of \$1,250,000 towards construction of the project. Currently, the project construction is estimated at \$2,636,794. Including Contingency (10%) and Engineering (16%), total project cost is estimated at \$3,364,549. The local share of \$2,114,549 would be funded using advances on the City's State Aid Construction account.

Motion made by Councilmember Schafer, seconded by Councilmember Decramer to authorize the advertisement of bids for Project ST-008: Channel Parkway Pavement Replacement Project. Voting Yea: Mayor Byrnes, Councilmember Schafer,

Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Carried. 5-1.**

Presentation of Shades of Past Car Club Donation to Terrace 1872

Ken Devries, President; Wayne Mack, Vice President and Tom Meulebroeck, Treasurer presented the Shades of the Past Car Club's donation of \$1,200 towards a bench to Parks Superintendent Preston Stensrud.

Request for a Variance Adjustment Permit at 905 West Main Street

Plans Examiner Ilya Gutman presented the request by the owners, Mynor Noe Garcia and Dora Leticia Ramirez, to build a house at 905 West Main Street. The fire destroyed original house at that location about two years ago, but the foundation walls are still there, and the current owner wants to build a house on the existing foundation. This area is zoned B-3 General Business District and single-family residences are not a permitted use. Therefore, all houses along West Main Street are non-conforming uses. Ordinance allows to rebuild non-conforming uses within 180 days of their destruction so this variance will be extending that term to two years. Additionally, the setback for existing foundation is 25 feet rather than required 35 feet off Main Street, which is a thoroughfare. Approval of a variance request requires a presentation of practical difficulties which means, by Ordinance definition, that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance, the predicament of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. In this case, the owner wants to build a house on the existing foundation, which is reasonable, the foundation wall location is existing, and surrounding structures are all single-family houses with 25 feet setbacks, which, taken together, may constitute practical difficulties as defined in the Ordinance and be a basis for granting a variance.

Motion made by Councilmember Schafer, seconded by Councilmember Labat to approve the request for a variance adjustment permit at 905 West Main Street. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Consider approval of labor agreements between the City of Marshall and AFSCME, Council No. 65

Administrator Hanson introduced Sheila Dub, Human Resource Manager and via zoom labor attorney Susan Hanson. The 2019-2021 labor agreements with AFSCME, Council No. 65 expired on December 31, 2021. Tentative agreement with the union on contract terms for new three-year agreements (2022-2024) have been reached. This tentative agreement is consistent with the general wage increases and implementation of the compensation study approved by the Council for the non-union and both LELS Police unions.

Motion made by Councilmember Schafer, seconded by Councilmember Lozinski to approve the labor agreements between the City of Marshall and AFSCME, Council No. 65. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Carried. 5-1.**

Tall Grass Liquor Annual Report

Tall Grass Liquor Store Manager Eric Luther presented the 2021 annual report. Merchandise celebrating the 150th Anniversary is available at Tall Grass Liquor. The Marshall Municipal Liquor store has been in operation since 1934. The current liquor store is located at 1410 Boyer Drive and has been operating at this location since November of 2016. To this day, the profits from the liquor operations provide a much-needed revenue source for the Marshall community. Profits from the municipal liquor store help to reduce the property tax levy and provides funds for special projects. In 2021, the overall sales of the Liquor Operation were \$6,725,679 with a net profit of \$944,305. This was a decrease of total sales by \$134,573 and a net profit decrease of \$99,799 when compared to 2020. In-store sampling has resumed in 2021 with weekly in-store tastings. Larger tasting events like the Fall wine walkabout and the Holiday wine/spirits walkabout were held at the store to promote trial/purchase during the end of 2021.

A 27%-28% Gross Profit margin will be the target for 2023. Monthly reporting will ensure we are on track to hit this goal. We are continuing to see the benefit of the investments made in 2020 with the free-standing 50ml merchandiser, self-serve cooler for displaying single cans for purchase and the Pick Six Mix & Match area. All of these were designed for customers to 'add on' purchases to their existing selections benefitting the store with a higher ticket average and increased gross profit dollars. In 2021, the installation of new beer cooler wall wrap with raised lettering to identify the beer cooler categories and rolling out an online eShop ordering/payment for curbside pickup helped improve the customer service experience at Tall Grass Liquor. So far in 2022 a re-color/re-seal of the cement floor and the purchase of a 2nd single serve refrigerated cooler/merchandiser to expand the single can/chilled wine offerings have been completed. A mop sink will be added in the Fall 2022 to help with cleanup of broken bottles and beer packages in the warehouse area.

