

CALL TO ORDER

IN REGULAR SESSION Monday, December 21, 2009 at 7:00 P.M. in Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Smith.

ROLL CALL

Roll was called:

Present: Council Members: Doane, Dyer, Metzger, Miller, Mayor Smith and Williams.

Also Present: City Manager Tarkiewicz

Absent: Council Member Traver.

Moved Miller, supported Williams, to excuse the absence of Council Member Traver. On a voice vote: **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Richard Gerten of Family Bible Church gave the Invocation and Mayor Smith led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PRESENTATIONS AND RECOGNITION

Mayor Smith presented Rich Hulkow, coach of the Marshall Redhawk Football Team, with a Certificate of Recognition for winning the Division IV State Championship.

INFORMATIONAL ITEMS

City Manager Tarkiewicz announced that beginning in January, City Council will resume Work Sessions at 6:00 p.m. prior to each City Council Meeting.

PUBLIC COMMENT ON AGENDA ITEMS

None.

PUBLIC HEARINGS AND SUBSEQUENT COUNCIL ACTION

A. Tenneco:

Mayor Smith opened the public hearing to hear comment on the completion of the Tenneco Road extension project.

Hearing no public comment the hearing was closed.

B. River District Overlay:

Mayor Smith opened the public hearing to hear comment on the River District Overlay.

John LaPietra of 386 Boyer Court asked questions concerning the boundaries of the River District Overlay and if the committee took into consideration actual land use.

Hearing no further comment the public hearing was closed.

Moved Williams, supported Metzger to adopt the River District Overlay for the City of Marshall. On a roll call vote – ayes: Doane, Dyer, Metzger, Miller, Mayor Smith, and Williams; nays: none. **MOTION CARRIED**

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. AMP Hydroelectric Power Supply Resolution:

Moved Miller, supported Williams, to adopt the resolution authorizing the Clerk-Treasurer to sign the Power Sales Agreement with AMP for 1,180 kW of hydroelectric energy. On a roll call vote – ayes: Dyer, Metzger, Miller, Mayor Smith, Williams, and Doane; nays: none. **MOTION CARRIED**

**THE CITY OF MARSHALL, MICHIGAN
RESOLUTION NO. 09-36**

**TO APPROVE THE FORM AND
AUTHORIZE THE EXECUTION OF POWER SALES CONTRACTS WITH
AMERICAN MUNICIPAL POWER, INC.
AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH REGARDING
MELDAHL AND GREENUP HYDROELECTRIC PROJECT PARTICIPATION**

City of Marshall
County of Calhoun, State of Michigan

Minutes of a regular meeting of the City Council of the City of Marshall, County of Calhoun, State of Michigan held on the 21st day of December, 2009, at 7:00 o'clock, p.m., Eastern Time.

PRESENT: Doane, Dyer, Metzger, Miller, Mayor Smith, and Williams.

ABSENT: Traver

The following preamble and resolution were offered by Member Miller and supported by Member Williams:

WHEREAS, the City of Marshall, Michigan (“ 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, the Municipality is a member of the Michigan South Central Power Agency (the “Agency”); and

WHEREAS, the Municipality is also a member of American Municipal Power, Inc. (“AMP”); and

WHEREAS, the Municipality and the Agency have agreements in place under which the Agency is to supply to the Municipality and the Municipality is to purchase from the Agency, all bulk power needs of the Municipality related to its municipal electric utility system; and

WHEREAS, the Municipality and the Agency, and certain of the Agency’s other member municipalities (the “Agency Members”), acting individually and, along with other municipalities which own and operate electric utility systems, jointly, endeavor to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to their customers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, Municipality, through the Agency, has heretofore purchased, or desires to purchase in the future, economical and reliable power and energy from, or arranged by AMP; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members (“Members”), such Members, including Municipality, being, as of the date hereof, political subdivisions that operate municipal electric utility systems in Ohio, Kentucky, Michigan, Pennsylvania, Virginia and West Virginia; and

WHEREAS, Municipality and the Agency, and certain of the Agency’s other member municipalities (the “Agency Members”), acting individually and through AMP with other political subdivisions of this and other states that own and operate electric utility systems, jointly, endeavors to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to its customers; and

WHEREAS, it is efficient and economical to act jointly in such regard; and

WHEREAS, certain Members, including the Municipality (“Participants”), have determined they require additional, very long-term sources of reliable and environmentally sound base load electric power and energy at reasonable costs and have requested that AMP arrange for the same by developing or otherwise acquiring interests in certain hydroelectric facilities located at locks and dams along the Ohio River; and

