

Marshall City Council, Regular Session
Monday, April 6, 2009

IN REGULAR SESSION Monday, April 6, 2009, AT 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Smith.

Roll was called:

Present: Council Members: Dyer, Metzger, K. Miller, L. Miller, Mayor Smith, Traver and Williams.

Also Present: Interim City Manager Tarkiewicz and Clerk-Treasurer Habedank.

Absent: None.

The invocation was given by Chaplain David Litchfield of the Calhoun County Sheriff's Department.

Mayor Smith led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved L. Miller, supported Dyer, to approve the agenda with the deletion of item 11C Deputy Clerk & Deputy Treasurer Compensation, addition of the item 11G Transformer Repair, and amended the bill total to \$664,270.94. On a voice vote: **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITIONS

City Council presented the following proclamations:

PROCLAMATION

APRIL IS ALCOHOL AWARENESS MONTH

“Parents who Host Lose the Most: Don’t be a party to teenage drinking”

WHEREAS, alcohol use by young people is dangerous, not only because of the risks associated with acute impairment, but also because of the threat to their long-term development and well-being, and

WHEREAS, it is illegal to give or allow your teen's friends to drink alcohol in your home, even with their parents' permission, and

WHEREAS, anyone found guilty of providing alcohol to youth can face up to a \$1,000 fine and sixty days in jail, in addition to any civil action that can be brought as a result of damages or injury related to the offense, and

WHEREAS, **each year about 1,900 persons who are under 21 die in motor vehicle crashes that involve underage drinking ;** and

WHEREAS, **alcohol is also involved in about 1,600 homicides and 300 suicides each year among persons under 21;** and

WHEREAS, alcohol abuse is linked to as many as two-thirds of all sexual assaults and date rapes of teens and college students and is a major factor in unprotected sex among youth, increasing their risk of contracting HIV or other transmitted diseases; and

WHEREAS, 13 percent of all youth, ages 12 -17, had at least one serious problem related to drinking in the past year;

- The Underage Drinking Prevention Forum of the Substance Abuse Council launched the campaign, Parents Who Host, Lose The Most: Don't be a party to teenage drinking at a Media Conference on March 23rd at 4:00 PM at Lakeview Square Mall
- Local leaders and alcohol free youth in Marshall will be part of the solution by volunteering to teach a lesson on alcohol to 5th and 6th grade students. The Substance Abuse Council will provide training and materials for "Teach-In" presenters upon request.
- The Marshall Underage Drinking Prevention Forum and the Underage Drinking Prevention Forum of the Substance Abuse Council will present garden plaques in April to local youth groups that planted red tulip bulbs which will bloom this spring and serve as a reminder to keep Calhoun County youth alcohol free.
- The Marshall Underage Drinking Prevention Forum will conduct a "Sticker Shock" campaign in collaboration with Marshall merchants.

WHEREAS, the Substance Abuse Council and the Marshall Underage Drinking Prevention Forum through April Alcohol Awareness, "Parents Who Host, Lose The Most: Don't be a party to teenage drinking" campaign provides the educational materials to raise community awareness regarding this illegal and unhealthy practice, and

WHEREAS, the City of Marshall encourages residents to refuse to provide alcoholic beverages to underage youth and to take the necessary steps to discourage the illegal and unhealthy practice, including the reporting of underage drinking by calling their local law enforcement, and

NOW, THEREFORE, be it resolved that the City of Marshall not only discourages the use of alcohol by those below the legal age of consumption but also exhorts all residents of Marshall to refuse to provide alcoholic beverages to those underage youth, and will continue to take the necessary steps to discourage this illegal and unhealthy activity.

IN WITNESS WHEREOF, I, Bruce Smith, Mayor of the City of Marshall have hereunto set by hand and caused the Official Logo of the City of Marshall, Michigan, to be affixed this ____ day of April 2009.