Consider approval of the Fire Department's amended organizational structure and wage schedule

Fire Chief Quentin Brunsvold via zoom introduced the amended organizational structure of the Marshall Fire Department. The Personnel Committee reviewed this proposal on July 19 and recommended approval. The current three Assistant Chief positions would transition into one Assistant Chief of Training, one Assistant Chief of Operations, and one Deputy Fire Chief. No change is being requested to staffing levels; rather, this change provides clarification of duties within the command structure of the fire department. If approved by the Council, the Fire Chief job description would also be amended to reflect supervision of the Deputy Chief position. Staff propose to amend the wage schedule for the Deputy Chief of Administration, with a starting annual pay rate of \$5,077.10, which is a \$1,000 (annual) increase over the Assistant Chief pay rate in 2022. Thereafter, the pay rate would be adjusted per Council's prior direction for paid-on-call employees—3% for 2023 and 3% for 2024. The Assistant Chief of Training and Assistant Chief of Operations pay rates would remain unchanged. Due to an employee retirement and a resignation, there are currently two open command positions. Human Resource Manager Sheila Dubs will work with the Fire Chief to open the Deputy Chief of Administration position for applications first, and following that selection process, the Assistant Chief positions would then follow. One additional amendment to the wage schedule being proposed is the addition of the title Technical Rescue Firefighter with the same pay rate that corresponds to the Hazardous Materials Technician/Firefighter pay rate.

Councilmember Labat questioned the by-laws of the fire department. Councilmember Lozinski also had a question on the hiring process for the fire department. Clarification was given by Fire Chief Brunsvold and Sheila Dubs.

Motion made by Councilmember Schafer, seconded by Councilmember DeCramer to approve the Fire Department's amended organizational structure and wage schedule. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Carried. 5-1.**

Project ST-009: W. Lyon Street/N. 3rd Street Reconstruction Project - Consider Acceptance of Proposal for Consultant Services for Design of Street Reconstruction Project.

Director of Public Works Jason Anderson presented Project ST-009 to the council. The proposed project includes the complete reconstruction of the street, curb, sidewalk, driveways, watermain, sanitary sewer, and storm sewer collection system. The street pavement and utilities are in poor condition and city staff believes a reconstruction is necessary. At the City Council meeting on February 8, 2022, Council authorized staff to request for proposals for consultant services for downtown aesthetic improvements. The request included four tasks for the consultant to scope and provide pricing. Task 1 included an Intersection Control Evaluation (ICE) study and report of the N. 3rd/W. Main intersection signal. Task 2 was to provide public information gathering and scoping of the streetscaping elements of the project. Task 3 included preparing design sheets of the streetscaping elements determined through Task 2. Task 4 was an optional task to provide design services of the street reconstruction and utility improvement portion of the project. Three proposals were received on March 3, 2022. Proposals were reviewed at the Public Improvement/Transportation Committee meeting on March 8, 2022, by the Committee, and a proposal review group consisting of two city staff members, the Public Improvement and Transportation Committee (PI&T), and Brad Gruhot, the Marshall Chamber of Commerce President.

The Committee recommended award of a contract to Bolton & Menk. Bolton & Menk, while having the lowest cost fee proposal of the three, also provided a strong proposal of services. At the City Council meeting on March 8, 2022, Council accepted the proposal of Bolton & Menk for Tasks 1, 2 and 3 at the approximate cost of \$67,920 per the recommendation of the PI&T Committee. City staff would now like the City Council to consider authorizing city staff to award Task 4 to Bolton & Menk for the design services contract for the street and utility reconstruction portion of the project. With the loss of our Assistant City Engineer position, staff believes it would be prudent to hire Bolton & Menk for the project design to ensure that we remain on time with project design.