WHEREAS, in furtherance of this purpose, AMP and the City of Hamilton, Ohio (“Hamilton”) have entered into agreements under the terms of which (i) AMP is to own,

finance and construct and Hamilton is to operate the Meldahl Hydroelectric Project, FERC License No. 12667 ("Meldahl Project"), projected to have a net rated electric generating capacity of one hundred five megawatts (105 MW); and (ii) AMP has agreed to purchase from Hamilton, contingent on the Meldahl Project being declared in Commercial Operation, a forty-eight and six-tenths percent (48.6%) undivided ownership interest in the currently operating Greenup Hydroelectric Project, FERC License No. 2614, with a net rated electric generating capacity of seventy and two-tenths megawatts (70.2 MW) (the "Greenup Project" and, collectively with the Meldahl Project, the "Hydroelectric Projects"); and

WHEREAS, because AMP's acquisition of an ownership interest in the Greenup Project is contingent upon the Meldahl Project being declared in Commercial Operation, AMP has determined to make available the Hydroelectric Projects as a package such that each Participant will participate in both the Meldahl Project and Greenup Project, although the Participant will execute separate power sales contracts for each project (individually the "Greenup PSC" and "Meldahl PSC" and, collectively, "Project PSCs"); and

WHEREAS, Members now have the right, but not the obligation, by the enactment of this Resolution (i) to authorize and request AMP to own, finance, construct and provide for the operation of the Meldahl Project (ii) to authorize and request AMP to purchase an undivided ownership interest in the Greenup Project from Hamilton and to own, finance and provide for the operation of the Greenup Project, and (iii) to execute the Project PSCs authorized below; and

WHEREAS, prior to the adoption of this Resolution, AMP has (i) informed the Municipality regarding the Meldahl developmental process and efforts undertaken by AMP to further its interests in the Hydroelectric Projects; (ii) provided the Municipality with a Feasibility Report regarding the Hydroelectric Projects; and (iii) afforded representatives of the Municipality the opportunity to ask such questions, review such data and reports, conduct such inspections and otherwise perform such investigations with respect to, as applicable, the planning, engineering, acquisition, construction and operation of the Hydroelectric Projects and the terms and conditions of the Project PSCs authorized below as the Municipality deems necessary or appropriate in connection herewith; and

WHEREAS, after consideration of the potential risks and benefits of participating in Hydroelectric Projects and the respective Project PSCs authorized below, the Municipality has determined it is reasonable and in its best interests to proceed as authorized herein and hereby requests and authorizes AMP (i) to own, finance, construct and provide for the operation of the Meldahl Project, on behalf of the Municipality and the other Participants in accordance with the Meldahl PSC authorized below and in conjunction with similar authorizations by other AMP Members, as Participants and (ii) to purchase from Hamilton a 48.6% undivided ownership interest in the Greenup Project, the closing of such purchase being contingent upon the Meldahl Project's being declared in Commercial Operation, and to own such interest and finance such purchase and improvements to the Greenup Project on behalf of the Municipality

and the other Participants in accordance with the Greenup PSC authorized below and in conjunction with similar authorizations by other AMP Members, as Participants.

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

SECTION 1. That the Project PSCs between Municipality and AMP, substantially in the form on file with the Clerk, including Appendices thereto, are approved, and the Clerk-Treasurer of Municipality are hereby authorized to execute and deliver the Project PSCs, with such changes as the City Manager may approve as neither inconsistent with this Resolution nor materially detrimental to the Municipality, his or her execution of the PSCs to be conclusive evidence of such approval as well as any necessary related agreements with the Agency regarding the Project.

SECTION 2. That the City Manager is hereby authorized to acquire on behalf of the Municipality, as a Participant, as defined in the Project PSCs, a right to, respectively, a Meldahl Project Share, as defined in the Meldahl PSC, and a Greenup Project Share, as defined in the Greenup PSC without bid, from AMP and to execute and deliver any and all documents necessary to become a Participant in the Hydroelectric Projects pursuant to the conditions set forth herein and in the respective Project PSCs and to carry out its obligations under each.

