

CALL TO ORDER

IN REGULAR SESSION Monday, May 6, 2019 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 Caron.

ROLL CALL

Roll was called:

Present: Council Members: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Richard Gerten of Family Bible Church gave the invocation and Mayor Caron led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported McNeil, to approve the agenda as presented. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Wolfersberger, supported Underhill, to approve the Consent Agenda:

- A. Schedule a public hearing for Monday, May 20, 2019 to receive public comment on the Fiscal Year 2020 General Fund, Special Revenue Funds, Enterprise Funds and Internal Service Funds budgets;
- B. Schedule a public hearing for Monday, May 20, 2019 to hear public comment regarding the proposed amendments to the City of Marshall Code of Ordinances Sections 137.04 Marihuana and 137.05 Possession or Use of Drug Paraphernalia;
- C. Approve the Annual Sidewalk Use License for Dark Horse Commons to operate an outdoor restaurant/café effective May 1, 2019 through April 30, 2020;
- D. Minutes of the City Council Work Session and Regular Session held on Monday, April 15, 2019, City Council Special Session held on Monday, April 22, 2019, and City Council Work Session held on Saturday, April 27, 2019;
- E. Approve city bills in the amount of \$ 336,600.24.

On a roll call vote – ayes: Gates, McNeil, Metzger, Traver, Underhill, Wolfersberger, and Mayor Caron; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

Shannon Tiernan, Executive Director of the Marshall Community Foundation, provided an update on the Foundation.

INFORMATIONAL ITEMS

Event Reports were provided for the Relay for Life “Kari On” 5k Race and the Jam for a Cure event.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

None.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Recognition of Fountain Clinic as a Charitable Organization:

Moved Metzger, supported Gates, to approve a resolution allowing the Fountain Clinic to be recognized as a nonprofit organization for the purpose of obtaining a charitable gaming license. On a voice vote – **MOTION CARRIED.**

B. School Resource Officer Agreement:

Moved Metzger, supported Wolfersberger, to approve the School Resource Officer Agreement between the City of Marshall and Marshall Public Schools. On a voice vote – **MOTION CARRIED.**

C. Michigan Hard Cap Exemption:

Moved McNeil, supported Wolfersberger, to adopt the resolution to exempt the City of Marshall from the requirements of PA 152 if 2011. On a roll call vote – ayes: Metzger, Traver, Underhill, Wolfersberger, Mayor Caron, Gates, and McNeil; nays: none. **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN RESOLUTION #2019-13

RESOLUTION TO ADOPT THE ANNUAL EXEMPTION OPTION AS SET FORTH IN 2011 PUBLIC ACT 152, THE PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT

WHEREAS, 2011 Public Act 152 (the “Act”) was passed by the State Legislature

and signed by the Governor on September 24, 2011;

WHEREAS, the Act contains three options for complying with the requirements of the Act;

WHEREAS, the three options are as follows:

- 1) Section 3 - "Hard Caps" Option - limits a public employer's total annual health care costs for employees based on coverage levels, as defined in Act;
- 2) Section 4 - "80%/20%" Option - limits a public employer's share of total annual health care costs to not more than 80%. This option requires an annual majority vote of the governing body;
- 3) Section 8 - "Exemption" Option - a local unit of government, as defined in the Act, may exempt itself from the requirements of the Act by an annual 2/3 vote of the governing body;

WHEREAS, the City Council has decided to adopt the annual Exemption option as its choice of compliance under the Act;

NOW, THEREFORE, BE IT RESOLVED the City Council of the CITY of Marshall elects to comply with the requirements of 2011 Public Act 152, the Publicly Funded Health Insurance Contribution Act, by adopting the annual Exemption option for the medical benefit plan coverage year July 1, 2019 through June 30, 2020.

Upon a call of the roll, the vote was as follows:

Ayes: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

Nays: None.

Absent: None.

RESOLUTION DECLARED ADOPTED.

CERTIFICATION OF CITY CLERK

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 at a regular meeting held on the 6th day of May, 2019.

Trisha Nelson, City Clerk

Date

D. Michigan Public Power Agency Associate Member:

Moved Gates, supported Underhill, to adopt the resolution to become an Associate Member of the Michigan Public Power Agency. On a voice vote – **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2019-14**

**RESOLUTION TO BECOME AN ASSOCIATE MEMBER OF THE MICHIGAN
PUBLIC POWER AGENCY**

At a regular meeting of the City Council of the City of Marshall, Michigan held on May 6, 2019 at 7:00 PM;

PRESENT: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

ABSENT: None.

The following resolution was offered by Gates, who moved its adoption, and the motion was seconded by Underhill.

