

CALL TO ORDER

IN REGULAR SESSION Monday, July 2, 2012 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 Pro Tem Williams.

ROLL CALL

Roll was called:

Present: Council Members: Booton, Mayor Dyer (arrived at 7:45 p.m.), Mankerian, Metzger, Miller, and Williams.

Also Present: City Manager Tarkiewicz.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Scott Loughrige of Cross Roads Church and Ministries gave the invocation and Mayor Pro Tem Williams led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT ON AGENDA ITEMS

Dave Stevenson of 313 S. Grand stated some concerns with the Hospital and Neighborhood Committee.

Jerry Clifton of 15766 17 ½ Mile Road commented on the issue of taxes.

CONSENT AGENDA

Moved Miller, supported Mankerian, to approve the consent agenda:

- A. Approve the recommendation to sign the amendment to the right of way and easement grant and the temporary work agreement with Enbridge Energy for parcel 003-000-00, 003-000-01, 003-422-01, and 311-015-00;
- B. Approve the recommendation to authorize the Clerk-Treasurer to sign the easement agreement for parcel 003-353-01;
- C. Approve the recommendation to sign the agreement with the Michigan Department of Transportation for the Airport Taxiway Rehabilitation project at Brooks Field and the agreement with Mead and Hunt Inc. for the construction administration services;
- D. Approve minutes of the City Council Regular Session held on Monday, June 18, 2012;

- E. Approve city bills in the amount of \$340,722.42.

On a roll call vote – ayes: Booton, Mankerian, Metzger, Miller, Reed and Williams; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITIONS

City Council presented a proclamation to the Relay for Life – Calhoun County East for “Paint the Town Purple”.

American Cancer Society’s Relay for Life – Calhoun County East “Paint the Town Purple” Proclamation for Marshall, Michigan

WHEREAS, Paint the Town Purple is an activity of the American Cancer Society that promotes cancer awareness, gives individuals and communities an opportunity to fight back against the cancer, supports Relay For Life and

WHEREAS, Every dollar raised through Relay For Life goes toward fighting cancer and helps the American Cancer Society’s mission of saving lives and creating a world with less cancer and more birthdays – by helping people stay well, by helping people get well, by finding cures for cancer and by fighting back; and

WHEREAS, The American Cancer Society is the largest non-government funder of cancer research in the United States and funded more than \$150 million in cancer research last year ; and

WHEREAS, Relay For Life has raised \$4.25 billion nationwide since its inception (1985-2011) and Relay For Life-Calhoun County East has contributed \$1,600,000 over the past fifteen years

NOW, THEREFORE, BE IT RESOLVED, that I, Jim Dyer, Mayor of Marshall, Michigan, do hereby proclaim July 14th through July 21st, 2012 as,

RELAY FOR LIFE – CALHOUN COUNTY EAST "PAINT THE TOWN PURPLE DAYS"

I would encourage all citizens to participate in the **PAINT THE TOWN PURPLE DAYS** in support of Relay For Life which will take place on July 20th and 21st at the Calhoun County Fairground.

INFORMATIONAL ITEMS

Event Reports were provided for Civil War Ball, Home Tour, Hispanic Heritage

Festival, and Zarzuela's Anniversary Celebration.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

None.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Special Land Use #SLU12.01 – 215 High Street:

Moved Miller, supported Metzger, to excuse Council Member Williams from voting on the Special Land Use at 215 High Street because it is an issue concerning the hospital. On a voice vote – **MOTION CARRIED.**

Moved Metzger, supported Mankerian, to approve the Special Land Use Permit for a Lodging House at 215 High Street, under the conditions set forth in the application. On a roll call vote – ayes: Mankerian, Metzger, Miller, and Reed; nays: Booton. **MOTION CARRIED.**

B. Special Land Use #SLU12.02 – 720 East Green Street:

Moved Miller, supported Mankerian, to approve the Special Land Use Permit for a Beauty Salon at 720 East Green Street, under the conditions set forth in the application. On a roll call vote – ayes: Metzger, Miller, Reed, Williams, Booton, and Mankerian; nays: none. **MOTION CARRIED.**

C. Marshall Economic Development Alliance:

Moved Mankerian, supported Reed, to approve the recommendation to support the Marshall Economic Development Alliance and approve the initial seed funds in the amount of \$50,000. On a roll call vote – ayes: Miller, Reed, Williams, Booton, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

