

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, February 13, 2024**

The regular meeting of the Common Council of the City of Marshall was held February 13, 2024, 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, Amanda Schroeder, John Alcorn, See Moua-Leske and Steve Meister and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney (via Zoom); Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Jim Marshall, Director of Public Safety; Scott Truedson, Wastewater Superintendent; Ilya Gutman, Plans Examiner; Quentin Brunsvold, Fire Chief; and Steven Anderson, City Clerk.

Members of the Rental Ordinance Committee were in attendance that included John Decramer, Mark Klaith and Jessica Bently.

Consider Approval of the Minutes from the Regular Meeting Held on January 23rd

There were no requests to amend the minutes from January 23rd.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to approve the minutes as presented. Voting Yea: Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Abstaining: Mayor Byrnes. The motion **Carried 6-0-1**.

Public Hearing and Consideration of Adoption of Article 18-VIII Residential Rental Code

Attorney Whitmore summarized the recent history of the rental code. In January 2023, the city considered a proposed rental ordinance which met push back from the community. The Council decided to not act on the proposed ordinance in January 2023, and directed staff to start a process for creation of a Rental Committee. The City Attorney drafted a registration-based ordinance for review and feedback from the Rental Committee once formed. The Rental Committee met five times to review the newly drafted ordinance – June 13, July 11, August 8, October 10, and October 31. The Rental Committee was made up of representatives of city staff, fire department, council, tenant advocates and landlords and was facilitated by John Decramer and Mark Klaith. The Committee participants included Zachary Gilman, James Carr, Brad Meulebroeck, Shawn Butler, Jessica Bentley, Angela Larson, Quentin Brunsvold, Steven Anderson, Jason Anderson, Sharon Hanson, Craig Schafer, and James Lozinski. The Rental Committee engaged in thoughtful and thorough discussion regarding the goals of the city, the interests of the community and the protections of the public. These discussions led to productive collaboration and revisions. On October 31, 2023, the Rental Committee approved, by unanimous vote, to recommend the residential rental registration ordinance. Attorney Whitmore suggested that if a motion were to be made that the term bi-annual be stricken and replaced with biennial. Bi-annual could mean twice in one year or every two years, and the intention of the committee was for registration to occur on even numbered years.

John Decramer, co-chair of the Rental Ordinance Committee, spoke about how the rental code was not a new concept to the City of Marshall. Various council members from at least the past five years have worked on or considered a rental ordinance. Mark Klaith, the other co-chair of the Rental Ordinance Committee, said the ordinance was for landlord and tenants to cooperate first and then bring in city staff for incompliance with city codes. As former Fire Chief, Klaith expressed that he wished the ordinance had more teeth to it than just registration, but it was a good start. Marta Faulkner, a tenant, spoke about her experiences and the conditions of her apartment complex. Curt VanMeveren, a landlord, also spoke about his experiences and asked various questions about the ordinance. Jody Arcand expressed concerns she had with management at Halter Villa Apartments.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0**.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to adopt Ordinance 24-003 Residential Rental Code. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Meister, Seconded by Councilmember Moua-Leske to approve Resolution 24-016 amending the 2024 fee schedule to add rental registration fees and penalties. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Public Hearing for an Ordinance Amending the City Charter

Attorney Whitmore provided a general overview of the proposed changes to the city charter:

- Deleted his/her, he/she and him/her preferred personal pronouns in favor of titles or nongendered pronouns.
- Amend existing language to comply with statutory changes related to special election dates.
- Amend existing language to clarify timing of council resignations and how to proceed if there is a tie on an appointment.
- Amend language regarding process and requirements for redistricting of wards to comply with statutory changes.
- Amend language regarding voting requirements if a member of the decision-making body joins the meeting remotely via interactive technology to comply with recent statutory changes.
- Adding language to provide the Council with authority to create a table for non-substantive ordinances, not of a general or permanent nature, that are not otherwise codified in code.
- Amend language of 5.02, expenditures for Petitioners, to comply with requirements set forth in a United States Supreme Court decision to allow hiring of individuals to go door to door to try to get signatures on a petition but to still prohibit paying individuals people to sign the petition.
- Adding language to Section 7.01 to clarify that Council may, through adoption of policy, create authority for the City to identify and expend funds on expenditures that benefit the community as a whole; are directly related to governmental functions; and primarily benefits the public interest (not private interest). This allows the city more flexibility to promote and support its community.

