

CALL TO ORDER

IN REGULAR SESSION Monday, December 17, 2018 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 Reed.

ROLL CALL

Roll was called:

Present: Council Members: Caron, Costa, McNeil, Metzger, Mayor Reed, Williams, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Ralph McCarty of East Eckford Community Church gave the Invocation and Mayor Reed led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Caron, supported Wolfersberger, to approve the agenda with the addition of the MSCPA invoice in the amount of \$602,712.32 and item 12F. Fredonia Township Sanitary Sewer Agreement Extension. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

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

- A. Approve the resolution and authorize the City Clerk to sign the agreement with MDOT for Operation and Maintenance of the Weather Observation and Data Dissemination System at Brooks Field, Contract No. 2019-0104;
- B. Minutes of the City Council Work Session and Regular Session held on Monday, December 3, 2018;
- C. Approve city bills in the amount of \$ 1,050,716.91.

On a roll call vote – ayes: Caron, Costa, McNeil, Metzger, Mayor Reed, Williams, and Wolfersberger; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

A. Heritage Commons Annual Report:

Kitty Knoll provided an annual update on Heritage Commons.

B. Certificates of Appreciation:

Mayor Reed presented Certificates of Appreciation to past Board/Commission members and plaques were presented to the outgoing City Council members.

C. 2018 Annual Financial Audit:

Joe Verlin of Gabridge & Co. presented the 2018 Annual Financial Audit for the year ending June 30, 2018.

INFORMATIONAL ITEMS

An event report was provided for the Oakridge Cemetery, "If these stones could talk" event.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Neighborhood Improvement Authority:

Finance Director Jon Bartlett provided background regarding the Neighborhood Improvement Authority and the process.

Mayor Reed opened the public hearing to hear public comment regarding the proposed ordinance for the creation of a Neighborhood Improvement Authority.

Hearing no comment, the hearing was closed.

Mayor Reed read a prepared statement from Richard Lindsey. (**ATTACHMENT A**)

Moved Metzger, supported Williams, to adopt the ordinance that creates and sets the boundaries of the Northeast Neighborhood Improvement Authority. On a roll call vote – ayes: Costa, McNeil, Metzger, Mayor Reed, Williams, Wolfersberger, and Caron; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
ORDINANCE NUMBER #2018-04**

AN ORDINANCE TO AMEND TITLE III, ADMINISTRATION, OF THE CITY OF MARSHALL CODE OF ORDINANCES BY AMENDING CHAPTER 31: CITY ORGANIZATIONS

THE CITY OF MARSHALL ORDAINS:

Section 1. THAT TITLE III, ADMINISTRATION, CHAPTER 31: CITY ORGANIZATIONS BE AMENDED BY ADDING THE FOLLOWING SECTIONS TO READ AS FOLLOWS:

Section

- 31.65 Created; membership; qualifications.
- 31.66 Terms; vacancies.
- 31.67 Compensation.
- 31.68 Election of chairperson.
- 31.69 Oath of office.
- 31.70 Meetings.
- 31.71 Removal of board members for cause.
- 31.72 Expenses and financial records.
- 31.73 Writings.
- 31.74 Duties and powers of the authority.
- 31.75 Budget; cost of handling and auditing funds.
- 31.76 Boundaries of the development area
- 31.77 Dissolution of the authority; property and assets

31.65 Created; Membership; Qualifications.

Pursuant to the provisions of and under the authority of Public Act 61 of 2007, as amended there is hereby created a Northeast Neighborhood Improvement Authority, which shall be under the supervision and control of a Board, consisting of the City Manager or his or her designee, and not less than 5 or more than 9 members appointed by the City Manager, subject to the approval of the City Council. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area, as hereinafter described. At least one of the members shall be a resident of the development area or of an area within ½ mile of any part of the development area.

31.66 Terms; Vacancies.

Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the City Manager for the unexpired term only.

31.67 Compensation.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

31.68 Election of Chairperson.

The chairperson of the board shall be elected by the board.

31.69 Oath of Office.

Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

31.70 Meetings.

The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

31.71 Removal of Board Member for Cause.

After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the Marshall City Council.