D. Charter Amendments:

Moved Metzger, supported Booton, to adopt the resolution for the November 2012 ballot language for the City Charter amendments and combine questions #1 and #5 pertaining to the correction of grammatical errors. On a roll call vote – ayes: Reed, Williams, Booton, Mayor Dyer, Mankerian, Metzger, and Miller; nays: none. **MOTION CARRIED.**

RESOLUTION NO. 2012-20

CHARTER AMENDMENTS

The City of Marshall has determined that with the passage of time it is in the best interests of the City to redefine the organizational structure between the City Council, the City Manager, the clerk-treasurer, and the assessor by amending the City Charter to provide that the City Manager shall appoint a clerk, a treasurer and an assessor, who thereafter shall be immediately responsible to the City Manager for the administration of their respective duties.

Further, because the Marshall District Library has been organized under the District Library Establishment Act, Public Act 24 of 1989, the references to a public library contained within the City Charter are obsolete.

IT IS HEREBY RESOLVED:

- A. That the existing City of Marshall Charter Article II, Section 2.02(b) shall be amended to read as follows:

Section 2.02, Qualifications

(b) Oath and Bond of Office. Every elected officer, before entering upon the duties of office, shall take the oath of office prescribed in Section 1 of ARTICLE-~~II~~ 11 of the Constitution of 1963 of the State of Michigan, and shall file the same with the clerk together with any bond which may be required by this charter or by the council. In the case of failure to comply with the provisions of this section within ten (10) days from the date of election, such officers shall be deemed to have declined the office and such office shall thereupon become vacant unless the council shall, by resolution, extend the time which such officer may qualify as above set forth.

- B. That the existing City of Marshall Charter Article II, Section 2.04 shall be amended to read as follows:

Section 2.04, Compensation and Expenses

~~The salary of the members of the council, with the exception of the mayor, shall be \$300.00 per year. Salary of the mayor shall be \$500.00 per year. These salaries shall constitute the only remuneration which shall be paid to the members of the council and mayor for the discharge of their official duties.~~ The members of the council, including the mayor, shall receive no salary or other compensation for their services except that expenses incurred on behalf of the city shall be paid if authorized by the council.

- C. That the existing City of Marshall Charter Article II, Section 2.10 shall be amended to read as follows:

Section 2.10, Appointment of City Officials.

~~The clerk-treasurer, assessor, and city attorney shall hold office by virtue of appointment by the mayor and subject to confirmation of two-thirds (2/3) of the council, which body shall also set their compensation. These appointees may be removed for cause by a two-thirds (2/3) vote of the council. All such appointments shall be made at the first regular meeting of the Council in May following each regular city election, and the persons so appointed shall hold office for terms of two (2) years from the first day of June following their appointment.~~

(a) Clerk, treasurer and assessor. The clerk, the treasurer and the assessor shall each hold office by virtue of appointment by the City Manager. The compensation of the clerk, the treasurer and the assessor shall be set by the council.

(b) Attorney. The city attorney shall hold office by virtue of appointment by the mayor and subject to confirmation of two-thirds (2/3) of the council, which body shall also set the attorney's compensation. The city attorney may be removed for cause by a two-thirds (2/3) vote of the council. The appointment shall be made at the first regular meeting of the Council in May following each regular city election, and the person so appointed

shall hold office for terms of two (2) years from the first day of June following the appointment.

- D. That the existing City of Marshall Charter Article II, Section 2.11 shall be amended to read as follows:

Section 2.11, Appointment of City Manager.

The city manager shall be appointed by a two-thirds (2/3) vote of the entire council for an indefinite term. The appointment shall be primarily on the basis of executive and administrative qualifications. The council shall fix the city manager's compensation. ~~The city manager, once appointed, shall become a resident of the city.~~

- E. That the existing City of Marshall Charter Article II, Section 2.12 shall be amended to read as follows:

Section 2.12, Removal of City Manager

- (a) The council, at a regular meeting, shall adopt, by affirmative vote of two-thirds (2/3) of all its members, a preliminary resolution which must state the reasons for removal and may suspend the ~~manger~~ manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.
- (b) Within five (5) days after a copy of resolution is delivered to the manager, the city manager may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than thirty (30) days after the request is filed. The manager may ~~filed~~ file with the council a written reply not later than ten (10) days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of two-thirds (2/3) of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if the manager has not requested a public hearing, or at any time after the public hearing if the manager has requested one.
- (d) The manager shall continue to receive the same salary until

the effective date of a final resolution of removal. The ~~manger~~ manager serves at the pleasure of the council, and the reason or reasons for removal need not necessarily be for cause, but may be for any reason or reasons which the council at its sole discretion deems to be sufficient.

