

Marshall City Council, Regular Session
Monday, January 7, 2013

CALL TO ORDER

IN REGULAR SESSION Monday, January 7, 2013 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 Dyer.

ROLL CALL

Roll was called:

Present: Council Members: Mayor Dyer, Mankerian, Metzger, Reed and Williams.

Also Present: City Manager Tarkiewicz.

Absent: Council Members Booton and Miller.

Mayor Dyer read into the record the resignation letter from Council Member Booton:

Mayor Jim Dyer
Marshall City Council

I must submit my resignation from the Marshall City Council, effective 1-04-2013 due to personal reasons.

Sincerely,

Wayne L. Booton
Ward One
Marshall, MI

Moved Metzger, supported Williams to accept the resignation of Council member Booton with regret. On a voice vote – **MOTION CARRIED.**

Moved Reed, supported Mankerian to excuse the absence of Council Member Miller. On a voice vote – **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Dyer led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Mankerian, to add to the agenda item 9B – Sister City Presentation by Mike Sullivan. On a voice vote – **MOTION CARRIED.**

CITY COUNCIL ORGANIZATION

Mayor Dyer nominated Council Member Williams to continue to serve as Mayor Pro-Tem. On a voice vote – **MOTION CARRIED.**

Boards and Commissions Liaison Appointments will stay the same.

Moved Williams, supported Metzger to appoint Mayor Dyer as the representative on the Firekeepers Local Revenue Sharing Board and appoint Paul Beardslee as 1st Alternate and Tom Tarkiewicz as 2nd Alternate. On a voice vote – **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2013-02**

**RESOLUTION APPOINTING REPRESENTATIVE AND ALTERNATES TO THE
LOCAL REVENUE SHARING BOARD**

WHEREAS, the Urban Cooperation Act of 1967 (MCL 124.501 et seq., as amended: hereinafter the “Urban Cooperation Act”) provides that Public agencies of the State of Michigan and Public agencies of the United States may enter into interlocal agreements to exercise jointly with each other any power, privilege or authority that the agencies share in common and that each may exercise separately; and

WHEREAS, under subsection 2(e) of the Urban Cooperation Act (MCL 124.502(e)), Calhoun County, Emmett Charter Township, the City of Battle Creek, the City of Marshall, and Athens Township are Public agencies of the State of Michigan, each of which have the authority to enter into an interlocal agreement; and

WHEREAS, for purposes of the Urban Cooperation Act, the Nottawaseppi Huron Band of the Potawatomi Indians (hereinafter “the Tribe”) is treated as a Public agency of the United States with the authority to enter into an interlocal agreement; and

WHEREAS, in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.,; hereinafter referred to as “IGRA”), on December 3, 1998 the State of Michigan and the Tribe made and entered into a Compact providing for the conduct of casino gaming, as approved by the U.S. Secretary of the Interior by publication in the Federal Register on February 18, 1999 (64 Fed. Reg. 8111), and as amended on July 23, 2009 in accordance with Section 16 of the Compact and approved by the U.S. Secretary of the Interior by publication in the Federal Register on October 8, 2009, (74 Fed. Reg. 51875) (hereinafter collectively referred to as the “Compact”); and

WHEREAS, the Tribe, a federally-recognized Indian tribe, acting under its governmental authority in accordance with IGRA and the Compact, commenced casino gaming operations on August 1, 2009, at the Firekeepers Casino (hereinafter the "Casino") on land located in Emmett Township, Michigan that is held in trust for the Nottawaseppi Huron Band by the United States; and

WHEREAS, growth and development on and in the vicinity of the Pine Creek Indian Reservation, which is the governmental and community center of the Tribe, will have impacts on Athens Township, which will be affected by the Tribe's operation of the Casino; and

WHEREAS, the Compact provides that the local units of government that are in the immediate vicinity or are otherwise directly affected by the Casino, together with the local government(s) affected by growth and development of the Tribe's governmental and community facilities on and in the immediate vicinity of the Pine Creek Reservation that will result from the operation of the Casino, may, at their option, form a Local Revenue Sharing Board in conjunction with the Tribe for the purpose of receiving and directing the disbursement of revenue sharing payments required by the Compact; and

WHEREAS, by entering into this interlocal agreement (hereinafter this "Agreement"), the parties hereto seek to create a Local Revenue Sharing Board, consistent with the terms and provisions of the Compact and for the purposes stated therein; and

WHEREAS, the Local revenue Sharing Board bylaws allow appointment of a Board representative and Board alternates.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City of Marshall appoints

Jim Dyer, as the representative, Paul Beardslee, as the first alternate and Tom Tarkiewicz, as the second alternate to the Local Revenue Sharing Board in the absence of the representative.

