

IN REGULAR SESSION Monday, January 20, 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, K. Miller, L. Miller, Metzger, Mayor Smith, Traver and Williams.

Also Present: City Manager Olson, Clerk-Treasurer Hovarter and Deputy Clerk-Treasurer Townley.

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 K. Miller, supported L. Miller, to approve the agenda as presented. On a voice vote: **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITIONS

City Council presented a proclamation to express appreciation to Big Brother Big Sisters in celebrating National Mentoring Month, January 2009.

January 20, 2009
CITY OF MARSHALL, MICHIGAN

A PROCLAMATION TO EXPRESS PUBLIC APPRECIATION TO
BIG BROTHERS BIG SISTERS, A COMMUNITY OF CARING
AND TO JOIN THEM IN CELEBRATING NATIONAL
MENTORING MONTH, JANURAY 2009.

WHEREAS, the health, educational and social well-being of children is the responsibility of all citizens; and

WHEREAS, by strengthening our children through mentoring, we are building a stronger future for them, our communities; and

WHEREAS, the efforts of adults mentoring a child through *Big Brothers Big Sisters, A Community of Caring*, to help ensure that a child realizes his or her own personal value and potential, and instill within them the hope for a bright future; and

WHEREAS, relationships with caring adult mentors offers youth valuable skills and encouragement, motivation, and support to guide them in making positive choices; and

WHEREAS, the *Big Brother Big Sisters*, local success indicators show that youth with an adult mentor in their lives are more likely to have a successful future and become a responsible citizen; and

WHEREAS, in connection with the national mentoring effort, the *Big Brothers Big Sisters* is challenging residents of Marshall to step forward to volunteer and mentor a child.

NOW, THEREFORE LET IT BE RESOLVED that the City Council of the City of Marshall hereby recognize *Big Brothers Big Sisters* and join them in celebrating National Mentoring Month, January 2009.

Moved Williams, supported Dyer, to receive and place on file the 2007-2008 Audited Financial Statements as prepared by Rehman Robson. On a voice vote: **MOTION CARRIED.**

Moved Dyer, supported K. Miller, to have management provide the adjustments made at year end and present a corrective action plan on the deficiencies and weaknesses that were reported in the June 30, 2009 audit. On a voice vote: **MOTION CARRIED.**

INFORMATIONAL ITEMS

A quick overview was given on Marketing and Branding Marshall. New photos have been taken to refresh older ones and a visitor's guide brochure has been created to be distributed and used for tourism.

The Chamber's annual awards banquet is scheduled for January 26, 2009.

PUBLIC COMMENT ON AGENDA ITEMS

John LaPietra of 386 Boyer Court wanted to know how the "opt-out" will affect us.

PUBLIC HEARINGS AND SUBSEQUENT COUNCIL ACTION

Mayor Smith opened a public hearing to receive public comment on the July 1, 2009 through June 30, 2015 Capital Improvement Program.

John LaPietra of 386 Boyer Court wanted a quick overview of what is happening with the CIP since last year and if there is consideration of items in the CIP to be an ongoing process in future years. He was wondering if a copy of the CIP would be available at the Library and on-line.

Chris Olson gave an overview of the CIP.

Council Member Dyer would like to see this program renamed and to rename the "priority" portion to "category". He believes the current names may be misleading to their intent.

Moved Williams, supported Dyer, to approve the July 1, 2009 through June 30, 2015 Capital Improvement Program. On a roll call vote -- ayes: K. Miller, L. Miller, Metzger, Mayor Smith, Traver, Williams and Dyer; nays: none. **MOTION CARRIED.**

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

Moved Dyer, supported Williams, to adopt the attached resolution which authorizes the “opt-out” of FERC Order 719. On a roll call vote -- ayes: L. Miller, Metzger, Mayor Smith, Traver, Williams, Dyer and K. Miller; nays: none. **MOTION CARRIED.**

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

RESOLUTION NO 09-03

**A RESOLUTION TO ALLOW ONLY
THE CITY OF MARSHALL TO AGGREGATE DEMAND RESPONSE OF RETAIL
CUSTOMERS IN ACCORDANCE WITH FERC ORDER 719 AND
TAKING OTHER ACTIONS IN CONNECTION THEREWITH**

WHEREAS, the City of Marshall, Michigan (hereinafter “Municipality”) owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, On October 28, 2008 the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (“Order 719”).