- F. That the existing City of Marshall Charter Article II, Section 2.15 shall be amended to read as follows:

Section 2.15, Procedure

- (a) Meetings. The council shall meet regularly ~~at least twice in~~ every month at such time and places as the council may prescribe by resolution. Special meetings shall be called by the clerk upon written request by the mayor or four (4) members of the council. All meetings shall be open to the public, except as provided by State law, and notice of all meetings shall be made in accordance with State law.

- G. That the existing City of Marshall Charter Article II, Section 2.27 shall be amended to read as follows:

Section 2.27, Annual Compensation

The city council shall set the salaries of all administrative officials, department heads and salaried personnel by June 4 30 of every year, except as provided by State law. Such salaries shall be included in the annual budget to be adopted ~~by June 4~~ not later than the first meeting of the council in June.

- H. That the existing City of Marshall Charter Article III, Section 3.01 shall be amended to read as follows:

- (a) Administrative Officials.** The administrative officials of the city shall be the city manager, city clerk, city treasurer, city assessor and city attorney. The council may create additional administrative offices combine, or separate administrative offices in any manner not inconsistent with law or this charter and shall prescribe the duties thereof in order to insure the proper operation of the city government.

(b) Oath and Bond of Office. Every appointed officer, before entering upon the duties of office, shall take the oath of office prescribed by Section 1 of ARTICLE # 11 of the Constitution of 1963 of the State of Michigan, and shall file the same with the clerk together with any bond which may be required by this charter or by the council. In case of failure to comply with the provisions of this section within ten (10) days from the date of appointment, such officers shall be deemed to have declined the office and such office shall thereupon become vacant unless the council shall, by resolution, extend the time in which such officer may qualify as above set forth.

- I. That the existing City of Marshall Charter Article III, Section 3.03 shall be amended to read as follows:

(a) Appointment. When the city manager is absent from the city, or disabled, a qualified city ~~administrative official~~ employee shall be designated by the city manager, to exercise the powers and perform the duties of the city manager during this absence or disability. The city manager shall file with city clerk ~~treasurer~~ a list, by name and title, of three qualified city ~~administrative officials~~ employees to exercise such powers and perform such duties. The city ~~administrative officials~~ employees shall be listed in the order by which each shall be designated to temporarily assume the city manager's duties. During this absence or disability, the council may revoke such designation at any time and appoint another city ~~administrative official~~ employee or ~~department head~~ to serve until the city manager shall return or the city manager's disability shall cease.

- J. That the existing City of Marshall Charter Article III, Section 3.05 shall be amended to read as follows:

Section 3.05, Duties of the City Clerk-Treasurer

The clerk-~~treasurer~~ shall:

(a) be clerk of the council and shall attend all meetings of the council and keep a permanent journal of its

proceedings.

(b) have power to administer all oaths required by law, this charter or the ordinances of the city.

(c) be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, attest the same, and shall also be custodian of all papers, documents, and records pertaining to the City of Marshall, the custody of which is not otherwise provided for by this charter and shall attest the same whenever required to do so.

(d) give the proper officials of the city ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements.

~~(e) examine and audit all accounts and claims against the city. perform such other duties as may be prescribed in the capacity of clerk of the city, by law or this charter.~~

~~(f) be the general accountant of the city and shall keep the books of account of the assets, receipts and expenditures of the city except as otherwise provided by state law or by this charter; the system of accounts of the city shall conform to such uniform system as may be required by law.~~

~~(g) have the custody of all moneys of the city, and all evidences of value belonging to the city, or held in trust by the city.~~

~~(h) receive all moneys belonging to and receivable by the city, including license fees, taxes, assessments, and all other charges, belonging to and payable to the city and shall in all cases give a receipt therefore.~~

~~(i) keep and deposit all moneys or funds in such manner and only in such places as the council may determine, and report the same to the city manager, and to the council.~~

