

**CITY OF MARSHALL
CITY COUNCIL MEETING
M I N U T E S
Tuesday, November 14, 2023**

The regular meeting of the Common Council of the City of Marshall was held November 14, 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, Amanda Schroeder, John Alcorn, See Moua-Leske, James Lozinski and Steve Meister. Absent: None. 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; Preston Stensrud, Park and Rec Supervisor; Ilya Gutman, Plans Examiner; Lauren Deutz, Economic Development Director; and Steven Anderson, City Clerk.

Consider Approval of the Minutes from October 24th

There were no amendments to the minutes.

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

86-247 Landscaping, 86-1 Definitions, 82-1 Grass and Weeds On Private Property – Adoption of Ordinance

Ilya Gutman explained that the changes added a concept of pollinator gardens that has been approved by the Council earlier in 2023. To be consistent with the general structure of the Zoning Ordinance, the pollinator garden definition was added to Section 86-1 Definitions of the Zoning Ordinance. The proposed Ordinance treats vegetable, flower, and pollinator gardens in a similar manner, removing practically all limitations on their placements. To help alleviate neighbors' concerns, a 5-ft. setback from property lines will be required for all gardens. Changes to Section 82-1 were proposed as necessary to coordinate with other pollinator garden related sections. The changes were presented to the Legislative and Ordinance Committee on 9/19/23 and were recommended for approval. The changes were also presented at the Planning Commission regular meeting on 10/11/23. Planning Commission members had some concerns about the upkeep of the gardens, the type of flowers and vegetables that would be planted, and gardens invading additional areas. The Planning Commission recommended limiting gardens in the front yard to 25 percent of the front yard area. Councilmember Lozinski spoke on behalf of the L&O Committee that a number of citizens already had more than 25 percent of their front yard as a garden. Attorney Whitmore mentioned that the ordinance change was initiated because of a legislative law change that pollinators gardens couldn't be completely prohibited. Councilmember Schroeder asked for clarification on a grievance from neighbors. Gutman verified it would be complaint driven much like other ordinances before city staff would investigate.

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 Lozinski, Seconded by Councilmember Meister to adopt Ordinance 23-022 but to eliminate the wording under Section 86-247 *"...and shall not occupy more than 25 percent of the front yard."* Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Schroeder. The motion **Carried. 6-1.**

86-248 Outside Storage – Adoption of Ordinance

Gutman described that Section 86-248 Outside Storage had been amended multiple times in the past to allow shipping containers in a general business district with an interim use permit. Each iteration of the amendments made the ordinance less restrictive. At an August council meeting staff asked for confirmation to continue to enforce the shipping container ordinance as some of the businesses with interim use permits were not in compliance with the ordinance. The city council directed staff to review the ordinance again and has since been amended to allow a single shipping container unit, through an interim use permit, without a fence provided the shipping container is

painted to match the main building. Councilmember Lozinski on behalf of the Legislative and Ordinance Committee commented that this was a further loosening of the ordinance and hopes that no further amendments would be needed. Councilmember Schroeder stated that the Planning Commission did not have any concerns with the amendments.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski 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 adopt Ordinance 23-023 amending Section 86-248 Outside Storage. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

66-33 Process, 66-55 Procedures, and 86-30 Amendments – Adoption of Ordinance

Gutman presented the amendments to sections 66-33, 66-55 and 86-30 as a method to make common procedures that involve the Planning Commission more consistent for staff and citizens. Before the suggested amendments rezoning, variances, and conditional use permits went to the Planning Commission for public hearings and platting and zoning ordinances went to city council for public hearings. The proposed amendments would move the platting and zoning public hearings to the Planning Commission. The city council still retains authority to hold a public hearing for any of the processes if they still wished. Attorney Whitmore clarified that state statute only required that a public hearing be held and didn't specify which authority needed to hold the hearing.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski 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 23-024 amending sections 66-33 Process, 66-55 Procedures, and 86-30 Amendments. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister. The motion **Carried. 6-1.**

Approval of the Consent Agenda

There were no requests to remove any items from the consent agenda for additional discussion.

