

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, May 9, 2023**

The regular meeting of the Common Council of the City of Marshall was held May 9, 2023, 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, Amanda Schroeder, John Alcorn, and James Lozinski. Absent: See Moua-Leske. Staff present included: Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney; Jason Anderson, Director of Public Works/ City Engineer; E.J. Moberg, Director of Administrative Services; Sheila Dubs, Human Resource Manager; Amanda Beckler, Community Education Coordinator; Ilya Gutman, Plans Examiner; and Scott Truedson, Wastewater Facilities Superintendent.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

Consider Approval of the Minutes from the Regular Meeting and Local Board of Appeal and Equalization Meeting Held on April 25, 2023.

Motion made by Councilmember Lozinski, Seconded by Councilmember Alcorn that the minutes from the regular meeting held on April 25, 2023 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 Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Ordinance Amending Section 86-248—Outside Storage – 1. Public Hearing on the Ordinance Amending Section 86-248—Outside Storage; 2. Approval of Ordinance No. 23-009, the Ordinance Amending Section 86-248—Outside Storage.

This proposed change will limit the total area of containers rather than the number of them, with suggested number being an equivalent of three 40' x 8' containers; a limitation of the area as a percentage of the building area on site will allow avoiding multiple containers placed next to smaller buildings, which would look disproportionate. This will also encourage owners to build an addition if a larger storage area is desired. Additionally, the change will allow storage units other than standard shipping containers, due to the reason they will be fenced off anyway and will not be visible.

Ilya Gutman, Plans Examiner/Assistant Zoning Administrator, provided the background information on the agenda item. The Planning Commission voted in favor of this amendment.

Councilmember Schafer indicated support of this amendment as it improves and enhances supportive business activity on an interim basis to facilitate secure storage. Schafer also supported the discretionary enforcement language of the ordinance.

Councilmember Meister indicated support of this amendment for community growth and development but cautioned that the ordinance should not be taken advantage of.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council close the public hearing. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski that the Council approve Ordinance No. 23-009, the Ordinance Amending Section 86-248—Outside Storage and approve the summary ordinance publication. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Project WW-005 Highway 23 Lift Station Improvement Project—Consider Rejection of Bids

Jason Anderson, Director of Public Works/City Engineer, provided the background information on the agenda item.

Bids for this project were received on April 19, 2023. One bid was received from KHC Construction, Inc. of Marshall, Minnesota in the amount of \$996,000.00. The project budget estimate was \$580,000. The bid received was responsive based on the Contract Documents issued for the bid. The bid is significantly above the project budget for this work.

This item was presented to the Public Improvement/Transportation at their meeting on April 25, 2023. All voted in favor of the recommendation to City Council to reject the bid received and for City staff to proceed with phasing the project as outlined in a Bolten & Menk recommendation memo to meet our capital budget.

City Administrator Hanson asked Anderson if there was a recommendation to rebid phases one and two. Anderson indicated that staff would comply with the City's purchasing policy in obtaining quotes for parts and services but would not require a rebid.

Councilmember Meister asked if there was an advantage to rebidding. Anderson responded that the bid received is likely the best bid that would be received, and therefore, the best opportunity now is to break the project into manageable phases and stay on budget.

Councilmember Lozinski shared that the Public Improvement/Transportation Committee discussed rebidding; but realized that there will be a budget savings of \$300,000 by rejecting the bid and moving forward in manageable phases.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the Council reject the bids for project WW-005 Highway 23 Lift Station Improvement Project. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Approval of the Consent Agenda.

Councilmember Schafer requested that item 7) Consider request of Performance Foodservice for Street Closure on Saturday, June 10, 2023, be removed from the consent agenda for further discussion.

Councilmember Lozinski requested that item 9) Consider amendment of the 2023 Wage Schedule for Temporary and Seasonal Employees be removed from the consent agenda for further discussion.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to approve the remaining consent agenda items. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

- Approval of Declaring the Sounds of Summer as a Community Festival.
- Approval for a Raffle LG220 Exempt Permit for Pride in the Tiger Foundation.
- Approval for a Temporary Liquor License for the Marshall Area Chamber of Commerce.
- Approval of a Request of Performance Foodservice for Street Closure on Saturday, June 10, 2023.
- Approval of a Memorandum of Agreement between the City and LELS Local 190 Approving Juneteenth as a Holiday.
- Approval of the bills/project payments.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to approve the remaining consent agenda items. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Request of Performance Foodservice for Street Closure on Saturday, June 10, 2023

Councilmember Schafer shared the history of this request and discussion about relocating the event to the Merit Center. Schafer shared that the Merit Center, while conducive to a truck rodeo, would not be conducive to the other events that are planned for that day.