Motion made by Councilmember Schafer, seconded by Councilmember DeCramer to approve proposal for consultant services for design of street reconstruction project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Lozinski. Voting Nay: Councilmember Labat. The motion **Carried. 5-1.**

Project SWM-007: Independence Park Pond Forebay Expansion Project - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request No. 4.

Change Order No. 2 results in a base bid pay item decrease in the amount of -\$6,424.66 and Final Pay Request No. 4 results in a total contract amount of \$228,120.84. The original contract amount was \$229,255.50.

Motion made by Councilmember Meister, seconded by Councilmember Schafer to approve change order number two and acknowledgment of final pay request number four. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Project Z83: James Avenue Reconstruction Project - Consider Change Order No. 2 (Final) and Acknowledgement of Final Pay Request No. 5.

Change Order No. 2 results in a base bid pay item decrease in the amount of -\$45,910.61 and Final Pay Request No. 5 results in a total contract amount of \$857,946.36. The original contract amount was \$849,244.50.

Motion made by Councilmember Lozinski, seconded by Councilmember Meister to approve change order number two and acknowledgment of final pay request number five. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Project Z87: Diversion Channel Slope Repair and Sheet Piling Removal Project - Consider Change Order No. 1 (Final) and Acknowledgement of Final Pay Request No. 1.

Change Order No. 1 results in a base bid pay item increase in the amount of \$11,910.99 and Final Pay Request No. 1 results in a total contract amount of \$110,861.43. The original contract amount was \$98,950.44.

Councilmember Lozinski commented on how great of a job the Engineering department for the city has done on projects.

Motion made by Councilmember Lozinski, seconded by Councilmember Schafer to approve change order number two and acknowledgment of final pay request number five. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

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

Mayor Brynes explained that the ordinance was introduced on July 12, 2022 and is now being considered for adoption. City Administrator Sharon Hanson reiterated from the previous meeting that no change in salary shall take effect until after the next succeeding municipal election. Proposed 2023-2024 annual salaries are consistent with the non-union general wage adjustments. Mayor salary for 2023 would be \$11,008.66 and \$11,338.87 for 2024. Councilmember salary for 2023 would be \$6,963.32 and \$7,172.11 for 2024.

Motion made by Councilmember DeCramer, seconded by Councilmember Lozinski to approve adoption of the ordinance amending salaries and compensation of mayor and councilpersons. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 6-0.**

Commission/Board Liaison Reports

Byrnes	Attended the Southwest Regional Development annual meeting.
Schafer	No report.
Meister	No report.
DeCramer	EDA met and held elections on various board commissions, loan extension was granted to Western Community Action. Utilities Commission met and MMU tested their generator turbine and it exceeded expectations.
Labat	Convention and Visitors Bureau continues to receive community requests. The next CVB event is Prairie Jam on September 29 at SMSU.
Lozinski	No report.

Councilmember Individual Items

Councilmember Lozinski reported that he and Parks Superintendent Stensrud have received increased interest in pickleball courts being built in the city. He would also like to be updated on the status of Enterprise Fleet Management that was approved last fall.

Councilmember Schafer gave his appreciation to the downtown business association and their feedback regarding Third Street.

Councilmember Meister wanted to remind everyone to be mindful of safety for pedestrian crossing and bicyclists.

Mayor Brynes gave a reminder that the next council meeting will be held on Monday August 8th instead of Tuesday August 9th. Filing for the general election begins on August 2nd through the 16th and filing forms can be turned into the City Clerk on the second floor of city hall.

City Administrator

Administrator Hanson updated the council on the request for proposals for City Attorney. One bid was received for the Indoor/Recreation feasibility study, the YMCA was willing to cost share on the study.

Director of Public Works/City Engineer

Director of Public Works Anderson gave an update on the Third/Main Street potential project, Independent Park project, Halbur Road project, West Lyon Street Block 11, South First Street, Greeley Street, and Rectangular Rapid Flashing Beacons (RRFB) to begin this fall.

City Attorney

Helena property is still ongoing, Parkway Addition II has one outstanding purchase agreement and Habitat for Humanity has purchased the adjacent lot to the home that way recently moved in. National Guard property in Commerce Park is still pending.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 7:14 Motion made by Councilmember Lozinski, seconded by Councilmember Schafer 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