WHEREAS, the City of Marshall previously determined that additional power supply capacity will be required to meet the future needs of its customers; and

WHEREAS, the Michigan Public Power Agency ("MPPA") was established pursuant to Act 448 of the Public Acts of 1976 (the Michigan Energy Employment Act) for the purpose of undertaking various projects authorized by the Act; and

WHEREAS, the existence of MPPA and membership in MPPA by the City of Marshall, and other municipalities will foster the continuation of joint planning and undertaking of projects, and the resulting economies and efficiencies to be realized thereby will serve the interests of the residents of the City of Marshall; and

WHEREAS, Member municipalities may elect to participate in only those MPPA projects from which they determine they will benefit; and

WHEREAS, the City of Marshall has recommended, and the City of Marshall determines it to be in the best interest of the City of Marshall to become an Associate Member of MPPA for the purpose of undertaking and planning, financing, development, acquisition, construction, reconstruction, improvement, enlargement, betterment operation or maintenance of the projects authorized under and pursuant to Act 448;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Marshall City Council hereby ratifies and confirms:
 - a. Staff is seeking admission of the City of Marshall as an Associate Member of MPPA.
 - b. The City of Marshall electing to become an Associate Member of MPPA.
 - c. The initial appointment of Ed Rice to be its representative on the MPPA's Board of Commissioners, and Tom Tarkiewicz to be its alternate representative.
2. The City of Marshall may, at a later date, make a request to MPPA's Board that it desires to become a Full Member of MPPA.
3. This resolution shall be effective immediately.

Voting For: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

Voting Against: None.

Absent: None.

CERTIFICATION OF CITY CLERK

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Trisha Nelson, City Clerk

Date

E. Notice of Intent to Issue Bonds – Electric Fund:

Moved Wolfersberger, supported Underhill, to approve the resolution “Notice of Intent to Sell Electric System Revenue Bonds” initiating the forty-five-day referendum period prior to the sale of the bonds, and to authorize the City Clerk to publish the Notice of Intent and Right of Referendum. On a voice vote – **MOTION CARRIED.**

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

Resolution #2019-14

**NOTICE OF INTENT RESOLUTION
ELECTRIC UTILITY SYSTEM REVENUE BONDS**

A RESOLUTION TO APPROVE:

- Publication of a Notice of Intent to Issue Bonds and Right of Referendum for up to \$5,750,000 of Revenue Bonds to construct Electric Utility System improvements.
- Bonds to be payable solely from Electric Utility System revenues.
- After the notice is published, 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, install and construct upgrades, improvements and extensions of the Electric Utility System, together with any appurtenances and attachments thereto and any related site acquisition or improvements (the “Project”); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended (“Act 94”), permits a City to borrow money to finance the acquisition, construction, improvement, enlargement, extension, and repair of public improvements through the issuance of revenue bonds; and

WHEREAS, the issuance of revenue bonds under Act 94 payable from revenues of the City’s Electric Utility System in an amount to be determined prior to the sale of the Revenue Bonds, but in any event not to exceed Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000) (the “Revenue Bonds”) for the purpose of financing all or a portion of the costs of acquisition, installation and construction of the Project, the funding of reserve funds, and paying costs of issuing the Revenue Bonds, appears to be the most practical means to that end; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Revenue Bonds in order to comply with the requirements of Section 33 of Act 94; 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 Revenue Bonds in the *Marshall Ad-Visor & 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 and shall be in substantially the following form:

NOTICE TO ELECTORS OF THE CITY OF MARSHALL
AND TO USERS OF THE CITY'S ELECTRIC UTILITY SYSTEM OF
INTENT TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE
ELECTRIC UTILITY SYSTEM AND RIGHT OF REFERENDUM

PLEASE TAKE NOTICE that the City Council of the City of Marshall, County of Calhoun, State of Michigan, intends to issue and sell the City's Electric Utility System Revenue Bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in the maximum aggregate principal amount not to exceed Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000) for the purposes of paying all or a portion of costs to acquire, install and construct upgrades, improvements and extensions of the Electric Utility System, together with any appurtenances and attachments thereto and any related site acquisition or improvements. Costs financed with proceeds of the Revenue Bonds shall include funding of required bond reserve funds and costs of issuance. The bonds may be issued in one or more series and combined with bonds for other purposes as shall be determined by the City Council. Each series of the bonds will mature in annual installments not to exceed 20 years, with interest on the unpaid balance from time to time remaining outstanding on the 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.