Mayor Bruce Smith, City of Marshall

**Child Abuse Prevention Month
Proclamation**

WHEREAS, the month of April, 2009 has been designated as National Child Abuse Awareness Month;

WHEREAS, youth between the ages of 12 and 19 experience the highest rate of violent victimization in the United States; and

WHEREAS, of the approximately 906,000 children found to be victims of child maltreatment, 63 percent were neglected, 19 percent were physically abused, 10 percent were sexually assaulted, and 8 percent were psychologically maltreated; and

WHEREAS, approximately 1500 children died of abuse or neglect in 2006, 79 percent of the children were younger than 4 years of age; and

NOW, THEREFORE, I, Bruce Smith, by the Marshall City Council that April 2009 is recognized as Child Abuse Prevention Month in the City of Marshall. The City Commission thanks and recognizes those victims of crime, the Calhoun County Prosecutor's Office, the Marshall Police Department, the Child Abuse and Neglect Prevention Council and other law enforcement and service agencies, who, through their cooperative efforts in coordinating the events of Child Abuse Prevention Month, help heighten awareness of the plight of those who are or become a victim of crime.

IN WITNESS WHEREOF, I, Bruce Smith, Mayor of the City of Marshall have hereunto set by hand and caused the Official Logo of the City of Marshall, Michigan, to be affixed this ____ day of April 2009.

Mayor Bruce Smith
City of Marshall

**Sexual Assault Awareness Month
Proclamation**

WHEREAS, the month of April 2009 has been designated as National Sexual Assault Awareness Month; and

WHEREAS, only 40 percent of rapes and sexual assaults are reported to law enforcement; and

WHEREAS, among female victims of rape and sexual assault, 74 percent of the crimes were committed by intimate partners, relatives, friends, or acquaintances; and

WHEREAS, one in six girls/women and one in thirty-three boys/men will be sexually assaulted in their lifetime;

NOW, THEREFORE, BE IT RESOLVED, by the Marshall City Council that April, 2009 is recognized as Sexual Assault Awareness Month in City of Marshall. The Marshall City Council thanks and recognizes Sexual Assault Services of Calhoun County, the Calhoun County Prosecutor's Office, the Marshall Police Department and other Law Enforcement and Service Agencies, who, through their cooperative effort have coordinated the events of Sexual Assault Awareness Month.

IN WITNESS WHEREOF, I, Bruce Smith, Mayor of the City of Marshall, have hereunto set by hand and affixed the Seal of the City of Marshall, Michigan,
_____, 2009.

Mayor Bruce Smith
City of Marshall

Crime Victims' Rights Week Proclamation

WHEREAS, President Ronald W. Reagan first declared National Crime Victims' Rights Week in 1981 to focus our Nation's attention on the plight of crime victims; and

WHEREAS, since 1981, America has joined together annually to recognize the needs and rights of crime victims and survivors during National Crime Victims' Rights Week; and

WHEREAS, the week of April 26-May 2, 2009 has been designated as National Crime Victims' Rights week-with the theme "25 Years of Rebuilding Lives: Celebrating the Crime Victims' Rights Act;" and

WHEREAS, despite impressive accomplishments in crime victims' rights and services, there remain many challenges to ensure that all crime victims and survivors are treated with dignity and respect, recognized as key participants within our systems of justice, and afforded services that provide help and hope to them;

NOW, THEREFORE, I, Bruce Smith, by the Marshall City Council that April 26-May 2, 2009 is recognized as Crime Victims' Rights Week in the City of Marshall. The City Commission thanks and recognizes those victims of crime, the Calhoun County Prosecutor's Office, the Marshall Police Department and other law enforcement and service agencies, who, through their cooperative efforts in coordinating the events of Crime Victims' Rights Week, help heighten awareness of the plight of those who are or become a victim of crime.

IN WITNESS WHEREOF, I, Bruce Smith, Mayor of the City of Marshall have hereunto set by hand and caused the Official Logo of the City of Marshall, Michigan, to be affixed this ____ day of April 2009.

Mayor Bruce Smith
City of Marshall

National Library Week Proclamation

WHEREAS, our nation's school, academic, public and special libraries make a difference in the lives of millions of Americans, today, more than ever;

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy;

WHEREAS, library use is up nationwide among all types of library users, continuing a decade-long trend;

WHEREAS, libraries play a vital role in supporting the quality of life in their communities;

WHEREAS, libraries can help you discover a world of knowledge, both in person and online, as well as personal service and assistance in finding what you need, when you need it;

WHEREAS, libraries are a key player in the national discourse on intellectual freedom, equity of access, and narrowing the digital divide;

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week with The Campaign for America's Libraries.

