

**CITY OF MARSHALL  
CITY COUNCIL MEETING  
M I N U T E S  
Tuesday, June 13, 2023**

The regular meeting of the Common Council of the City of Marshall was held May 23, 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, See Moua-Leske and James Lozinski. 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; Jim Marshall, Director of Public Safety; Eric Luther, Liquor Store Manager; Ilya Gutman, Plans Examiner; and Steven Anderson, 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 from the Regular Meeting and Work Sessions Held on May 23, 2023**

There were no requests to amend the minutes.

Motion made by Councilmember Schafer, Seconded by Councilmember Schroeder 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.**

**Conduct Public Hearing of Ordinance Amending Section 86-104 B-3 General Business District.**

Plans Examiner Ilya Gutman gave background information on the proposed ordinance amendment. Revisions were minor and only related to self-storage warehouses or mini storages, defined as units or compartments under 500 SF rented to individuals for storage of personal property monthly. Currently this use is conditional in a B-3 General Business District. The provision was outdated and assumed buildings with rows of individual garage-like units with outside access and drives between buildings. However, new types of such units were introduced relatively recently that included air-conditioned indoor units with access from the inside of a building. Instead of a row of connected garages, newer indoor storage units look like a regular building with a main entrance and typical parking area. To address this new type of facility, and encourage future city development, staff suggested making buildings with indoor units a permitted use, while leaving mini storages with outside access a conditional use. Councilmember Schroeder noted that the Planning Commission met on this issue and had no concerns with the change.

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.

Motion made by Councilmember Meister, Seconded by Councilmember Moua-Leske to approve Ordinance 23-011 Amending Section 86-104 B-3 General Business District. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Sounds of Summer 2023 - 1. Public Hearing on Private Use of Public Streets and Parking Lots (August 18-20, 2023); 2. Approval of Private Use of Public Streets and Parking Lots (August 18-20, 2023); 3. Approval of Parade (August 19, 2023)**

This was the annual request from the Sounds of Summer Committee to close off portions of West College Drive and West Saratoga Street. The change in location for Sounds of Summer required a different detour to accommodate traffic, but the usual parade route would still be utilized. Past practice the City's Public Safety and Public Works Divisions have worked with applicants on the issues and public safety concerns that would need to be addressed as part of the request.

Councilmember Schafer questioned the viability of semi traffic being able to make the turn at Third and E. College Drive. It was also requested that limited parking be put in place on Third to allow larger vehicles to pass.

Motion made by Councilmember Lozinski, 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

Motion made by Councilmember Schafer, Seconded by Councilmember Meister to approve the private use of public streets and parking lots for Sounds of Summer from August 18-20, 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

Motion made by Councilmember Meister, Seconded by Councilmember Schafer to approve the Sounds of Summer Parage to be held on August 19, 2023, subject to MNDOT approval. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

#### **Approval of the Consent Agenda**

There were no requests to remove any items for further consideration.

Motion made by Councilmember Schroeder, Seconded by Councilmember Loua-Leske. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

- Consider Approval for a Raffle Permit for Holy Redeemer Church on August 16
- Consider Approval for a Raffle Permit for Holy Redeemer Church on September 23
- Consider Approval for a Raffle Permit for Holy Redeemer Church on December 29
- Consider Approval for a Temporary On-Sale Liquor License for Holy Redeemer Church
- Consider Grant of Utility Easement to MMU located at 1008 W College Drive
- Consider Award of Proposal for Wastewater Sanitary Manhole Sealing and Relining Project
- Consider Resolution Authorizing Execution of Mn/DOT Airport Maintenance & Operation Grant Contract No. 1053293 (SFY 2024-2025)
- Project ST-032: Lot 2, Block 1, Schwan's Corp I Addition Parking Lot Repaving Improvements Project (Ralco) - Consider Resolution Approving Plans and Specifications and Ordering Advertisement for Bids
- Declare Bicycles as Surplus Property for the Marshall Police Department
- Consider Authorization to Declare Vehicle as Surplus Property for the Marshall Police Department
- MERIT Center Bonding Request
- Consider Approval of the Bills/Project Payments

#### **Request for Map Amendment (Rezone) MN State Armory Building Commission at 1103 Michigan Road**

Gutman presented the request from the Minnesota State Armory Building Commission to rezone their property at 1103 Michigan Road. Currently the property is zoned A Agricultural and the request is to rezone to I-2 General Industrial for potential development. With the request city staff suggested that all adjacent lots in the Commerce Industrial Park area be rezoned as well for further development. The comprehensive plan shows the Commerce Industrial Park as industrial land use, and the adjacent lots to the south are already zoned I-2 General Industrial. A public hearing was held by the Planning Commission and no concerns were brought up.

