

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, May 28, 2019**

The regular meeting of the Common Council of the City of Marshall was held May 28, 2019 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga 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, Steven Meister, Glenn Bayerkohler John DeCramer, Russ Labat and James Lozinski. Absent: None. Staff present included: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Jason Anderson, Assistant City Engineer/Zoning Administrator; Ilya Gutman, Plan Examiner/Assistant Zoning Administrator; Annette Storm, Director of Administrative Services; Dave Parsons, City Assessor; Bob VanMoer, Wastewater Superintendent and Kyle Box, City Clerk.

The Pledge of Allegiance was recited at this time.

There was a consensus to operate under the current agenda.

**Consider approval of the minutes of the regular meeting held on May 14, 2019.**

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski that the minutes of the regular meeting held on May 14, 2019 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**

**Tax Abatement Request for Harrison Truck Center.**

The proposed project is a 9,000 square foot addition and remodel to the existing facility. The addition will be primarily additional truck service bays. The service addition will be a state-of-the-art service facility to house additional service technicians. In addition, the remodel of the existing facility will include repurposing the existing service bays in to a climate-controlled part storage facility, retail parts show room, drivers lounge, conference rooms and additional office space. This project will make the Harrison Truck Center ("HTC") dealership location a destination stop for the transportation industry in West Central Minnesota. Upon approval of this abatement request, we would like to start in June 2019 with completion in early 2020.

City Administrator Sharon Hanson introduced the item.

Economic Development Director Tara Onken provided the background information on the agenda item.

Chad Harrison of Harrison Truck Center provided additional details on the project.

Councilmember DeCramer asked for the starting pay for technicians. Mr. Harrison provided their pay scale from an intern to capped level. Mr. Harrison also commented that they offer a tuition reimbursement program with their technicians if they sign a two-year agreement with Harrison Truck Center.

Councilmember Meister and Schafer commented in favor of the project.

Councilmember Lozinski mentioned in favor of the program and commended the EDA bringing forward programs like such to benefit the community.

Councilmember Bayerkohler discussed the Abatement Policy and the “but for” language. Director Onken commented that this project would not have happened at this level if the tax abatement was not offered.

There was further discussion by Council on the policy language.

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

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve Resolution Number 4617, Second Series, a resolution approving a Tax Abatement for Harrison Truck Center. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

**Wastewater Treatment Facilities Improvement Project - Consider Award of Bids to Magney Construction, Inc.**

Three (3) bids were received on April 16, 2019 for the Wastewater Treatment Facility Improvements project in Marshall, Minnesota. The bid prices ranged from \$14,074,300 to \$14,398,100. The engineer’s estimate was \$12,800,000.

The low bid was approximately ten (10) percent higher than the engineer’s estimate. The following Bid Tabulation reveals all bids were within 2.5 percent of the low bidder. Therefore, we feel the specifications were not restrictive to force a non-competitive bid situation.

Bidders Total Project Base Bid Price  
Magney Construction, Inc. \$14,074,300.00  
KHC Construction, Inc. \$14,137,000.00  
Gridor Constr., Inc. \$14,398,100.00

The specifications and bid documents did not contain any wording or ambiguities so as to force the Contractor to build in additional contingencies. The number of bids received indicates there was significant interest in this project. Therefore, we feel that the bids received were competitive and responsive, and rebidding of the project would not provide any cost savings.

The lowest responsive bid for this project was received from Magney Construction, Inc. from Chanhassen, Minnesota. Magney Construction is experienced in the type of work required for this project and has fulfilled the bidding and contract requirements. Therefore, we recommend awarding the project to Magney Construction, Inc. in the amount of \$14,074,300, contingent on final approval and certification from the Minnesota Pollution Control Agency.

Director of Public Works/ City Engineer Glenn Olson introduced the item as well as two representatives from Bolton and Menk, Inc. The City’s consultants provided an overview of the project’s specifications and bidding process over the last two years.

Councilmember Bayerkohler indicated that project costs have increased nearly 10% over the last two years but ultimately will get a better product.

Councilmember Schafer discussed the bid documents and options to reduce costs.

Councilmember Lozinski commented on the bid price already being over budget and has had conversations with a member from the community that can have this project done 20% or 30% cheaper.

Councilmember Labat mentioned his disapproval of the project already being over budget. Member Labat asked if the project could be revisited to eliminate some high price items such as stainless steel.

Wastewater Superintendent Bob VanMoer provided discussion on the difference processes used between round versus square tanks.

The City consultants commented that if they the project is rebid it would not be ready again from approximately one year because of the long approval process.