SECTION 3. That it is further acknowledged and understood that because the Participants will determine the precise number of Meldahl and Greenup Project Shares, expressed as percentages, totaling 100%, of all such Meldahl and Greenup Project Shares, to be acquired by each Participant electing to enter into the Project PSCs, after all such Participants execute and deliver the Project PSCs, the City Manager, in connection with the execution and delivery of the Project PSCs, is authorized and directed to determine and acquire Municipality's Meldahl and Greenup Project Shares, of up to a combined total nominal amount of 1,180 kilowatts and expressed as a percentage of all such Shares and, allocated approximately 60% to the Meldahl Project and 40% to the Greenup Project ("Total Combined Project Shares"), after consultation with AMP and the other Participants regarding the respective Project Shares available, credit concerns and other appropriate matters, such Project Shares to be set forth in Appendix A of the respective Project PSCs, such determination as to such Project Shares being conclusively evidenced by the adoption of Appendix A to the respective Project PSCs, as authorized therein.

SECTION 4. That in accordance with the acquisition of Municipality's respective Project Shares authorized in Section 3, Municipality's Total Combined Project Shares shall equal its Greenup Project Share, plus its Meldahl Project Share, with the Meldahl Project Share comprising of approximately sixty percent (60%) of the Total Combined Project Shares and the Greenup Project Share comprising of approximately forty percent (40%) of the Total Combined Project Shares authorized in Section 3.

SECTION 5. That the City Manager of this Municipality, as a part of such officer's official duties, is hereby appointed as Municipality's representative for any meetings or determinations of the Participants or the Participants Committee pursuant to the respective Project PSCs and is authorized and directed, acting for, in the name of

and on behalf of this Municipality, to vote Municipality's respective Project Share with regard to any determinations regarding the Hydroelectric Projects as set forth in the Project PSCs.

SECTION 6. That the City Manager may appoint, in writing from time to time as convenient or necessary, another appropriate representative of the Municipality as his or her alternate to carry out the duties set forth in Section 5 hereof.

SECTION 7. That it is found and determined that all formal actions of this City Council concerning and relating to the passage of this Resolution were taken in conformance with applicable open meetings laws and that all deliberations of this City Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

SECTION 8. If any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Resolution shall be unaffected by such adjudication and all the remaining provisions of this Resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 9. That this Resolution shall take effect at the earliest date allowed by law.

AYES: Doane, Dyer, Metzger, Miller, Mayor Smith, and Williams.

NAYS: None.

RESOLUTION DECLARED ADOPTED

Sandra Bird, City Clerk-Treasurer

Date

B. Benefit Program E- Pension Increase for Current Retirees:

Moved Metzger, supported Williams, to approve the Flexible E Benefit Program which commits the City of Marshall to a 2010 pension increase of \$10.00 per month for all City of Marshall retirees. On a roll call vote – ayes: Metzger, Miller, Mayor Smith, Williams, Doane, and Dyer; nays: none. **MOTION CARRIED**

C. Audited Financial Statements for Fiscal Year Ended June 30, 2009:

Moved Dyer, supported Metzger, to receive and place on file the Fiscal Year 2009 Audited Financial Statements as prepared by Rehmann Robson. On a roll call vote –

ayes: Miller, Mayor Smith, Williams, Doane, Dyer, and Metzger; nays: none. **MOTION CARRIED.**

D. Drug Forfeiture Fund Allocation:

Moved Williams, supported Dyer, to authorize use of \$1,756.00 of Drug Forfeiture Funds for equipment updates to the new patrol cars. On a roll call vote – ayes: Mayor Smith, Williams, Doane, Dyer, Metzger, and Miller; nays: none. **MOTION CARRIED**

E. Dial-A-Ride Transit Application for State Financial Assistance:

Moved Miller, supported Dyer, to authorize the City of Marshall Dial-A-Ride Transit to seek financial assistance from the State of Michigan for FY 2010-2011. On a roll call vote – ayes: Williams, Doane, Dyer, Metzger, Miller, and Mayor Smith; nays: none. **MOTION CARRIED**

CITY OF MARSHALL, MICHIGAN
RESOLUTION #09-37

THE APPROVED RESOLUTION OF INTENT TO APPLY FOR FINANCIAL ASSISTANCE FOR FISCAL YEAR 2010/11 UNDER ACT NO. 51 OF THE PUBLIC ACTS OF 1951, AS AMENDED

WHEREAS, pursuant to Act No. 51 of the public Acts of 1951, as amended (Act 51), it is necessary for the City of Marshall to provide a local transportation program for the state fiscal year of 2011 and therefore, apply for state financial assistance under provisions of Act 51; and

WHEREAS, it is necessary for the City Council, to name an official representative for all public transportation matters, who is authorized to provide such information as deemed necessary by the Council or department for its administration of Act 51; and

WHEREAS, it is necessary to certify that no changes in eligibility documentation have occurred during the past state fiscal year; and

WHEREAS, the City Council has reviewed the proposed preliminary budget and funding sources of \$56,295 (16%) estimated federal funds, \$123,638 (35.09%) estimated state funds, \$103,664 estimated local funds, \$45,000 estimated fare receipts, and \$37,000 estimated other funding sources, with total estimated eligible expenses of \$352,246 and estimated ineligible expenses of \$38,362 for 2011.