Councilmember Lozinski shared that the disruption to traffic would also be very limited on this day, being a Saturday.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the request for street closure on Saturday, June 10, 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Amendment of the 2023 Wage Schedule for Temporary and Seasonal Employees

Councilmember Lozinski requested this item be moved to the Personnel Committee for additional discussion for the 2024 pay schedule. Lozinski cited concerns with the potential number of band directors that would be hired for the pay rates established. For 2023, there will be four band directors compensated at \$900 each. Lozinski requested additional discussion should the number of band directors change in future years.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve the amendment of the 2023 Wage Schedule for Temporary and Seasonal Employees. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Request for Council to Authorize Execution of MnDOT Contract No 90606A01 (Amendment No. 1 to 2007 MnDOT Cooperative Construction Agreement No. 90606-R).

Jason Anderson, Director of Public Works/City Engineer, provided the background information on the agenda item.

This is Amendment No. 1 to the 2007 MnDOT Cooperative Construction Agreement No. 90606-R for S.P. 4210-38 (T.H. 68=68) / Fed. Proj. STPX 4207(027) / City Project Y03: 2007 Main Street Project. In summary, the amendment allows MnDOT to turn the traffic signal at the intersection of N 3rd Street and US 59/W Main Street over to the City. MnDOT is eliminating all their responsibility for this traffic signal, with exception to their right to adjust and hold final approval for traffic signal timing changes.

The agreement revises the original Agreement No. 90606-R as follows:

- Amends Article VI, Section E-Signal Maintenance (page 16 of original agreement) removing Signal System "A" from signal maintenance
- Adds Article VI, Section M-Signal System "A" (page 2 of Amendment No. 1)

MnDOT notified the City of this change when the construction project was scoped.

Councilmember Lozinski asked who would maintain the signal if we had done a pedestrian crossing signal. Anderson answered that it would still be the City's responsibility. Anderson explained that by leaving the signal, there will be a crossing on both sides of 3rd Street, which was important to the downtown business group.

Councilmember Schafer commented that pedestrian crossing protection on both sides of 3rd Street was priority number one to the project, and left turn protection was priority number two.

Councilmember Meister asked about the cost of maintaining the signals. Anderson responded that we don't have enough traffic signals in our jurisdiction to staff someone to maintain these; we have maintenance agreements with

MnDOT to maintain the signals on an hourly basis with the cost being dependent upon the maintenance needs of the signal.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to authorize the execution of MnDOT Contract No. 90606A01 (Amendment No. 1 to 2007 MnDOT Cooperative Construction Agreement No. 90606-R). Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Adoption of Ordinance No. 23-010 Amending Sec. 74-122 (b) of the City Code of Ordinances.

This ordinance amendment would change the time commencement of the snow emergency from 12:01pm to 12:00 midnight following the written declaration and public broadcast.

The Legislative and Ordinance Committee met on April 4, 2023. All voted in favor of the amendment.

Mayor Byrnes commented that City staff make this declaration only when absolutely necessary, and that this amendment proposal is consistent with what most other cities do.

Motion made by Councilmember Lozinski, Seconded by Councilmember Schroeder to approve the amendment of Ordinance No. 23-010, amending section 74-122 (b) of the City Code of Ordinances. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Approval of an Amendment to the Organizational Structure.

Sheila Dubs, Human Resource Manager, provided the background information on the agenda item.

Staff propose an amendment to the current MCS Office Assistant/Receptionist job description, increasing the level of duties and responsibilities, and a transition of the MCS Administrative Assistant to the Administration Division. This proposal does not add additional staff. The proposal transfers one employee from Community Services to Administration and increases the duties/responsibilities for one employee within the Community Services division.

The Personnel Committee reviewed this proposal and all voted in favor.

Sharon Hanson, City Administrator, commented that this is a continuation of the December 2022 organizational structure review when the organizational changes began. Staff believe this is the last change to the Community Services organizational structure.

Councilmember Schafer commented on his support that the amended Administrative Assistant job description reflects that the position will now be a confidential employee.

Meister commented that the Personnel Committee felt this was a positive change and the committee recommends approval.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve the amendment of Ordinance No. 23-010, amending section 74-122 (b) of the City Code of Ordinances. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Approval of a Lease of Downtown Parking Lot for Public Use, Terms for Use and Improvement.

Sharon Hanson, City Administrator, provided the background information on the agenda item.

Staff and the Mayor have been discussing the use of the Knochenmus Enterprise parking lot, located adjacent to Ralco Headquarters/Upper Room, for use as public parking as result of the Block 11 Development and the redevelopment of the Mercantile by Knochenmus Enterprises. Downtown businesses from 5th Street to West College Drive have been supported by City owned public parking lots.