NOW, THEREFORE, that I Bruce R. Smith, Mayor of the City of Marshall proclaim National Library Week, April 12-18, 2009. I encourage all residents to visit the library this week to take advantage of the wonderful library resources available and thank their librarians and library workers for making information accessible to all who walk through the library's doors. Worlds connect @ your library!

IN WITNESS WHEREOF, I, Bruce Smith, Mayor of the City of Marshall have hereunto set by hand and caused the Official Logo of the City of Marshall, Michigan, to be affixed this 6th day of April 2009.

Mayor Bruce Smith
City of Marshall

INFORMATIONAL ITEMS

A news release from Marshall Main Street announcing the dates of April 24th and 25th for the Second Annual Citywide Garage Sale.

PUBLIC COMMENT ON AGENDA ITEMS

John LaPietra of 386 Boyer Court was glad to see the Library Week Proclamation and Farm Market on the agenda and questioned the process of the Nuisance Weed Ordinance changes.

Marshall Main Street Manager Diane Larkin of 121 ½ West Michigan Avenue thanked Council for announcing the Citywide Garage Sale and invited anyone who wishes to participate to contact her office. She is also working with other individuals to help find a Wednesday location for the local Farmer's Market.

Jane Dadow of 20491 19 ½ Mile Road thanked the Council for allowing them to hold the Farmers Market at their current location and stated they are seeking a location for a Wednesday market.

Dave Stevenson of 313 South Grand Street stated that Side Tracks Ice Cream is interested in hosting the Farmer Market on Wednesdays and he also had concerns with the bid process for the athletic field concession stand.

PUBLIC HEARINGS AND SUBSEQUENT COUNCIL ACTION

None.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

Moved Williams, supported Traver, to approve administrations recommendation to accept the proposal from Justice Concessions. On a roll call vote -- ayes: Metzger, K. Miller, Mayor Smith, Traver, and Williams; nays: Dyer and L. Miller. **MOTION CARRIED.**

Moved Dyer, supported Williams, to schedule a public hearing for April 20, 2009 to amend the Nuisance Ordinance as indicated in item 11B. On a voice vote -- **MOTION CARRIED.**

Moved Dyer, supported Williams, to adopt the resolution regarding the notice of intent to issue bonds for the 2009 Water Main Infrastructure Upgrade project. On a roll call vote -- ayes: Metzger, K. Miller, L. Miller, Mayor Smith, Traver, Williams, and Dyer; nays: none. **MOTION CARRIED.**

**City of Marshall
County of Calhoun, State of Michigan**

**NOTICE OF INTENT RESOLUTION
GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS**

A RESOLUTION TO PROVIDE FOR:

- Publication of a Notice of Intent to Issue Bonds and Right of Referendum for up to \$1,600,000 of Bonds for repairs and improvements to the City's water system and related sewer and road reconstruction.
- When the Notice is published in *The Marshall Advisor/Chronicle*, voters will have a 45-day referendum period during which they could petition for referendum.
- Statement of Intent to reimburse expenditures from bond proceeds required by Internal Revenue Code for tax-exempt debt.

PREAMBLE

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the "City") determines it to be necessary for the public health, safety and welfare of the City and its residents to acquire and construct improvements and replacements to the City's existing water distribution system, including but not limited to replacement of water mains and service lines, related replacement of sanitary sewers, and related reconstruction of streets and sidewalks including curb and gutter and driveways, together with any appurtenances and attachments thereto and any related site acquisition or improvements (the "Capital Improvements"); and

WHEREAS, under the provisions of Section 517 of Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34") a City may issue municipal securities to pay the cost of any capital improvement items within the limitations provided by law; and

WHEREAS, the issuance by the City of bonds under Section 517 of Act 34 in an amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) (the "Bonds") for the purpose of financing costs of acquisition and construction of the Capital Improvements appears to be the most practical means to that end; and