31.72 Expenses and Financial Records.

All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

31.73 WRITINGS.

A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

31.74 Duties and Powers of the Authority.

The board shall possess all the powers granted to it by P.A. 61 of 2007, as amended, and shall perform any and all acts required of it.

31.75 Budget; cost of handling and auditing funds.

1. A budget shall be submitted to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of other City departments. After review by the board, the budget shall be submitted to the Marshall City Council. The Marshall City Council shall approve the budget before the board may adopt the budget. Unless authorized by the Marshall City Council or by P.A. 61 of 2007, as amended, funds of the municipality shall not be included in the budget of the authority.

2. The Marshall City Council shall assess a reasonable pro rata share of the funds for the cost of handling, accounting, and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

31.76 Boundaries of the development area

A tract of land within the City of Marshall with Point of Beginning at the southeast corner of Lot 56, Upper Village Annex. Thence north 20 rods, parallel with the east section line of Sect. 25, T2S, R6W. Thence running along the west side of East Dr.,

north 66 ft. to the southeast corner of Lot 11, East Drive. Thence continuing along the west side of East Dr. right of way, north 501.88 ft. to the northeast corner of Lot 7, East Drive. Thence north 60 ft. crossing Mann Rd. right of way to a point at the southeast corner of Lot 29, East Drive. Thence continuing along the west side of East Dr. right of way along the arc of a curve to the left 212.2 ft., whose radius is 1,420.95 ft. and chord bearing N 08°33'40" W. Thence continuing along said west right of way line along the arc of a curve to the right 330.15 ft., whose radius is 540.46 ft. and chord bearing N 10°57'00" E. Thence along the arc of a curve to the right 143.87 ft., whose radius is 1,741.28 ft. and chord bearing N 19°19'00" E, to a point at the northeast corner of Lot 23, East Drive. Thence continuing along the west right of way line of East Dr., N 28°10'00" E 171.22 ft. to a point at the northeast corner of Lot 76, East Drive #2. Thence crossing Forest St. right of way, N 28°10'00" E 60.12 ft. to a point at the southeast corner of Lot 50, East Drive #2. Thence continuing along the west side of East Dr. right of way, N 28°10'00" E 242.17 ft. to a point at the intersection of East Dr. and Hill Rd. Thence N 00°10'00" E 651.36 ft. to a point at the northeast corner of Lot 42, East Drive #2. Thence continuing along the west side of East Dr. right of way, N 00°10'00" E 216.98 ft. to a point in the south half of Lot 172, East Drive #6. Thence along the arc of a curve to the left 443.79 ft whose radius is 443.84 ft., and delta angle N 89°03'00" E to a point on the north side of Lot 161, East Drive #6. Thence crossing East Dr. right of way, N 43°35'00" E 66 ft. to a point at the southeast corner of Lot 155, East Drive #6. Thence continuing along the east line of said Lot 155, N 43°35'00" E 172.05 ft. Thence continuing along said east line, N 01°07'00" E 88.0 ft., to a point at the northeast corner of said Lot 155. Thence S 88°53'00" E 741.0 ft. to a point at the northeast corner of Lot 88, East Drive #3. Thence along the east line of said Lot 88, S 00°09'00" W 31.42 ft. to a point at the northwest corner of Lot 179, East Drive #7. Thence S 89°57'24" E 314.29 ft. along the east-west ¼ line of Sect. 19, T2S, R5W. Thence along the arc of a curve to the left 626.11 ft., whose radius is 6,736.12 ft. and chord bearing S 75°13'25" E 625.88 ft. to a point on the east line of the west ½ of southwest ¼ of said Sect. 19. Thence along the arc of a curve to the left 1,273.03 ft., whose radius is 6,736.12 ft. and chord bearing S 80°15'03" E 573.38 ft. Thence S 00°06'30" W 355.4 ft. along the west line of 18 ½ Mile Rd. right of way. Thence N 89°56'48" W 390.56 ft. Thence S 07°38'42" E 547.89 ft. to a point on the east side of Woodruff Dr. right of way. Thence S 89°55'50" E 353.76 ft. to a point on the west side of 18 ½ Mile Rd. right of way. Thence S 00°06'30" W 796.67' to a point on the north side of Centennial Rd. right of way. Thence along said right of way, S 48°37'24" W 326.30 ft. Thence N 00°00'12" E 231.54 ft. to a point on the west side of Woodruff Dr. right of way. Thence N 89°55'21" W 1055.41 ft. to the east line of the east ½ of the southwest ¼ of Sect. 19, T2S, R5W. Thence south along said east line 641.25 ft. Thence S 89°25'26" W 338.91 ft. Thence S 89°25'16" W 353.91 ft. Thence south 600 ft. to a point on the north line of E. Michigan Ave. right of way. Thence continuing along said right of way, S 73°20'00" W 272.26 ft. to the west section line of Sect. 30, T2S, R5W. Thence continuing along said right of way, S 73°34'00" W 851.9 ft. to a point on the south line of Lot 59, Upper Village Annex. Thence N 89°20'00" W 102.5 ft. to a point at the southwest corner of Lot 58, Upper Village Annex, said point also being the east line of East Dr. right of way. Thence N 89°20'00" W 66 ft. to a point at the southeast corner of Lot 56, Upper Village Annex,