~~(j) have such powers, duties and prerogatives in regard~~

~~to the collection and custody of State, County, School-District and City taxes and moneys as are conferred by law to enforce the collection of State, County, Township, School District, and City taxes upon real and personal property.~~

~~(k) perform such other duties as may be prescribed in the capacity of clerk-treasurer of the city, by law or this charter.~~

- K. That the existing City of Marshall Charter Article III, Section 3.06 shall be amended to read as follows:

Section 3.06, Duties of the Deputy Clerk- City Treasurer

~~—The clerk-treasurer may appoint a deputy subject to the written confirmation by the city manager. The clerk-treasurer may terminate the status of the deputy upon written notice to the city manager. The deputy clerk-treasurer shall have the authority to assume the duties of the clerk-treasurer in the clerk-treasurer's absence.~~

The treasurer shall:

(a) be the general accountant of the city and shall keep the books of account of the assets, receipts and expenditures of the city except as otherwise provided by state law or by this charter; the system of accounts of the city shall conform to such uniform system as may be required by law.

(b) have the custody of all moneys of the city, and all evidences of value belonging to the city, or held in trust by the city.

(c) receive all moneys belonging to and receivable by the city, including license fees, taxes, assessments, and all other charges, belonging to and payable to the city and shall in all cases give a receipt therefore.

(d) keep and deposit all moneys or funds in such manner and only in such places as the council may determine,

and report the same to the city manager, and to the council.

(e) have such powers, duties and prerogatives in regard to the collection and custody of State, County, School District and City taxes and moneys as are conferred by law to enforce the collection of State, County, Township, School District, and City taxes upon real and personal property.

(f) perform such other duties as may be prescribed in the capacity of treasurer of the city, by law or this charter.

L. That the existing City of Marshall Charter Article VII shall be abrogated:

~~ARTICLE VII, LIBRARY~~

~~————The Marshall Public Library shall be continued and maintained as a public library and reading room pursuant to the governing state statutes. The manner of selection of the board of directors and officers thereof, the duties of the board of directors and officers, the control of moneys collected to the credit of the library fund, the acquisition and disposal of real and personal property, the construction and leasing of buildings and property, the appointment and removal of a librarian, library assistants and staff, the fixing of salaries and all other matters pertaining to the operation of the public library and reading room shall be as provided by state law.~~

IT IS FURTHER RESOLVED that the proposed Amendments to the City Charter relating to organizational structure shall be submitted to the electors in the following form:

Question #1 – Shall Article II, Section 2.04 of the City of Marshall Charter be amended to provide that members of the city council, who are currently paid \$300 annually and the mayor who is currently paid

\$500 annually, shall receive no compensation for their services?

Yes _____ No _____

Question #2 – Shall Article II, Section 2.10 of the City of Marshall Charter be amended to provide for the City Manager to appoint the Clerk, and Treasurer instead of the Mayor with the confirmation by the City Council?

Yes _____ No _____

Question #3 - Shall Article II, Section 2.11 of the City of Marshall Charter be amended to eliminate the provision that the City Manager become a resident of the city once they are appointed?

Yes _____ No _____

Question #4 – Shall various sections 2.02(b) and 2.12 of the City of Marshall Charter be amended to correct spelling and state law citations?

Yes _____ No _____

Question #5 – Shall Article II, Section 2.15 of the City of Marshall Charter be amended to provide that the City Council regularly meet every month rather than twice a month as currently provided for in the Charter?

Yes _____ No _____

Question #6 – Shall Article II, Section 2.27 of the City of Marshall Charter be amended to provide that the City Council will set the salaries of all administrative officials, department heads and salaried personnel by June 30 of each year, and that these salaries be

included in the annual budget adopted not later than the first meeting of the Council in June of each year?

Yes _____ No _____

Question #7 – Shall Article III, Section 3.01 of the City of Marshall Charter be amended to provide that a city clerk and city treasurer be added as administrative officials of the city? The Charter currently provides that the Clerk-Treasurer is one office, and the amendment would recognize that the positions of Clerk and Treasurer are two separate offices. This amendment is tie-barred to the passage of an amendment to Article III, Sections 3.05 and 3.06 of the Charter.

Yes _____ No _____

Question #8 – Shall Article III, Section 3.03 of the City of Marshall Charter be amended to provide that when the City Manager is absent from the city or disabled, a qualified city employee will designated by the City Manager to exercise the powers and duties of the City Manager in their absence or disability?