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

- Consider Approval to Allow Alcoholic Beverages at the Red Baron Arena for the Fairbank Ice Dogs on December 1st & 2nd
- Consider Approval for a Temporary Liquor License for the Friends of the Orchestra
- Consider Approval for a Temporary Liquor License for the Marshall Area Chamber of Commerce
- Consider Approval of the 2024-2025 Health Care Savings Plan Memorandums of Understanding
- Consider Approval of the Annual Renewal of Tobacco Licenses for 2024
- Consider Approval of Annual Renewal of Liquor Licenses for 2024
- Consider Approval of Taxicab License Renewal
- Introduction of Ordinance – Rezone property at 100 through 120 London Road from R-1 One Family Residence District to I-1 Limited Industrial District

- Introduction of Ordinance – Amending Section 86-106 I-1 Limited Industrial District and Call for Public Hearing
- Consider Approval for an Outdoor Public Fireworks Display for Prairie Home Hospice
- Consider Approval to Move the December 26th Meeting to December 19th, 2023
- Consider Approval of the Bills/Project Payments

Consider a Predevelopment Agreement with the Southwest West Central Service Cooperative

Lauren Deutz introduced the agreement and the Southwest West Central Service Cooperative plan. Economic Development and Administration had been working with the Southwest West Central Service Cooperative (SWWC) to determine a new location for the agency's administrative offices. The SWWC was located in the former Market Street Mall and had explored several relocation and redevelopment opportunities. It was determined that a new facility would best meet the needs of the organization, including the addition of training facilities for staff and the community. SWWC's proposal includes the construction of a 16,000 sq ft facility on city owned property located in the Parkway Addition at the corner of London Road and Channel Parkway. The EDA is recommending that the city provide SWWC with 5 acres of land for \$1 in support of the project. Per recommendation from our Municipal Advisor at Baker Tilley, staff is also recommending the use of Conduit Bonding to support the project financially. SWWC employs 459 people with 52 staff on-site in Marshall within an 18-county service area. Clif Carmody, Executive Director for SWWC, presented a short walkthrough of the proposed facility. Councilmember Schafer inquired if SWWC was classified as a school district. Carmody explained that the Minnesota Department of Education classified SWWC as a school district, but Minnesota Management and Budget does not. Therefore, SWWC has no taxing authority and operating revenue is derived from membership fees and grants. With SWWC being classified as a school district the new building would be considered tax-exempt and not add to the general levy of Marshall. Hanson pointed out that even though no taxes would be generated, development and growth in Marshall would be welcome. Councilmember Lozinski commented that SWWC hosts many events and meetings that would pull people into Marshall from SWWCs 18-county service area.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to approve the predevelopment agreement with Southwest West Central Service Cooperative. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Consider the Request for a Variance Adjustment Permit – 304 East Marshall Street

Gutman presented the request for a garage addition that would be located three feet from the side property line at 304 East Marshall Street. Building and zoning required five feet from a side yard property line. Granting of a variance may be permitted only if the request met the "practical difficulties" test, which required that the proposed use be reasonable, that the problem be caused by conditions that are unique to the specific property, and that granting the variance will not change the character of the area. After review, city staff believed that the argument could be made that the proposal generally met the first and third parts of the test. There were numerous structures in the block that did not meet minimum setbacks, which makes the request both reasonable and did not change the character of the area. However, staff believed that there was nothing unique about the property that would pass the second test. At the Planning Commission meeting, the applicant made a presentation that the uniqueness of the property was that the house was built in the late 1930's as the first house on the block. During that time the house was centered on the lot with no consideration for an adequate size attached garage or expansion. Councilmember Schroeder mentioned that the Planning Commission understood and accepted the uniqueness of the property after the homeowner's presentation.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the request for a variance adjustment permit for 304 East Marshall Street. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Proposed Aquatic Center Action Next Steps Following November 7, 2023, Referendum Approval