Motion made by Councilmember Meister, Seconded by Councilmember Schroeder to adopt Ordinance 23-012 rezoning property along Michigan Road. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Request for Map Amendment (Rezone) by First Premier Bank at 1420 East College Drive**

Gutman introduced the request by First Premier Bank, of Sioux Falls, SD to rezone property at 1420 East College Drive from B-4 Shopping Center Business District to B-3 General Business District for future development. The proposed development includes a use permitted in B-3 district but not in B-4 district. The Market Street Mall has not functioned as a mall for quite some time and city staff believe that the B-4 zoning district has become obsolete and suggested rezoning the other properties around the mall to B-3 at the same time. All properties around the mall are currently zoned B-3 general business. This area was granted a PUD in 2015, but it was never acted upon, with the rezoning the existing PUD will be nullified. The new Comprehensive Plan showed this entire area as Neighborhood Mix use and the B-3 General zone fits with the plan. The Planning Commission held a public hearing on the rezone and no concerns were voiced.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adopt Ordinance 23-013 rezoning property at and around the Market Street Mall. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Consider Amendment to Article 30-II Surface Water Management of the City Code of Ordinances – Adoption of Ordinance**

Jason Anderson stated that the amendments are required under the cities MS4 Storm Water Permit through the MPCA. The MPCA required that an ordinance be in place for the storage of bulk deicing chemicals. Very few facilities in the city would fall under the ordinance but the City of Marshall and Lyon County would be the main entities affected.

Motion made by Councilmember Meister, Seconded by Councilmember Lozinski to adopt Ordinance 23-014 Bulk Storage of Deicing Chemicals. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Consider Resolution Authorizing Execution of Mn/DOT Cooperative Construction Agreement No. 1051273 / SP 4210-56 TH 68 (Ultra-thin Overlay from US 59 to Minneota)**

Anderson brought forward the agreement from MN DOT that provides payment by the city to the State of the City's share of the costs of the utility adjustment construction and other associated construction along and adjacent to TH 68 from N. Grant Street to TH 59 within the corporate City limits. City participation is estimated to be \$3,000.00.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to approve Resolution 23-050 authorizing MN DOT agreement number 1051273. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski. Voting Nay: Councilmember Meister.

**Seek Direction on future work and funding of Murals Located on 3<sup>rd</sup> and 4<sup>th</sup>**

Sharon Hanson gave background information on the agenda item. Agreements between the artist, MAFAC, the city and building owners expired in 2021 for the murals on 3<sup>rd</sup> Street and 4<sup>th</sup> Street. Both murals need repair and in addition, the 3rd Street mural will have a potential redesign needed due to the building owner remodeling the building sometime in 2024. Interest was sought from the 3rd Street mural building owner to keep the mural mostly intact, and the owner indicated he would be interested in continuing some type of agreement. Contact with the 4th Street mural building owner was attempted, and he has also expressed interest in continuing some agreement. The mural repairs are estimated to be up to \$5,000 for the 4th Street mural repair and upkeep every 5 years. There was not a clear estimate on the work needed for the 3rd Street mural as consultation with an artist and determination on how best to keep the mural intact following the building owner's construction project. City Attorney Whitmore gave council information on why negotiation for the repairs need to be handled through a third-party commission or group in collaboration with the city. General consensus was given by the council to proceed with future work and funding for the murals.

**Resolution Approving Special Law-Sales Tax Authorization**

Mayor Brynes explained that the city had requested legislature for permission to allow Marshall citizens vote on a sales tax extension. Hanson continued that the bill requires the city to vote on the sales tax question on November 7<sup>th</sup> of 2023. Approval of the special law is also required under the bill with submission to the Secretary of State by the City Clerk.