WHEREAS, Order 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: “Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator’s or regional transmission organization’s organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.”

WHEREAS, Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system

operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

WHEREAS, the City Council of the Municipality has determined that it would be harmful to the demand response program to be implemented by the Municipality, the collective interests of the Municipality's electric utility system, and the Municipality's retail customers, to permit any entity other than the Municipality to aggregate demand response on behalf of its retail customers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Municipality of Marshall, Michigan, that:

SECTION 1. The City Council of the Municipality, as the retail electric regulatory authority for the Municipality and its retail electric consumers, determines it to be desirable that the aggregation of demand response on behalf of its retail customers to be bid directly into the organized electric and ancillary services markets administered by the regional transmission organization that includes the Municipality (or any successor independent system operator or regional transmission organization) be performed by the Municipality or its authorized designee.

SECTION 2. The Municipality or its authorized designee is the sole entity permitted to aggregate retail customers' demand response and bid demand response on behalf of retail customers of the Municipality directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

SECTION 3. Retail customers on the Municipality's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so only by participating in the program established by the Municipality or its authorized designee.

SECTION 4. The Municipality or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers of the Municipality directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

SECTION 5. Retail customers of the Municipality's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive

power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so only by participating in the program established by the Municipality or its authorized designee.

SECTION 6. The City of Marshall Utilities Rate Classifications Standard Rules and Regulations is amended to add Section 18 Retail Customer Demand Response which shall read as follows:

Retail customers shall be prohibited from participating in any demand response program except one provided by the City of Marshall, Michigan. This authority is provided by the Federal Energy Regulatory Commission Order No. 719 of 2008 and a resolution adopted by the City of Marshall, Michigan City Council on January 20, 2009.

SECTION 7. That this Resolution shall take effect at the earliest date allowed by law

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, Michigan, at a regular meeting held on January 20, 2009, 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. I further certify that the motion to adopt the foregoing resolution was made by Dyer and seconded by Williams.

AYES, Council members: L. Miller, Metzger, Mayor Smith, Traver, Williams, Dyer, and K. Miller.

NAYES, Council members: None.

ABSTAIN, Council members: None.

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and a complete copy of the resolution adopted by the City Council and the City of Marshall at a regular meeting on January 20, 2009. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976, as amended). Minutes of the meeting will be available as required by the Act.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed seal of said City of Marshall, this 20th day of January A.D., 2009.

Date

Tracy Hovarter, Clerk Treasurer

Moved Williams, supported L. Miller, to adopt the attached resolution which authorizes the Clerk-Treasurer to sign the Additional Power Purchase Agreement. On a roll call vote -- Metzger, Mayor Smith, Traver, Williams, Dyer, K. Miller, and L. Miller; nays: none. **MOTION CARRIED.**

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

RESOLUTION NO 09-04

RESOLUTION AUTHORIZING
THE EXECUTION OF AN AMENDMENT TO ADDITIONAL POWER PURCHASE
AGREEMENT BETWEEN
THE CITY OF MARSHALL
and
MICHIGAN SOUTH CENTRAL POWER AGENCY
RELATED TO A 2009-2012 NON-POOL POWER SALES SCHEDULE, AS
AMENDED
between
MICHIGAN SOUTH CENTRAL POWER AGENCY
and
AMERICAN MUNICIPAL POWER-OHIO, INC.