The City of Marshall received special legislation to pursue the continuation of an existing sales tax to construct an Aquatic Center. The City Council had approved an initial resolution regarding the tax, which was then authorized by the Minnesota Legislature, and the City Council affirmed by resolution and directed placement on the ballot for public to approve. On November 7, 2023, the public approved the referendum, and the City Council met as the canvassing board certifying the results on November 14, 2023. Minnesota Statutes and regulations set forth the process for cities to follow in establishing the continuing of a local sales tax. As part of that process, staff offered the next following steps for Council:

1. The City Council re-approved, by Resolution, the previously motion-approved purchase agreement.
2. Introduction of the Ordinance to amend the current Ordinance and continue the sales tax occurs, with consideration of adoption of the ordinance at the next regular Council meeting.
3. Jon Brown from Stockwell to present an updated schedule for the proposed construction.
4. The City Council shall direct the City Attorney and staff to conduct title work, platting, and deed documents to fully execute the previously approved purchase agreement of proposed aquatic center land.
5. Staff begins gathering necessary information to send to the Secretary of State after final approval of the Ordinance and collaborates with the City Attorney on the Notice Letter for the Secretary of State.
6. Council commits to providing representation from Council on the Aquatic Center Construction Committee once the design process begins.

Motion made by Councilmember Lozinski, Seconded by Councilmember Moua-Leske to approve Resolution 23-070 approving the purchase agreement for the purchase of property from Schwan's Shared Services, LLC. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Introduction of Ordinance Amending the City's existing Ordinance No. 667, Second Series to Provide for Extension of the Sales Tax

Whitmore informed council that Minnesota Statutes Section 297A.99 specifically outlines the process for approving a sales tax, which included the city conducting a referendum during a general election within two years of receiving legislative authority for the local sales tax. The referendum must include separate questions for each project, and the ballot questions approved by voters may be funded by the sales tax. On November 7, 2023, the voters approved by 66.44% the ballot question authorizing the City of Marshall to (a) extend the sales and use tax of one-half of one percent (.50%) for the purpose of paying the costs of collecting and administering the tax and paying for the construction of a new municipal aquatic center in the City, plus associated bonding costs, including interest on any bonds; and (b) issue its general obligation bonds in an aggregate principal amount not to exceed \$18,370,000, plus the cost of issuing the bonds, including interest on the bonds to finance the construction of the aquatic center. The next step under the statutes required the city to pass an ordinance imposing the tax, after which the city will notify the Commissioner of Revenue of the tax.

Jon Brown with Stockwell Engineers provided an updated timeline for the Aquatic Center project:

- Begin Design Development Plans: January 15, 2024
- Submit 60% Design Development Plans: March 11 – 15
- 60% Review Meeting: March 25 – 29
- Submit 95% Construction Documents: June 24 – 28

- 95% Review Meeting: July 8 – 12
- Submit Council Request to Advertise: July 23
- Advertise to Bid: Aug. 8 & 15
- Open Bids: Aug. 29
- City Council Bid Award: Sept. 10
- Pre-Construction Meeting: Oct. 7 – 11
- Start Construction: October 2024
- Construction Substantial Completion Date: Jan. 9, 2026
- Construction Final Completion Date: April 17
- Open New Aquatics Center: May 25, 2026

Hanson mentioned that Assistance Engineer Eric Hanson would represent the city during design reviews. Hanson also talked about the potential for donations to add alternative pool options that were desirable to citizens.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to introduce the ordinance amending the city's existing ordinance No.667, Second Series to Provide for Extension of the Sales Tax. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. The motion **Carried. 7-0.**

Project ST-012-2024: South Whitney Street Reconstruction Project (E College Dr to Jean Ave) - Consider Resolution Receiving Feasibility Report and Calling Hearing on Improvement