Motion by Council member Williams, and supported by Council Member Metzger.

AYES, Council members: Mayor Dyer, Mankerian, Metzger, Reed and Williams.

NAYES, Council members:

ABSTAIN, Council members:

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 7, 2013. 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.

City of Marshall

By: Trisha Nelson
Its: Clerk

Date: _____

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Metzger, supported Reed, to approve the Consent Agenda:

- A. Schedule a public hearing for Tuesday, January 22, 2013 at 7:00 p.m. to hear public comment on the Adoption of the July 1, 2013 – June 30, 2019 Capital Improvement Program;
- B. Schedule a public hearing for Tuesday, January 22, 2013 at 7:00 p.m. to hear public comment on the Industrial Facility Tax Exemption Certificate Application for Fabrilaser Manufacturing, 1308 S. Kalamazoo Avenue;
- C. Approve minutes of the City Council Regular Session held on Monday, December 17, 2012;
- D. Approve city bills in the amount of \$326,032.17.

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

PRESENTATIONS AND RECOGNITIONS

- A. **Harry Thompson Day:**

City Council declared January 12, 2013 as Harry Thompson Day in the City of Marshall in honor of his 106th Birthday.

B. Sister City Presentation:

Mike Sullivan gave a presentation over viewing the City's Sister City Program.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

None.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Local Government Approval for a Small Wine Maker License:

Moved Metzger, supported Mankerian, to approve the Small Wine Maker License requested by the Flower Haus at 116 East Michigan Avenue. On a roll call vote – ayes: Metzger, Reed, Williams, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

B. Design Services – North Drive and Pierce Drive Rehabilitation:

Moved Reed, supported Mankerian accept the proposal from CEI of Battle Creek for the North Drive and Pierce Drive Rehabilitation project for the not to exceed cost of \$19,500 and approve the resolution stating intent to reimburse expenditures from the bond proceeds for reconstruction and repair of city streets. On a roll call vote – ayes: Reed, Williams, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

**City of Marshall
County of Calhoun, State of Michigan
Resolution #2013-03**

**RESOLUTION STATING INTENT TO
REIMBURSE EXPENDITURES FROM BOND PROCEEDS
FOR RECONSTRUCTION AND REPAIR OF CITY STREETS**

A RESOLUTION TO APPROVE:

- Statement of Intent to reimburse expenditures for reconstruction and repair of City streets from bond proceeds required by Internal Revenue Code for tax-exempt debt.

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the "City") is intends to reconstruct and repair City streets including related installation of sidewalk, curb and drainage improvements (the "Project"); and

WHEREAS, the City expects to fund expenditures for the Project on a long-term basis with the proceeds of debt to be issued by the City in one or more series, which debt will be issued in expectation of or in reimbursement of the expenditures; and; an 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 hereby makes the following declaration of official 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) As of the date of this resolution 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 Project 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.

(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 One Million Six Hundred Thousand Dollars (\$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 Project 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 Project to reimburse the City for a capital expenditure made pursuant to this Resolution.

(5) 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).

(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.

2. This declaration is executed to indicate the intent of the City only, and does not bind the City to acquire and construct any improvements or to issue any bonds or other obligations of the City.

3. 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 January 7, 2013 at 7:00 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: Mayor Dyer, Mankerian, Metzger, Reed and Williams and that the following Members were absent: Miller.

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

I further certify that the following Members voted for adoption of said resolution: Mayor Dyer, Mankerian, Metzger, Reed and Williams and that the following Members voted against adoption of said resolution: None.

City Clerk

C. West Mansion Street Water Main Construction Award:

Moved Williams, supported Mankerian, to accept the bids from Parrish Excavating of Quincy in the amount of \$245,325 for the West Mansion Water Main Project and for Stantec Consulting of Ann Arbor in the amount of \$29,000 for the West Mansion Water Main Project Construction Engineering. On a roll call vote – ayes: Reed, Williams, Mayor Dyer, Mankerian, and Metzger; nays: none.
MOTION CARRIED.

D. FY 2014 Compost Center Agreement:

Moved Metzger, supported Reed, to authorize the Clerk to enter into and execute on behalf of the City of Marshall the Community Compost Center Agreement including the proposed fees with Calhoun County. On a roll call vote – ayes: Mankerian, Metzger, Reed, Williams, and Mayor Dyer; nays: none.
MOTION CARRIED.

APPOINTMENTS / ELECTIONS

None.

PUBLIC COMMENT ON NON-AGENDA ITEMS

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None.

COUNCIL AND MANAGER COMMUNICATIONS

ADJOURNMENT

The meeting was adjourned at 7:35 p.m.

James L. Dyer, Mayor

Trisha Nelson, Clerk