WHEREAS, Act 34 requires that the aggregate outstanding balance of municipal securities issued under Section 517 of Act 34 by a City shall not exceed 5% of the state equalized valuation of the property assessed in that City, and after the issuance of the Bonds the outstanding balance of all municipal securities issued under Section 517 of Act 34 by the City will not exceed this limit; and

WHEREAS, a notice of intent to issue bonds must be published in order to comply with the requirements of Section 517 of Act 34 and Section 5(g) of the Home Rule Cities Act, Act 279, Public Acts of Michigan, 1909, as amended; and

WHEREAS, the Internal Revenue Service has issued Treasury Regulation § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended, governing proceeds of debt used for reimbursement, pursuant to which the City must declare official intent to reimburse expenditures with proceeds of such debt before making the expenditures.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue the Bonds in *The Marshall Advisor/Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a one-quarter (1/4) page display advertisement as required by Section 517 of Act 34, and shall be in substantially the following form:

NOTICE TO ELECTORS AND TAXPAYERS
OF THE CITY OF MARSHALL
OF INTENT TO ISSUE BONDS SECURED BY THE
TAXING POWER OF THE CITY AND RIGHT OF REFERENDUM THEREON

PLEASE TAKE NOTICE that the City Council of the City of Marshall, County of Calhoun, State of Michigan, intends to issue and sell general obligation capital improvement bonds, pursuant to Act 34, Public Acts of Michigan, 2001, as amended, in the maximum aggregate principal amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) for the purpose of paying costs of improvements and replacements to the City's existing water distribution system, including but not limited to replacement of water mains and service lines, related replacement of sanitary sewers, and related reconstruction of streets and sidewalks including curb and gutter and driveways, together with any appurtenances and attachments thereto and any related site acquisition or improvements.

The bonds may be issued in one or more series and may be combined with bonds issued for other purposes as shall be determined by the City Council. Each series of the bonds will mature in annual installments not to exceed the maximum permitted by law, with interest on the unpaid balance from time to time remaining outstanding on said bonds to be payable at rates to be determined at sale of the bonds but in no event to exceed such rates as may be permitted by law. Bond proceeds may be used for capitalized interest to the extent permitted by law.

SOURCE OF PAYMENT OF BONDS

The City intends to pay the principal and interest of the Bonds from water system rates, fees and charges and other revenues received by the City from the operations of the City's water supply system. In case of the insufficiency of these revenues, the principal of and interest on the Bonds shall be payable from the general funds of the City lawfully available for such purposes including property taxes levied within existing charter, statutory and constitutional limitations.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A VALID PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. If such petition is filed, the bonds may not be issued without an approving vote of a majority of the qualified electors of the City voting thereon.

THIS NOTICE is given pursuant to the requirements of Section 517 of Act 34, Public Acts of Michigan, 2001, as amended, and Section 5(g), Act 279, Public Acts of Michigan, 1909, as amended. Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Dennis L. Habedank, Interim City Clerk
City of Marshall

3. The City Council does hereby determine that the foregoing form of notice of intent to issue the Bonds, and the manner of publication directed, is adequate notice to the electors of the City and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the source of payment of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto. The City Council does hereby determine that the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed and the newspaper complies with the requirements of Act No. 247, Public Acts of Michigan, 1963.

4. The City may incur expenditures for the Capital Improvements prior to receipt of proceeds of the Bonds, and may advance moneys for that purpose from the general fund or funds of the City's water supply system, to be reimbursed from proceeds of the Bonds when available. The Finance Director shall keep a specific record of all such expenditures.

5. The City hereby makes the following declaration of intent for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(1) The City reasonably expects to reimburse itself for the expenditures described in (2) below with proceeds of debt to be incurred by the City.

(2) The expenditures described in this paragraph (2) are to pay certain costs associated with the Capital Improvements which were or will be paid subsequent to sixty (60) days prior to the date hereof or which will be paid prior to the issuance of the debt from the general funds or capital fund of the City or the City's water supply system.

(3) As of the date hereof, the maximum principal amount of debt expected to be issued for reimbursement purposes, including reimbursement of debt issuance costs, is \$1,600,000 which debt may be issued in one or more series and/or together with debt for other purposes.