NOW THEREFORE, be it resolved that the City Council does hereby make its intentions known to provide public transportation services and to apply for state financial assistance with this annual plan, in accordance with Act 51; and

HEREBY, appoints Deputy Director of Utilities and Infrastructure for the City of Marshall, as the Transportation Coordinator for all public transportation matters, who is

authorized to provide such information as deemed necessary by the Council for its administration of Act 51, for fiscal year 2011.

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on December 21, 2009, and that said meeting was conducted and that the minutes of said meeting were kept and will be or have been made available.

Sandra Bird, CLERK-TREASURER

F. Community Development Block Grant Application:

Moved Williams, supported Dyer, to adopt the resolution authorizing the City of Marshall to apply for a CDBG Grant to extend City sewer to Johnson System Inc. On a roll call vote – ayes: Doane, Dyer, Metzger, Miller, Mayor Smith, and Williams; nays: none. **MOTION CARRIED**

CITY OF MARSHALL, MICHIGAN
RESOLUTION #09-38
City of Marshall Authorizing Resolution
For A Community Development Block Grant Application

WHEREAS, Johnson System Inc is expanding their current product line to include towers for wind turbines and is committed to generate 15 new jobs and an investment of \$279,000; and

WHEREAS, in order to for the Johnson System Inc facility located at 1120 Industrial Road, Marshall, MI 49068 to support this expansion, Johnson System Inc has requested that the City extend sewer to this facility; and

WHEREAS, the City of Marshall is willing to support this project because Johnson System Inc is a new industry in Marshall and this project will strengthen the likelihood that the Company will remain a viable Marshall manufacturer; and

WHEREAS, fifty-one percent (51%) of the new jobs created at Johnson System Inc through this project will be made available to low and moderate income persons; and

WHEREAS, the construction of this sewer extension is consistent with the City's Master Plan for Future Land Use; and

WHEREAS, the total project cost is estimated to be \$125,476 and Community Development Block Grant (CDBG) funds may be available to support this project, and the City's fund balance(s) may be applied towards the City's required match.

THEREFORE, BE IT RESOLVED, that the Marshall's City Council supports this project and authorizes the submittal of an application for the Community Development Block Grant in the amount up to \$125,476 with the city's match anticipated to be \$12,548.00 to be funded by the Waste Water fund; and

BE IT FURTHER RESOLVED, that Bruce Smith, Mayor of the City of Marshall, is authorized to sign the Application Forms and is also designated the Certifying Officer for this project; and

THAT IT BE FINALLY RESOLVED that no project costs will be incurred prior to a formal grant award, the completion of the environmental review procedures, or before a formal, written authorization to incur costs is received from the Community Development division of MEDC.

Sandra Bird, Clerk-Treasurer

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on December 21, 2009 and that said meeting was conducted and that the minutes of said meeting were kept and will be or have been made available.

Sandra Bird, Clerk-Treasurer

APPOINTMENTS / ELECTIONS

A. Board of Review Reappointments:

Moved Williams, supported Metzger, to approve the reappointment of Kevin Bartlett, Lisa Damron, and Gerald Lehmann to the Board of Review with terms expiring January 1, 2012. On a voice vote: **MOTION CARRIED.**

B. Brooks Nature Area Board Reappointments:

Moved Dyer, supported Williams, to approve the reappointment of David Fhaner, Patti Hoch-Melluish, and Jim Coury to the Brooks Nature Area Board with terms expiring August 15, 2012. On a voice vote: **MOTION CARRIED.**

CONSENT AGENDA

Moved Miller, supported Metzger, to approve the consent agenda as presented:

- A.** Minutes of the Regular City Council held Monday, December 7, 2009;
- B.** Approve city bills in the amount of \$897,271.05.

Marshall City Council, Regular Session
Monday, December 21, 2009

On a roll call vote – ayes: Dyer, Metzger, Miller, Mayor Smith, Williams, and Doane;
nays: none. **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

John LaPietra of 386 Boyer Court thanked everyone for their kindness during his stand
for peace.

COUNCIL AND MANAGER COMMUNICATIONS

None

ADJOURNMENT

The meeting was adjourned at 7:50 p.m.

Bruce R. Smith, Mayor

Sandra Bird, Clerk-Treasurer