Yes _____ No _____

Question #9 – Shall Article III, Section 3.05 and 3.06 of the City of Marshall Charter be amended to reflect that the positions of Clerk and Treasurer are separate and state the duties of each office in the corresponding Section? The Charter currently provides that the Clerk-Treasurer is one office, and this amendment would allow the position to be split into two separate offices along with their relevant duties. This amendment is tie-barred to the passage of an amendment to Article III, Section 3.01 of the Charter.

Yes _____ No _____

IT IS FURTHER RESOLVED that the proposed Amendment to the City Charter relating to a municipal library shall be submitted to the electors in the following form:

Question #10 – Shall the Charter of the City of Marshall, Article VII be deleted; to remove the requirement of a City-operated library and the remaining chapters in the Charter be renumbered?

Yes _____ No _____

IT IS FURTHER RESOLVED that the City Clerk shall forthwith transmit a copy of the proposed Amendments to the City Charter to the Governor of the State of Michigan for his approval, and transmit a copy of the proposed Amendments to the City Charter to the Attorney General of the State of Michigan for his approval, as required by law.

IT IS FURTHER RESOLVED that the proposed Amendments to the City Charter shall be, and the same are hereby ordered, to be submitted to the qualified electors of this City at the general election to be held in the City on Tuesday, November 6, 2012, and the City Clerk is hereby directed to give notice of the election and notice of registration, therefore, in the manner prescribed by law and to do all things and to provide all supplies necessary to submit such Amendments to the City Charter to the vote of the electors as required by law.

IT IS FURTHER RESOLVED that the proposed Amendments to the City Charter shall be published in full together with the existing Charter provision altered thereby in the Marshall Advisor/Chronicle (Election Notice) not less than

ten (10) days prior to the election.

IT IS FURTHER RESOLVED that the canvass and determination of the votes on said question shall be made in accordance with the laws of the State of Michigan.

CERTIFICATION

I, Sandra Bird, Clerk-Treasurer for the City of Marshall, Calhoun County, Michigan do hereby certify that the foregoing Resolution No. 2012-20 was offered by Councilperson Metzger and supported by Councilperson Booton, and the same was duly passed at a regular meeting of the City Council in Town Hall held on the Monday, the 2nd day of July, 2012 and that the vote was as follows:

Yeas: Booton, Mayor Dyer, Mankerian, Metzger, Miller, Reed, and

Williams.

Nays: None.

Absent: None.

Sandra Bird

E. Parking Lot Improvement Program:

Moved Williams, supported Metzger, to approve the 2012 Downtown Parking Lot Improvement Program. On a roll call vote – ayes: Williams, Booton, Mayor Dyer, Mankerian, Metzger, Miller, and Reed; nays: none. **MOTION CARRIED.**

F. Downtown Parking Meters:

Moved Williams, supported Mankerian, to accept the DDA/Main Street Board recommendation to continue to not enforce downtown parking meters and place a welcome plate across the coin slot. On a voice vote – **MOTION CARRIED.**

G. Hospital Neighborhood Committee:

Moved Booton, supported Mankerian, to schedule a Work Session to discuss the Hospital Campus Overlay District for Saturday, July 14, 2012 at the Public

Services Building, Training Room, 900 S. Marshall Avenue. On a voice vote –
MOTION CARRIED.

Council discussed items they would like to see on the agenda for the upcoming work session.

John Merucci of 115 E. Prospect asked if there would be opportunity for comment from the public.

Sue Damron made Council aware that the Garden Tour will also be on July 14th.

Brian Munger stated he hopes there is equal representation at the meeting and he feels this is an emotional issue.

Tim McCaleb asked how to contact Council members with questions and/or comments.

APPOINTMENTS / ELECTIONS

None

PUBLIC COMMENT ON NON-AGENDA ITEMS

John LaPietra of 386 Boyer Court commented on the upcoming elections.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Miller, supported Metzger, to convene into closed session under section 8A of the Michigan Open Meetings Act to discuss a personnel evaluation as requested by the City Manager. On a roll call vote – ayes: Booton, Mayor Dyer, Mankerian, Metzger, Miller, Reed, and Williams; nays: none. **MOTION CARRIED.**

Convene into closed session at 9:05 p.m.

Return to open session at 10:00 p.m.

ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

James L. Dyer, Mayor

Sandra Bird, Clerk-Treasurer