Kim Christianson of KHC Construction of Marshall requested that the project be rebid with a contractor's option.

There was further discussion by Council and Staff.

Motion made by Councilmember DeCramer, Seconded by Councilmember Bayerkohler to award the project, per the recommendation of the City's consultant, Bolton & Menk, Inc., to Magney Construction, Inc. of Chanhassen, Minnesota, in the amount of \$14,074,300, contingent on final approval and certification from the Minnesota Pollution Control Agency. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat. Voting Nay: Councilmember Lozinski. The motion **Passed. 6-1**

#### **Approval of Consent Agenda.**

Councilmember Labat requested that item number 8, Consider Approval of Resolution Authorizing Transfer and Closure of Capital Project Fund 428, be removed for further discussion.

Motion made by Councilmember Lozinski, Seconded by Councilmember DeCramer to approve the following consent agenda items be approved as presented. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motioned **Carried. 7-0**

Approval of Resolution Number 4618, Second Series and the Joint Powers Agreement (Minnesota Internet Crimes Against Children Task Force)

Approval of Resolution Number 4619, Second Series, a Resolution Revoking Conditional Use Permit at 1002 Colombine Drive.

Approval of the request of the Marshall Downtown Business Association for Crazy Days (Thursday-July 18, 2019).

Approval of the request of Southwest Minnesota State University for Homecoming Parade (Saturday-October 12, 2019).

Approval of an application for an On-Sale Intoxicating Liquor License for Marshall Area Chamber of Commerce for August 14, 2019.

Approval of a LG220 Application for Exempt Permit Pride in the Tiger Foundation for July 15, 2019.

Approval of the bills/project payments

**Consider Approval of Resolution Number 4620, Second Series Authorizing Transfer and Closure of Capital Project Fund 428.**

Capital Project Fund 428 paid construction costs for the Saratoga/Highway 23 Overpass Project. Construction costs are complete and fund 428 can be closed. Excess funds in fund 428 shall be transferred to debt service fund 374 to pay back the bond sold to finance the project. This will result in \$613,891.85 – to fund 374 for future debt reduction.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to approve Resolution Number 4620, Second Series, a Resolution Authorizing Transfer and Closure of Capital Project Fund 428. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Project Z50-2019: Chip Sealing on Various City Streets – 1) Remove the Item from the Table, 2) Consider Resolution Accepting Bid (Award Contract).**

Motion made by Councilmember Lozinski, Seconded by Councilmember Schafer to remove the item from the table. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

Bids were received on May 9, 2019 for the above-referenced project. Two bids were received as shown on the attached resolution awarding contract.

At the May 14, 2019 meeting, the City Council tabled action on the recommendation until additional information was provided concerning the performance of timely sealcoating.

Attached is a summary from Mn/DOT regarding the benefits of sealcoating. They indicate that sealcoating may be done at any time in the pavement's life. The purpose of sealcoating is to help protect the pavement from the deteriorating effects of sun and water.

Sealcoats may be recommended immediately after a new surface, or 3, 5, or 7 years after the new surface has been placed. I discussed the frequency with other members of the City Engineers Association of Minnesota and Mn/DOT, and many communities have historically used a process of rotation of sealcoats 5-7 years after a new surface has been placed. District 8 is discussing the ideas of sealcoating immediately after new surfacing. The City of Marshall has typically used a 7-year period of time prior for placement of the sealcoat after a new asphalt surface has been placed (mill and overlay or reconstruction).

I would recommend a 5-year maximum timeframe to apply sealcoats to a new surface thereby minimizing oxidation and surface cracking prior to sealcoating. This recommendation may cost the City a little more money but may be more effective in the preservation of new surfaces.

Motion made by Councilmember DeCramer, Seconded by Councilmember Schafer to adopt Resolution Number 4621, Second Series, which is the "Resolution Accepting Bid (Award Contract)" for Project Z50-2019: Bituminous Chip Sealing on Various City Streets to Allied Blacktop Company of Maple Grove, Minnesota, in the amount of \$164,452.00, with a not-to-exceed expenditure of \$175,200. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Lozinski Voting Nay: Councilmember Meister, Councilmember Labat. The motion Passed.

