

Marshall City Council, Regular Session  
Monday, April 20, 2009

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

Also Present: Interim City Manager Tarkiewicz and Interim Clerk-Treasurer Habedank.

Absent: None.

The invocation was given by Jason Schick of Marshall Church of Christ

Mayor Smith led the Pledge of Allegiance.

### ***APPROVAL OF THE AGENDA***

**Moved** L. Miller, supported K. Miller, to approve the agenda with the addition of item 6C Brooks Nature Area Presentation. On a voice vote: **MOTION CARRIED.**

### ***PRESENTATIONS AND RECOGNITIONS***

City Council presented the following proclamation:

#### **PROCLAMATION**

The Mayor, on behalf of the members of the City Council and the Citizens of Marshall, unites on this special occasion in extending this tribute.

**WHEREAS**, in 1909 Albert Schuler, Sr. opened a combination cigar store and restaurant on Main Street in Marshall; and

**WHEREAS**, in 1924 Albert Schuler, Sr. purchased the Royal Hotel and Restaurant in Marshall and renamed it Schuler's; and

**WHEREAS**, Win Schuler expanded Schuler's and made Marshall a nationally-known destination for dining and tourism; and

**WHEREAS**, Hans Schuler has extended that reputation here and abroad and Larry Schuler, the fourth-generation, is continuing that tradition; and

**WHEREAS**, Schuler's Restaurant has been proclaimed a Michigan Historic Landmark; and

**THEREFORE**, I, Mayor Bruce Smith, in recognition of 100 years of business in Marshall, Michigan, proclaim April 23, 2009 to be Schuler's Restaurant Day in the City of Marshall; and

**BE IT FURTHER PROCLAIMED**, that the citizens of Marshall be urged to offer their congratulations to the members of the Schuler family and thank them for their contribution to the Marshall community these past 100 years.

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Honorable Bruce Smith  
Mayor  
City of Marshall, Michigan

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Jennifer Rupp and Feef Dillon, co-chairs of the fundraising committee for Brooks Memorial Fountain, announced that have collected the \$247,000 in donation for the construction cost for the fountain. This includes over 700 private donations. They are still forging forward and asking every citizen to donate \$5. The additional funds will be used as a cushion for unexpected construction costs or as a foundation for the endowment fund. They are still planning May 16, 2009 for the rededication ceremony. Following the rededication, there will be a benefit at the Dark Horse.

Dave Fahner and Patty \_\_\_\_\_ gave a presentation of the Brooks Nature Park. They held a very successful open house in October with over 70 people in attendance. A second open house will be held on Saturday, May 9, 2009 from 1:00 ó 4:00 p.m. There will also be a presentation at the Marshall District Library on Tuesday, May 19, 2009.

***INFORMATIONAL ITEMS***

None

***PUBLIC COMMENT ON AGENDA ITEMS***

John LaPietra of 386 Boyer Court questioned why the Schuler's 100<sup>th</sup> year celebration was being held on April 23<sup>rd</sup>.

Gardy Berezonski of 19150 B Drive North asked how many bids were received and how much will the City be paying for the contractual lawn mowing and Brooks field.

***PUBLIC HEARINGS AND SUBSEQUENT COUNCIL ACTION***

Attorney John Sullivan gave an overview of the proposed changes to the ordinance. Attorney Paul Beardslee explained that the procedures required in the City Charter section 4.02 had not been followed a year ago and that is why the ordinance is before council again.

Beardslee explained two corrections should be made to the proposed ordinance. First in section 92.12, this ordinance needs to repeal section 92.99. Second, the City Charter requires an enacting clause "The City of Marshall ordains". This should be added to the beginning of the ordinance.

Mayor Smith opened the public hearing to hear comments on the approval of the proposed Chapter 92: Health and sanitation: Nuisances Ordinance.

John LaPietra of 386 Boyer Court stated four reasons not to take action. 1) absence of enacting clause; 2) free copies have not yet been available from the clerk-treasurer's office; 3) vagueness; and 4) over broadness.

Gardy Berezonski of 19150 B Drive North asked who would be enforcing the ordinance. Also, will the three City Attorneys be signing this that this is their best legal advice?

John LaPietra of 386 Boyer Court stated several examples of how he feels the proposed ordinance is too vague and overbroad.

Hearing no further comment the public hearing was closed.

Attorney Sullivan suggested a change to 92.05(a) to clarify the owner has 15 days to take corrective action.

Council discussed possible amendments. They did not take action given the information that was received during public comment. The City Attorneys will make amendments to the ordinance and present a revised copy to Council.

### ***OLD BUSINESS***

None

### ***REPORTS AND RECOMMENDATIONS***

**Moved** Dyer, supported L. Miller, to approve Planning Commission's recommendation for a Special Land Use permit for a home-based Beauty Salon at 532 North Linden with the following conditions:

1. Width of existing drive will be recorded and is not to be enlarged.
2. Hours of operation may be allowed Monday-Friday from 8:00 a.m. to 7:00 p.m. with 4 weekend days allowed per year for special occasions.
3. The business is required to be completely housed within the main residence.
4. No signs will be allowed.