(4) A reimbursement allocation of the expenditures described in paragraph (2) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Capital Improvements are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Capital Improvements to reimburse the City for a capital expenditure made pursuant to this Resolution.

(5) The expenditures for the Capital Improvements are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).

(6) No proceeds of the borrowing paid to the City in reimbursement pursuant to this Resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in paragraph (4) above.

6. The City hereby retains Robert W. Baird & Co. as Financial Consultant to assist the City in preparation and planning for the sale of the Bonds.

7. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C., has represented from time to time, and currently represents, various financial institutions, and other potential participants in the financing process for unrelated projects, any of which might offer to purchase the Bonds or to act as Transfer Agent for the Bonds. The City appoints Miller, Canfield, Paddock and Stone, P.L.C. as bond counsel for the Bonds, notwithstanding the potential concurrent representation of any such bidder regarding any unrelated matter.

8. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other actions necessary and convenient to facilitate sale of the Bonds.

9. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, at a Regular meeting held on April __, 2009 at __:___ o'clock p.m., prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Members were present at said meeting: _____
_____ and that the following Members were absent:
_____.

I further certify that Member _____ moved for adoption of said resolution and that Member _____ supported said motion.

I further certify that the following Members voted for adoption of said resolution:
_____ and that the following Members voted against adoption of said resolution: _____.

City Clerk

Moved Dyer, supported K. Miller, to accept the proposal to retain Courtney and Associates to perform an operations review of the Water, Wastewater and Electric departments and retain The Corradino Group to perform and operations review of the Motor pool department. On a roll call vote -- ayes: K. Miller, L. Miller, Mayor Smith, Traver, Williams, Dyer, and Metzger; nays: none. **MOTION CARRIED**

Moved Williams, supported Dyer, to accept the city's recommendation of the onetime fee payable to Norfolk Southern Railroad in the amount of \$5,500. On a roll call vote -- ayes: L. Miller, Mayor Smith, Traver, Williams, Dyer, Metzger, and K. Miller; nays: none. **MOTION CARRIED**

Moved Dyer, supported Williams, to approve the recommendation to allow for Option #1 in the amount of \$25,815 and if necessary Option #2 in the amount of \$42,975 with Solomon Corporation for the necessary Transformer Repairs. On a roll call vote -- ayes: Mayor Smith, Traver, Williams, Dyer, Metzger, K. Miller, and L. Miller; nays: none. **MOTION CARRIED**

APPOINTMENTS / ELECTIONS

None.

CONSENT AGENDA

Moved Williams, supported L. Miller, to approve the consent agenda as presented:

- establish a FY 2009-2010 Budget Work Session for Wednesday, April 15, 2009 at 6:30 p.m. at the Public Services Building, Second Floor Training Room;
- approve the request to allow the Marshall Area Farm Market to operate in the parking lot adjacent to the Brooks Building/Oaklawn Dialysis Center on Saturday mornings from May 16, 2009 through October 31, 2009;
- minutes of the Closed Session held Tuesday, February 2, 2009;
- minutes of the City Council Work Session held Monday, March 16, 2009;
- minutes of the Regular City Council meeting held Monday, March 16, 2009;
- minutes of the City Council Work Session held Saturday, March 21, 2009;
- minutes of the Special City Council meeting held Monday, March 30, 2009;
- approve city bills in the amount of \$664,270.94.

On a voice vote: **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

John LaPietra of 386 Boyer Court has concerns over the process of the Nuisance Ordinance and wanted to know how he could contribute money to support MPACT since his franchise fees were reduced on his cable bill.

Moved Dyer, supported Williams to go into closed session with city administration to discuss negotiation strategies for the agreement between the City of Marshall and Teamsters Local 214. On a roll call vote ó ayes: Traver, Williams, Dyer, Metzger, K. Miller, L. Miller, and Mayor Smith; nays: none. **MOTION CARRIED**

At 8:35 p.m. to move to the conference room for the closed session

At 9:23 p.m. returned to open session.

The meeting was adjourned at 9:25 p.m.