Councilmember Schroeder who served on the Charter Commission said the commission members all agreed that it was good that the charter was being updated to comply with state laws.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to adopt Ordinance 24-004 amending the City of Marshall charter. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Vacation of Alley and Utility Easement in Schwan's Corp I Addition - 1) Public Hearing on Resolution Granting Petition; 2) Consider Resolution Granting Petition for Vacation

Jason Anderson informed the council that a petition was received for the vacation of an alley and a utility easement between Lot One and Lot Two, Block Three of Schwan's Corp I Addition. The petition was for the location of the future aquatic center site at the corner of Saratoga and College Drive. All utility companies were contacted regarding the vacation and only Bluepeak responded that they have facilities in the easement area. Bluepeak indicated that a plan was in place to relocate the facilities in 2024.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder to close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to approve Resolution 24-017 Granting Petition for Vacation of an Alley and Utility Easement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project AP-003: Airport Snow Removal Equipment (SRE) Building – Consider Award of Contract

Director Anderson said that in 2023 this project had originally been bid out and came in overestimate and was rejected. The existing building did not adequately accommodate all airport maintenance equipment storage needs, therefore the city contracted TKDA the engineering firm that did the original bid to rework the project and come up with a new bid proposal. The new facility was planned to be constructed on the East Building Area of the airport which would be on Madrid Circle. The Project had been identified on the Airport CIP since FFY2011. Bids were received on 01/23/2024 and five bids were received with Sussner Construction, Inc. of Marshall being the low responsive bid. The SRE Building project was presented to the Airport Commission at their meeting on 02/06/2024 and the Airport Commission recommended unanimously to award the contract to Sussner Construction, Inc., including the bid alternate for landscaping, for \$2,913,100.00. Cost share was identified in TKDA's recommendation letter and was estimated at \$646,911.92 for the City of Marshall's local share. The local share included engineering fees for construction project administration. Councilmember Lozinski mentioned that the city council had rejected the bids from last year and the project had now become considerably cheaper. Councilmember Schafer echoed the sentiments of Councilmember Lozinski and commented that a new tenant at the airport had started construction of a hanger that would be located next to the proposed site of the proposed SRE building.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to award the contract of Project AP-003 to Sussner Construction. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Mayor Byrnes at 6:28 PM called for a short recess and at 6:33 PM resumed the meeting.

Approval of the Consent Agenda

No requests were made to have an item from the consent agenda removed for further discussion.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the items on the consent agenda as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

- Consider Approval of an Administrative Hearing Officer
- Consider Request of the Marshall Downtown Business Association for St. Patrick's Day Parade – March 16, 2024
- Redwood River One Watershed, One Plan (1W1P) – Designate Delegate and Alternate Delegate to Policy Committee
- Project ST-010: Lyon Circle Reconstruction Project - Consider Resolution Ordering Preparation of Report on Improvement

- Consider Approval of a Joint Powers Agreement with Minnesota Internet Crimes Against Children Task Force
- Consider Renewal of a Contract with Frontline Warning Systems (Outdoor Warning Sirens) and Replacement of Defective Equipment
- Consider Approval of a Tobacco License for Family Dollar
- Consider Approval to Allow Alcoholic Beverages at City-Owned Facilities and Parks
- Consider Approval of the Bills/Project Payments

Project WW-005: Highway 23 Lift Station Improvements Project – 1) Phase III Pump Selection; 2) Consider Authorization to Advertise for Bids for Wastewater Highway 23 Lift Phase IV Wet Well Renovation

Scott Truedson presented the request for Project WW-005. At the May 9, 2023, meeting the City Council rejected the single bid for the Highway 23 Lift Station Improvement Project and adapted a four-phase plan for the improvements. Phase I consisted of installing new VFD drives and a new transfer switch. At the July 11, 2023, meeting the City Council approved the wastewater department to purchase two Flygt pumps for Phase II of the Highway 23 Lift Station Improvements Project. Phases I & II were completed in 2023. Phase III of the project was to purchase the remaining two pumps for the lift station. The Wastewater Department had received an updated quote from the local Flygt pump supplier, Electric Pump, for 2024 and the cost of the pumps had been held to the same price as the pumps that were purchased in 2023.

Phase IV would consist of:

- Removal of the four existing submersible pumps, wet well piping and guide rails.
- Renovation of wet well structure with concrete repairs as needed, and new coating system.
- Installation of the four new pumps supplied by the city.
- Installation of new piping in the wet well structure.
- Bypassing pumping of the lift station while renovations work is being completed.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to authorize purchase of two Flygt pumps for \$100,994.00. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion. **Carried. 7-0.**

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to authorize advertisement for bids for Phase IV of the Highway 23 Lift Station Wet Well Renovation Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project AP-003: Airport Snow Removal Equipment (SRE) Building – TKDA Professional Services Agreement-Construction Phase

Director Anderson explained the professional services agreement with TKDA for the Airport SRE Building Construction Phase. The agreement will cover TKDA services to help administer the construction of the SRE Building and ensure compliance will all plans and specifications. The Airport Commission recommended at their February 6, 2024, meeting to enter into the agreement with TKDA. The cost of construction phase and closeout phase was not to exceed \$280,200 for services identified in the scope. Costs would follow the funding split that was identified for the SRE Building with local costs estimated at \$39,277.40 for the services with the rest being covered by State and Federal funding. Councilmember Lozinski questioned if under this contract would TKDA essentially become the construction manager for the project. Director Anderson confirmed that TKDA would oversee the project and work closely with the construction companies, but the city engineering department would be still involved.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to authorize the professional services agreement with TKDA for the SRE Building construction phase for an amount not to exceed \$280,200 and contingent upon State and Federal grant funding. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Instrument Landing System (ILS) Replacement at the Airport - TKDA Professional Services Agreement