Jason Anderson detailed the project which consisted of reconstruction of the sidewalk, roadways, and utility replacement on South Whitney Street from East College Drive to Jean Avenue. All public utilities would be replaced, including watermain, sanitary sewer, and storm sewer on South Whitney Street. Other items of work included in the project are pavement removal, aggregate base, bituminous surfacing, sidewalks, curb and gutter, and other minor work. The Feasibility Report, as authorized by the City Council, covered the proposed improvements including scope, background/existing conditions, proposed improvements, probable costs, proposed assessments, feasibility, and proposed project schedule. The proposed improvements in the report are necessary, cost-effective, and feasible from an engineering standpoint. The engineer's estimate for the construction portion of the project is \$2,071,000.00. The total estimated project cost, including 10% allowance for contingencies and 16% for engineering and administrative costs is \$2,403,000.00. All improvements would be assessed according to the Special Assessment Policy, including, but not limited to, participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation. Final approval of the project must include determination of funding sources.

Motion made by Councilmember Schafer, Seconded by Councilmember Alcorn to adopt Resolution 23-069 Receiving the Feasibility Report and Calling for a Hearing on the Improvement. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske. Voting Abstaining: Councilmember Lozinski. The motion **Carried. 6-0-1.**

Statement of Annual Performance Evaluation for Sharon Hanson, City Administrator, and Consider Approval of a Step Increase

Mayor Byrnes explained that prior to the regular council meeting a closed session under Minnesota Statute 13D.05 subd 3(a) had been held for the annual performance evaluation for Sharon Hanson. Mayor Byrnes provided a summary of conclusions from the closed session.

- Job Knowledge and Professional Skills: 4.57
- Relations with Election Members of the City Council: 4.57
- Policy Execution: 4.54
- Strategic Vision: 4.54

- Fiscal Management: 4.49
- Intergovernmental Affairs: 4.74
- Reporting and Communication: 4.43
- Citizen / Community Relations: 4.53
- Staffing: 4.54
- Supervision: 4.26

Overall performance evaluation for all criteria from City Council members and Mayor is 4.52, which indicates a high level of performance, highly effective leadership and performance often exceeding the challenging performance expectations established for the position.

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to accept the performance evaluation of Administrator Hanson. 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 Moua-Leske to approve a salary increase for Administrator Hanson to Step J at \$173,014.40 annually. 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

Brynes	No report.
Schafer	No report.
Meister	No report.
Schroeder	Public Housing was in the interview process of replacing a maintenance worker. EDA mostly reviewed the Solugen Bioforge 2 project that would be a 500,000 sq ft. facility.
Alcorn	No report.
Moua-Leske	DEI was in the process of forming a Juneteenth commission.
Lozinski	No report.

Councilmember Individual Items

Councilmember Lozinski commented on the debt of the city and how much it has actually come down over the years. Lozinski also mentioned that the intersection of County Road 33 and State Highway 23 are not within city limits and concerns with the safety of the intersection should be taken up with County Commissioners and MNDOT.

Councilmember Moua-Leske invited the citizens of Marshall to celebrate the Hmong New Year on November 18 at the SMSU RA Facility.

Councilmember Schafer also commented on the debt of the city and that a large amount of the debt was tied up in infrastructure.

Mayor Byrnes pointed out that the district engineer for MNDOT would be meeting with the Marshall Area Transportation Group to discuss the County Road 33/Highway 23 intersection as well as the intersection between Tiger Drive and State Drive that connects the High School and College in early January 2024.

City Administrator

The Minnesota Department of Revenue on November 16th would be releasing a report on the preliminary levies for municipalities across the state. Hanson also gave her accolades to the Marshall Independent for their involvement in the Aquatic Center process and asking tough questions and reporting on both sides of the project.

Director of Public Works/City Engineer

The airport commission mainly focused on the Snow Removal Equipment building and what changes needed to be made to bring about better bids.

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.

Adjourn

At 6:42 PM Motion made by Councilmember Schroeder, Seconded by Councilmember Alcorn 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