WHEREAS, the City of Marshall (hereinafter "Municipality") owns and operates an electric utility system for the benefit of the Municipality, its citizens and taxpayers; and

WHEREAS, Michigan South Central Power Agency (the "Agency"), and each of its member municipalities, including the Municipality, have entered into a Master Services Agreement (the "Agreement") with American Municipal Power-Ohio, Inc ("AMP-Ohio") and AMP-Ohio Affiliated entities, under which the Agency may enter into schedules on behalf of and as agent for one or more of its members for or related to the purchase or sale of electric power and energy; and

WHEREAS, by working jointly with AMP-Ohio and the other municipalities which are members of AMP-Ohio, the Agency can continue to provide to its member municipalities, including the Municipality, electric power and energy for their electric utility customers, with reliable service at reasonable rates; and

WHEREAS, the Agency has determined that acquisition of a reliable source of power and energy in the amount of up to 40,000 kw in the years 2009, 2010, 2011 and 2012 is necessary for the assurance of adequate power supplies and is in the best interests of the Agency and its Members; and

WHEREAS, AMP-Ohio is willing to contract to provide to the Agency power and energy pursuant to the Agreement in the required amounts, from a source or sources to be identified by AMP-Ohio and approved by the Agency; and

WHEREAS, the Agency, on behalf of itself and each of its participating member municipalities, including the Municipality, has entered into the 2009-2012 Non-Pool Power Purchase Schedule (the "Schedule") under the Agreement for the provision of power and energy to the Agency in the amount of 35,000 kw in the years 2009 and 2010, 25,000 kw in 2011 and 15,000 kw in 2012, and it is necessary for the Agency, on behalf of itself and each of its participating member municipalities, including the Municipality, to amend the Schedule through a "Schedule Amendment" to increase that amount to up to 40,000 kw in the years 2009, 2010, 2011 and 2012, as provided above; and

WHEREAS, under the terms of the Agreement, prior to the execution of the amendment to the Schedule, the Agency and each of its participating members, including the Municipality, have executed an Additional Power Purchase Agreement (the "Purchase Agreement"), and it is necessary to amend the Purchase Agreement through an "Agreement Amendment" to reference the increase in power to be delivered under the Schedule, as amended to up to 40,000 kw in the years 2009 through 2012:

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARSHALL.

SECTION 1: The execution by the Agency, for and on behalf of itself and each of its participating members, including the Municipality, of the Schedule Amendment for the purpose of increasing the amount of power and energy to be delivered in the years 2009, 2010, 2011 and 2012 to up to 40,000 kw is hereby approved.

SECTION 2: The execution and delivery by the Clerk Treasurer, for and on behalf of the Municipality, of the Agreement Amendment for the purpose of referencing the increase in the amount of power and energy to be delivered under the Schedule, as amended, in the years 2009, 2010, 2011 and 2012 to up to 40,000 kw is hereby approved.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution, to the extent required to be, were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in those formal action were in compliance with applicable law.

SECTION 4: This Resolution shall be effective at the earliest time permitted by law.

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, Michigan, at a regular meeting held on January 20, 2009, 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. I further certify that the motion to adopt the foregoing resolution was made by Williams and seconded by L. Miller

AYES, Council members: Metzger, Mayor Smith, Traver, Williams, Dyer, K. Miller and L. Miller.

NAYES, Council members: None.

ABSTAIN, Council members: None.

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and a complete copy of the resolution adopted by the City Council and the City of Marshall at a regular meeting on January 20, 2009. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976, as amended). Minutes of the meeting will be available as required by the Act.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed seal of said City of Marshall, this 20th day of January A.D., 2009.

Date

Tracy Hovarter, Clerk Treasurer

APPOINTMENTS / ELECTIONS

None.

CONSENT AGENDA

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

- to approve the January 5, 2009 Regular City Council Minutes; and
- to approve the city bills in the amount of \$1,083,618.05.

On a roll call vote -- ayes: Mayor Smith, Traver, Williams, Dyer, K. Miller, L. Miller and Metzger; nays: none. **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

John LaPietra of 386 Boyer Court would like to say Happy New Year and let staff know he appreciates them getting information out. He would like to hear from anyone who wants to attend meetings and help the citizens be better informed. John would like the citizens to be aware on February 12, 2009 there will be a 'Have a Heart' fundraiser for mental care in Lansing.

The meeting was adjourned at 9:10 p.m.

Bruce R. Smith, MAYOR

Tracy Hovarter, CLERK-TREASURER