SOURCE OF PAYMENT OF REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS SHALL BE PAYABLE SOLELY from the revenues received by the City from the operations of the City's Electric Utility System (the "System"). The revenues will consist of rates, fees and charges billed to the users of the System, a schedule of which is presently on file at City Hall and posted at www.cityofmarshall.com. The rates, fees and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the System, to pay the principal of and interest on the Revenue Bonds and any other bonds of the System, and to pay other obligations of the System.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A VALID PETITION REQUESTING AN ELECTION ON THE QUESTION OF ISSUING THE REVENUE BONDS, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY, IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER THE DATE OF PUBLICATION OF THIS

NOTICE. If such a petition is filed, the Revenue Bonds cannot be issued unless approved by a majority vote of the electors of the City voting on the question of their issuance.

THIS NOTICE is given pursuant to the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended.

Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Trisha Nelson, City Clerk
City of Marshall

3. The City Council hereby determines that the foregoing form of notice of intent to issue the Revenue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and the users of the Electric Utility System and is the method best calculated to give them notice of the City's intent to issue the Revenue Bonds, the purpose of the Revenue Bonds, the source of payment of the Revenue Bonds, and the right of referendum of the electors with respect thereto. The City Council hereby determines that the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. The City may incur expenditures for the Project prior to receipt of proceeds of the Revenue Bonds, and may advance moneys for that purpose from the funds of the Electric Utility System to be reimbursed from proceeds of the Revenue 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 (the "Internal Revenue Code"):

(1) The City reasonably expects to reimburse itself with proceeds of debt to be incurred by the City for certain costs associated with acquisition, installation and construction of the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof from the general funds or capital fund of the City or the City's Electric Utility System.

(2) 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 \$5,750,000, which debt may be issued in one or more series and/or together with debt for other purposes.

(3) A reimbursement allocation of the expenditures described in paragraph (1) 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 Project is 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 Project to reimburse the City for a capital expenditure made pursuant to this Resolution.

(4) The expenditures for the Project 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).

(5) 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 (3) above.

6. The City hereby requests Miller, Canfield, Paddock and Stone, P.L.C. (“Miller, Canfield”) to continue to serve as bond counsel to the City for the Revenue Bonds. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C., has represented from time to time, and currently represents, various underwriters, banks, and financial institutions, and other potential participants in the financing process for unrelated projects, any of which might offer to purchase the Revenue Bonds.

7. The City hereby requests that Bendzinski & Co., Registered Municipal Advisors with the Municipal Securities Rulemaking Board (the “Municipal Advisor”) continue to serve the City as Municipal Advisor to advise the City on the marketing and sale of the Revenue Bonds.

8. In the event that the Finance Director is not available at the time that it becomes necessary to take actions directed or authorized under this resolution, then the City Manager is authorized to take the actions delegated to the Finance Director by this Resolution.

9. 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 Revenue Bonds.

10. 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 May 6, 2019 at 7:00 p.m., Eastern Time, and that the meeting was conducted and public notice of the 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 the meeting were kept and will be or have been made available as required by Act 267.

I further certify that the following Members were present at the meeting: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger and that the following Members were absent: None.

I further certify that Member Wolfersberger moved for adoption of the resolution and that Member Underhill supported the motion.

I further certify that the following Members voted for adoption of the resolution: Gates, McNeil, Metzger, Traver, Underhill, Wolfersberger, and Mayor Caron and that the following Members voted against adoption of the resolution: None.

City Clerk

F. 3rd Quarter Financial Report:

Moved Metzger, supported McNeil, to accept the 3rd Quarter Financial Report as presented. On a voice vote – **MOTION CARRIED.**

G. 3rd Quarter Investment Portfolio:

Moved McNeil, supported Metzger, to accept the 3rd Quarter Investment Portfolio Report as presented. On a voice vote – **MOTION CARRIED.**

H. 3rd Quarter Cash Position Report:

Moved Gates, supported Wolfersberger, to accept the 3rd Quarter Cash Position Report as presented. On a voice vote – **MOTION CARRIED.**

APPOINTMENTS/ELECTIONS

A. Appointment of City Attorney:

Moved Traver, supported Metzger, to confirm the Mayor's recommendation of reappointing David Revore as City Attorney and John Sullivan and John Brundage as City Prosecuting Attorney's. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Metzger, supported Underhill, to enter into closed session under section 8 (c) of the Open Meetings Act to discuss strategy for collective bargaining agreements. On a roll call vote – ayes: Traver, Underhill, Wolfersberger, Mayor Caron, Gates, McNeil, and Metzger; nays: none. **MOTION CARRIED.**

Enter into closed session at 7:59 p.m.

Return to open session at 9:33 p.m.

ADJOURNMENT

The meeting was adjourned at 9:33 p.m.

Joe Caron, Mayor

Trisha Nelson, City Clerk