Motion made by Councilmember Schafer, Seconded by Councilmember Lozinski to adopt Resolution 23-049 that the City Council of the City of Marshall resolve Minnesota laws 2023 regular session chapter 64 article 10 section 14 is approved. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Cannabis/Lower Potency Hemp Product Interim Ordinance**

Attorney Whitmore explained the Minnesota Legislature had recently passed HF100/SF73 (the "Cannabis Act") which legalized the sale, transport, cultivation, and manufacturing of Cannabis and Hemp products in Minnesota. The Cannabis Act established a regulatory framework for Cannabis Businesses, as well as the Hemp Businesses, and creates a state agency called the Office of Cannabis Management ("OCM") to oversee this framework. The OCM will be created effective July 1, 2023, and will perform expedited rulemaking. It is anticipated that the rollout of this rulemaking will be complicated and challenging. The OCM has further been tasked with creating a model ordinance for cities to use when establishing allowable regulation on Cannabis and hemp products.

Under Minnesota Statute 462.355 subd. 4(a), as well as the City's general police powers in its Charter and state law, the Council has the authority to prohibit the retail sales of Cannabis products and lower potency hemp products, as well as the establishment of any Cannabis and hemp businesses within the City for up to one year from the adoption of the moratorium to allow Council time to conduct studies related to these businesses and sales. The moratorium can be lifted by the Council at any time. The City has no authority to prohibit the personal use or personal growing/cultivating allowed under the Act.

Staff recommended that the Council adopt the temporary interim ordinance prohibiting any business, person, or entity from offering for retail sale, wholesale, testing, commercial growing, commercial cultivating, manufacturing, transporting, delivering or commercial distribution of Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products, including the establishment or operation as a Cannabis Business or Lower Potency Hemp Business within the jurisdictional boundaries of the City of the City of Marshall. The City shall not process, or act on any application, site plan, building permit, or other zoning approval for a business, person, or entity proposing to engage in the sale of any Cannabinoid Products, including Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products. This moratorium does not relate to the retail sale of Hemp Derived Topical Products, or Hemp Derived Fiber Products. The moratorium also does not relate to the sale of edible cannabinoid products as that term is defined in current statute, 151.72, subd. 1, in exclusive liquor stores.

Councilmember Lozinski asked for clarification on the interim ordinance only allowing THC beverages at the Municipal Liquor Store and not edibles. Further clarification was asked about the potential loss of sales tax revenue while the interim ordinance is in place.

Motion made by Councilmember Schroeder, Seconded by Councilmember Lozinski to call for a public hearing on a interim ordinance for Cannabis/Lower Potency Hemp Products to be held on June 27, 2023. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

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

Interviews were conducted prior to the regular meeting for opening on two commissions. Mayor Brynes made the following recommendations for appointments:

Sara Stone to the Planning Commission with a term date expiring on May 31, 2026.

Bruce Lamprecht to the Airport Commission with a term date expiring on May 31, 2026.

Motion made by Councilmember Schafer, Seconded by Councilmember Moua-Leske to affirm the mayor's recommendations for appointments to commissions. Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder, Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski.

**Commission/Board Liaison Reports**

Brynes	No report.
Schafer	Airport Commission: Discussed the state of the SRE building and options. The commission has also decided to continue to meet monthly. The JAZB met to discuss zoning. The Marshall airport was selected as a site for new cameras to be installed at no cost to the city to better help pilots get more accurate weather information.
Meister	No report.
Schroeder	No report.
Alcorn	No report.
Moua-Leske	DEI: Juneteenth celebration has been moved to Independence Park on June 19 from 3pm-7pm.  Library: Work on the budget is pending on city and county funding and some renovations are still in progress.
Lozinski	No report.

**Councilmember Individual Items**

Councilmember Lozinski encouraged the public to attend the City Band concert and cheer for Mayor Byrnes playing the cow bell.

**City Administrator**

City Hall will be closed on June 19<sup>th</sup> in observance of the Juneteenth Holiday.

**Director of Public Works/City Engineer**

Progress continued to be made on the Third and Lyon Street project. Street pavement near the post office was poured and colored concrete was poured at the intersection. The 2025 C Street and Southview Bike Trail project and the 2026 Lyon Street Bike Trail project are to receive additional funding which the Lyon Street project getting fully funded by the grant increase.

**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 6:31 PM Motion made by Councilmember Schafer, Seconded by Councilmember Meister to adjourn the meeting.

Voting Yea: Mayor Byrnes, Councilmember Schafer, Councilmember Meister, Councilmember Schroeder,  
Councilmember Alcorn, Councilmember Moua-Leske, Councilmember Lozinski

Attest:

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City Clerk

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Mayor