**Move** Dyer, supported L. Miller, to amend the motion to include a fifth condition:

5. Business is limited to one chair for the operator, owner or employee.

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

**Moved** Dyer, supported Williams, to approve the recommendation from the Airport Board to accept the bid from Quality Lawn Care of Marshall in the amount of \$360 for option A mowing

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and \$920 for option B mowing. On a roll call vote -- ayes: Dyer, Metzger, K. Miller, L. Miller, Mayor Smith, Traver, and Williams; nays: none. **MOTION CARRIED.**

**Moved** Williams, supported K. Miller, to accept the City's recommendation to adopt the resolutions in support of the submittal of a grant from the Michigan Department of Transportation Local Bridge Program for the Monroe Street over Rice Creek and Marshall Avenue over Kalamazoo River bridges. On a voice vote: **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN  
RESOLUTION 09-14

**RESOLUTION FOR MICHIGAN DEPARTMENT OF TRANSPORTATION LOCAL BRIDGE  
PROGRAM GRANT FOR MONROE STREET**

WHEREAS, the City of Marshall is preparing a Local Bridge Program Grant for rehabilitation or replacement of the Monroe Street Bridge over Rice Creek, and

WHEREAS, the City of Marshall may be eligible for a maximum of up to 95 percent participation from Federal and/or State sources, and

WHEREAS, this project would not take place due to insufficient local funds for several years, and

WHEREAS, the application requires a resolution of support from the City Council,

NOW THEREFORE BE IT RESOLVED, the City Council hereby resolves that the City of Marshall supports the replacement of the Monroe Street Bridge over Rice Creek and authorizes the submittal of a Local Bridge Program Application.

Dated: April 20, 2009

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

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Dennis Habedank, Interim-Clerk Treasurer

CITY OF MARSHALL, MICHIGAN  
RESOLUTION 09-15

**RESOLUTION FOR MICHIGAN DEPARTMENT OF TRANSPORTATION LOCAL BRIDGE  
PROGRAM GRANT FOR MARSHALL AVENUE**

WHEREAS, the City of Marshall is preparing a Local Bridge Program Grant for rehabilitation or replacement of the Marshall Avenue Bridge over the Kalamazoo River, and

WHEREAS, the City of Marshall may be eligible for a maximum of up to 95 percent participation

from Federal and/or State sources, and

WHEREAS, this project would not take place due to insufficient local funds for several years, and

WHEREAS, the application requires a resolution of support from the City Council,

NOW THEREFORE BE IT RESOLVED, the City Council hereby resolves that the City of Marshall supports the replacement of the Marshall Avenue Bridge over the Kalamazoo River and authorizes the submittal of a Local Bridge Program Application.

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

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Dennis Habedank, Interim-Clerk Treasurer

### ***APPOINTMENTS / ELECTIONS***

**Moved** Dyer, supported L. Miller, to accept the City Manager's recommendation to reappoint Steve Dodge and Monica Anderson to the LDFA for terms expiring June 2, 2013. On a voice vote: **MOTION CARRIED**

### ***CONSENT AGENDA***

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

- approve the request from the American Legion Post #79 to hold their annual Poppy sale on Friday, May 15 and Saturday may 16, 2009;
- authorize the City Clerk-Treasurer to issue a license to Schuler's Inc. to operate an outdoor restaurant/café. The license is effective May 1, 2009 and expires April 30<sup>th</sup> of the following year;
- authorize the City Clerk-Treasurer to issue a license to pastrami Joe's to operate an outdoor restaurant/café. The license is effective may 1, 2009 ad expires April 30<sup>th</sup> of the following year;
- approve Marshall Main Street to hold the sixth annual Marshall Main Street Blues Festival on Saturday, July 18, 2009. The request allows for the closure of Eagle Street between Michigan Avenue and Mansion Street from 9:00 a.m. until midnight, the closure of Jefferson Street between Michigan Avenue and Green Street and the closure of Michigan Avenue between Eagle Street and Jefferson Street from 12:01 p.m. until 11:20 p.m. on Saturday, July 18, 2009;
- minutes of the City Council Work Session held Monday, April 6, 2009;
- minutes of the Regular City Council meeting held Monday, April 6, 2009;
- minutes of the City Council Closed Session held Monday, April 6, 2009;
- approve city bills in the amount of \$1,070,147.89

Williams suggested a change to the closed session minutes.

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Tarkiewicz announced the Pastrami Joe's called to request that the closure of Jefferson Street from Michigan Avenue to Mansion Street from 12:00 noon to 6:00 p.m. be added to the request for the Blues Festival.

**Motion** K. Miller, supported Dyer, to approve the consent agenda as amended. On a roll call vote ó ayes: Traver, Williams, Dyer, Metzger, K. Miller, L. Miller, and Mayor Smith; nays: none.  
**MOTION CARRIED**

***PUBLIC COMMENT ON NON-AGENDA ITEMS***

Creighton Burrows of 19254 B Drive North questioned when the pile of cement would be removed for Rice Creek behind his mother house. The South Alley behind the Cronin Building has been blocked for six weeks. Something should be done.

Diane Larkin, Main Street Manager thanked City Administration for bringing back the Town Crier. She also announced three summer events: First Friday during summer months beginning in May, Hospitality Day May 16, and Art Hope 2<sup>nd</sup> Saturday June 6 September.

John LaPietra of 386 Boyer Court expressed thanks to Council, Staff, and the City Attorneys for their efforts with the Nuisances Ordinance. He hopes the revised draft will be made available to the public free of charge as per the charter. Mr. LaPietra would like to know how to make a donation to MPACT.

Gardy Berezonski of 19150 B Drive North asked why the Hydro's are being shut down at night with the water levels so high.

**Moved** Dyer, supported Williams to go into closed session to discuss materials exempt from disclosure under Attorney Client privilege. On a roll call vote ó ayes: Traver, Williams, Dyer, Metzger, K. Miller, L. Miller, and Mayor Smith; nays: none. **MOTION CARRIED**

At 9:12 p.m. to move to the conference room for the closed session

At 9:58 p.m. returned to open session.

The meeting was adjourned at 9:59 p.m.

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Bruce R. Smith, MAYOR

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Dennis Habedank, Clerk-Treasurer