In January 2023, the city received a letter from MnDOT regarding the replacement of the Instrument Landing System (ILS) at the Municipal Airport, which was owned by MnDOT. The ILS is a radio navigation system that provides short-range guidance to aircraft and allows them to approach a runway at night or in poor weather conditions. The ILS system has reached a point where the manufacturer would no longer service and repair equipment, and MnDOT would like to replace our system as soon as they are able. The project requires City participation, and the city is responsible for civil sitework and building costs, while MnDOT is responsible for covering the costs of the ILS equipment. In 2023, the city was asked by MnDOT to send a grant request letter for a civil site work construction project. Following Council authorization at the February 14, 2023, meeting, city staff submitted a grant request letter for a project. MnDOT never responded to the grant request and now a year later MnDOT is ready to proceed with the project. The first step to moving the project forward was to authorize an engineering contract with TKDA for engineering design services. With City Council authorization, city staff would submit again to MnDOT for a grant to help cover costs. The Airport Commission at their meeting on February 6, 2024, voted unanimously to recommend approval of the agreement with TKDA to the City Council. City staff anticipated a 70-30 cost split with MnDOT, resulting in a local cost of \$28,320. The 2024 capital budget included the ILS project at a total cost of \$1,000,000, with \$300,000 included for local costs. Some of the equipment was already on hand from MnDOT and was being stored at the Municipal Airport for Marshall and other airports around the state.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the professional services agreement with TKDA for the ILS Replacement project at the airport for an amount not to exceed \$94,400 and contingent on MnDOT grant funding. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Consider Adoption of an Ordinance Amending Interim Cannabis Prohibition

The City adopted Ordinance 23-015 on July 27, 2023 to allow the City Council time to study and consider adoption or amendment of reasonable restrictions on the operation or location of commercial businesses related to cannabinoid products, including retail stores in the City of Marshall offering Cannabis products, and Lower-Potency Hemp products, for the purpose of protecting the planning process and the health, safety, and welfare of the public. Commercial businesses involved with limited manufacturing, and the transporting, or delivery and distribution of infusion based lower potency hemp beverages did not pose a risk to the health, safety and welfare of the public since the operation of those businesses do not result in an introduction of THC related intoxicating products for off sale use by the public within the City of Marshall. Commercial businesses involved in testing, manufacturing, transporting, or delivery and distribution of lower potency hemp edibles and hemp-derived consumer products would not result in increased exposure or availability of these intoxicating products to youth in the community. Opportunities existed for commercial businesses in the City to provide services involving the manufacturing, transporting, or delivery and distribution of lower potency hemp beverages; and that opportunities existed for commercial on-sale liquor licensed establishments to sell lower potency hemp beverages on their premises, all of which will benefit commerce in the City. The Legislative and Ordinance Committee met on January 9, 2024, and recommended that registration fees be waived during 2024 and a fee/registration process begin in 2025.

Motion made by Councilmember Meister, Seconded by Councilmember Moua-Leske to adopt Ordinance 24-002 Amending the Interim Cannabis Prohibition to allow the manufacture of THC beverages by brewers and distilleries, and to allow on-site consumption of THC beverages for holders of an on-sale intoxicating liquor license issued by the city. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Commission/Board Liaison Reports

Byrnes	No report.
Schafer	The PI&T Committee met and discussed about a dozen or so projects that would be coming to city council in the next few months.
Meister	No report.
Schroeder	The Housing Commission discussed their five-year capital fund program, and the upcoming March meeting would be opened for public comments.
Alcorn	No report.
Moua-Leske	DEI would be undergoing strategic planning and hope to attract new members. CVB planned on donating to the aquatic center project, but a specific amount had not been determined yet.
Lozinski	Absent.

Councilmember Individual Items

Councilmember Moua-Leske attended the “It Begins with Us” conference at SMSU and had a good turnout.

Councilmember Meister brought up a concern a citizen had about a proposed bill to make the State of Minnesota a sanctuary state.

City Administrator

No report.

Director of Public Works/City Engineer

The city had been granted a concrete paving award from the concrete paving association for the W. Lyon and Third St. reconstruction project. The Whitney reconstruction bid award would occur on February 22, 2024. MnDOT aeronautics had a grant come up for a skid loader at the airport and that application would be coming to city council at some point.

City Attorney

No report.

Administrative Brief

There were no questions on the Administrative Brief.

Information Only

There were no questions on the Information Only items.

Upcoming Meetings

There were no questions on the Upcoming Meetings.

Adjournment

At 6:54 PM Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to adjourn the meeting. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Attest:

Steven Anderson, City Clerk

Robert Byrnes, Mayor