**Wastewater Treatment Facilities Improvement Project - Consider Construction Services Agreement with Bolton & Menk, Inc.**

Glenn Olson Director of Public Works/City Engineer provided the background information on the item.  
Director Olson

Motion made by Councilmember Labat, Seconded by Councilmember Schafer to authorize execution of the Professional Services Agreement for the Wastewater Treatment Facility Improvements Project to Bolton & Menk, Inc. of Burnsville, Minnesota, in accordance with the agreement not to exceed \$928,000.00. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Facade Improvement Matching Grant Program.**

The Facade Improvement Matching Grant Program aims to help revitalize and sustain business districts. The Facade Improvement Matching Grant Program is designed to help create healthy commercial areas by providing incentives to improve the appearance of building facades and stimulate private investment. The Facade Improvement Matching Grant Program will be capped at \$50,000 or 12 months, whichever comes first. By approving this program, Council is approving the funding from fund 214 (State CRIF) up to 50,000.

Economic Development Director Tara Onken introduced the item to Council. There was further discussion by Council.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to approve a Façade Improvement Matching Grant Program. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Decramer, Councilmember Labat, Councilmember Lozinski. Voting Nay: Councilmember Bayerkohler. The motion **Passed. 6-1**

**Consider approval of Transient Merchant License for Sweet Kettle Madness, LLC.**

Sweet Kettle Madness, LLC is seeking approval of a transient merchant license in connection with the Shades of the Past. The applicant is asking the Council to waive the fee of \$315.00, to a reasonable one-time fee, as well as the \$5,000.00 bond requirement.

Motion made by Councilmember Lozinski, Seconded by Councilmember Meister to approve the Transient Merchant License for Sweet Kettle Madness, LLC, to operate a mobile food unit in Marshall in connection with Shades of the Past contingent upon all requirements being met at a fee of \$30.00 and to waive the \$5,000 bond requirement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

**Consider approval of a Transient Merchant License for Taqueria El Guerrerito.**

Taqueria El Guerrerito is seeking approval of a transient merchant license. If approved this license would expire on 12/31/19.

Motion made by Councilmember Lozinski, Seconded by Councilmember Labat to approve the Transient Merchant License for Taqueria El Guerrerito, to operate a mobile food unit in Marshall from May 28, 2019 through December 31, 2019 contingent upon all requirements being completed at a pro-rated fee. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

#### **Commission/Board Liaison Reports**

Byrnes            No Report

Schafer           Regional Radio Board met and discussed having a delegate to represent the area.  
MERIT Center discussed the lease agreement with MN West at the MERIT Center

Meister           No Report

Bayerkohler    No Report

DeCramer       Marshall Utilities Commission met and discussed the reliability rates from MMU – 99.9974%. The Commission discussed the DNR “lost water” recommendation rate, which is no more than 10%, MMU is at 5.6%. MMU’s rates are 97% lower compared to other Minnesota Municipal Utility Companies. The water usage levels are around 50 gallons per person per day, meeting and exceeding the DNR and previous standards. Councilmember DeCramer added that the city of Marshall uses 43% renewable energy.

Labat            No Report

Lozinski          No Report

#### **Councilmember Individual Items**

Councilmember Schafer discussed the Law Enforcement Center group meeting and discussing the day to day operations and future, needed updates to the facility. Member Schafer would like staff to review the Commercial Tax Abatement policy language as well as asking staff to review neighbor hoods with junk displayed on the property.

Councilmember Meister commented that he would like to have a discussion on an Urban Chicken Ordinance.

Councilmember Labat discussed a meeting with residence at Broadmoor Valley. The residence discussed their continued struggles.

Councilmember DeCramer mentioned conversations with the Attorney General’s Office regarding Broadmoor Valley along with new proposed legislation regarding public housing dollars for manufactured homes.

Mayor Byrnes commented on the Highway 23 Coalition and its efforts along with Local Government Aid (LGA) dollars being increased.

**City Administrator**

City Administrator Sharon Hanson discussed a recent meeting with the City Hall Committee and calling for a future Work Session to discuss the current status of the project. Administrator Hanson commented on a rental code ordinance, the shared IT services with MMU and LGA dollars.

**Director of Public Works**

Director of Public Works/City Engineer commented on the US Army Corps. Of Engineer coming to Marshall to document the river damage and provided a construction update.

**City Attorney**

City Attorney Dennis Simpson provided an update on the Cable Franchise with Spectrum/Charter. Attorney Simpson discussed the status of the HRA land sale to Action Manufacturing and provided a complaint regarding the "Cable right-of-way Fees".

**Information Only**

There were no questions on the information items.

**Upcoming Meetings**

There were no questions on the upcoming meetings.

**Adjourn Meeting**

At 8:38 P.M., Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to adjourn. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Bayerkohler, Councilmember DeCramer, Councilmember Labat, Councilmember Lozinski. The motion **Carried. 7-0**

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Mayor

Attest:

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City Clerk