Knochenmus Enterprises wishes to continue to own this parking lot. Thus, staff have researched parking lot lease rates and the lease rate supports the terms of the agreement.

Knochenmus Enterprises has requested the repaving of the parking lot during the 2023 construction season, with a six-inch concrete surface (the "Repaving Project"). Reimbursement to the City for these costs will be through our normal and ordinary assessment procedures.

This agreement will supersede the previous agreement between the City and Schwan's.

Under the terms of the agreement, the Tenant shall pay the Landlord \$30,000/year in rent for the first 10 years of the term of this Agreement. Rent shall be payable by the Tenant on January 1st of each year. No rent shall be charged by the Landlord for the remaining 20 years of the term of this Agreement.

The concrete construction project will be assessed to Knochenmus Enterprises, current estimated construction costs are between \$280,000 to \$325,000.

This agreement shows good support to Ralco for their investment downtown and provides the City with opportunity to provide public parking for community events and businesses downtown.

Councilmember Lozinski wanted to confirm that the agreement has a 30-year term, but the City only pays \$30,000 per year for the first 10 years; which equates to less than \$1,000 per month to lease the parking lot. Lozinski requested confirmation that the City has an early-out clause, but that Knochenmus Enterprises does not. Hanson clarified that the Landlord can terminate the agreement early, but the project assessment for construction improvement will still be due.

Mayor Byrnes added that snow removal of this lot is currently a cooperative agreement, which will continue. Byrnes shared that the advantages of this agreement are that parking is a public responsibility downtown, this is a good solution for a public-private partnership to provide parking, and this encourages and supports a major employer who chose to have a lot of people in the downtown.

City Attorney, Pam Whitmore, clarified an earlier point that the Landlord does not have an early termination clause, except if the Tenant defaults, then the Landlord could terminate the agreement.

Councilmember Schafer commented on his preference for the public use of private property rather than the private use of public property. There are parking pressures in our downtown, and this is a good help to remedy that.

Councilmember Meister suggested that parking meters be considered at some point in the future.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to approve the lease agreement of the downtown parking lot for public use. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Consider Appointments to Various Boards, Commission, Bureaus, and Authorities

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to appoint Larry Doom to the Planning Commission with a term ending 05/31/2025. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Commission/Board Liaison Reports

Byrnes Regional Development Commission will meet on Thursday.

Schafer No Report

Meister No Report

Schroeder Public Housing Commission met for their annual open meeting with the residents and on the capital fund program. There were some concerns expressed relating to maintenance issues, which the Director will address. A couple people expressed concerned with Police presence at the high-rise and how things were handled in the past.

Lozinski No Report

Alcorn No Report

Councilmember Individual Items

Mayor Byrnes gave an update on the Rental Ordinance Committee purpose and appointments. This committee will be tasked to meet and make recommendations to the Legislative and Ordinance Committee. The Legislative and Ordinance Committee then meets to discuss and makes recommendations to the Council. Appointments to this committee are:

- Co-Chairs: John DeCramer and Marc Klait
- Councilmember Representatives: Craig Schafer and Jim Lozinski
- Renter Representative: Zachary Gillman
- Renter Advocate Representative: Shawn Butler
- Landlord Representatives: Brad Meulebroeck and James Carr
- Staff Representative: Pam Whitmore, City Attorney

City Administrator

Updated recent activity on economic development: Marshall's and Big Lots will be going into the former Shopko building; the former gas station on College Drive will be a new home to Dominos and Shopko Optical; and site work has begun on Family Dollar. Lauren Deutz has done a significant amount of work with Woodcrest Capital on developments. Staff are still working with the mall owner on a development. Toni's Depot will be vacating the Sinclair station and reopening at the former Mike's Café location, possibly by mid- to late June. Still working on development in the industrial park.

Director of Public Works

Director of Public Works/ City Engineer provided an update that the new Assistant City Engineer, Eric Hanson started working; Lyon Street construction project has begun, there are some disruptions, but contractor is working to keep those at a minimum, utility work is essentially complete, looking for underground conduits and gravel to begin next week. MMU has done preliminary work at the water plant in preparation for the water main crossing project that city staff will be assisting with. Planning Commission meets tomorrow night. City Staff continue to work with MnDOT on the

upcoming College Drive project, on both our water and sewer plans and storm sewer considerations and how the plans will tie into City streets.

City Attorney

Discussions on cannabis may begin at the next Council meeting.

Information Only

There were no questions on the information items.

Upcoming Meetings

There were no questions on the upcoming meetings.

Adjourn

At 6:31 P.M., Motion made by Councilmember Schroeder, Seconded by Councilmember Alcorn to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Schroeder, Councilmember Lozinski. The motion **Carried. 6-0**

Mayor

Attest:

City Clerk