said point also being the Point of Beginning.

31.77 Dissolution of the Authority; Property and Assets.

An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the Marshall City Council. Property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the City of Marshall.

Severability.

The various parts, sections and clauses of the Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401 shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 3. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 17th day of December, 2018.

Jack Reed, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on December 17, 2018, 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 by said Act.

Trisha Nelson, CITY CLERK

B. Proposed Amendment Chapter 119: Medical Marihuana:

City Manager Tarkiewicz provided background regarding the proposed amendment to Chapter 119: Medical Marihuana. The proposed change is only to the definition of Security Plan which has become problematic.

Mayor Reed opened the public hearing to hear comment regarding the proposed amendment to Chapter 119.

Hearing no comment, the hearing was closed.

Moved Wolfersberger, supported Williams, to approve the proposed amendment to Chapter 119: Medical Marihuana, §119.03 Security Plan Definition. On a roll call vote – ayes: McNeil, Metzger, Mayor Reed, Williams, Wolfersberger, Caron, and Costa; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
ORDINANCE #2018-05**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE, CHAPTER 119: MEDICAL MARIHUANA. THE CITY OF MARSHALL HEREBY ORDAINS:

Section 1. That chapter and section **§119.03 Definitions; “SECURITY PLAN”** of the Marshall City Code, shall be and is deleted in its entirety and is hereby amended as follows:

SECURITY PLAN. A plan for preventing unauthorized access to, or theft and pilferage from, an MMMFLA licensed facility, approved for operation in the City of Marshall. The security plan shall be subject to review and pre-approval by City staff based upon the below components. The final security plan must be approved by the City Manager with the advice of the Director of Public Safety. Based upon the size and structure of the facility, location, and lot configuration, the security plan may include, but not limited to, the following components:

- (1) An eight-foot tall perimeter fence;
- (2) An exterior lighting system;
- (3) A building security system;
- (4) An on-site security guard program;
- (5) An off-site official contact list;
- (6) Established hours of operation;
- (7) Appropriate signage;
- (8) A plan for facility inspection by the City of Marshall, which shall include no less than an annual comprehensive fire and security inspection; and
- (9) Such other conditions as may be suitable for the particular license or facility to be operated by the MMMFLA licensee.

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 3. If any section, paragraph, clause, phrase or part of this Ordinance is held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

Section 4. Except as specifically amended herein, all other provisions of Ordinance #2017-05 shall remain in full force and effect.

Section 5. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 17th day of December 17, 2018.

Jack Reed, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on December 17, 2018, 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 by said Act.

Trisha Nelson, CITY CLERK

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Ketchum Park Millrace Pavilion and Confluence Garden:

Moved McNeil, supported Costa, to award the Design Services for the Ketchum Park Millrace Pavilion and Confluence Garden to Viridis Design Group of Kalamazoo, MI for an amount not to exceed \$42,235 and direct City Staff to contact the Cronin Foundation to acknowledge and confirm incorporation of the "Cronin" name on the pavilion at conclusion of the project. On a roll call vote – ayes: Metzger, Mayor Reed, Williams, Wolfersberger, Caron, Costa, and McNeil; nays: none.
MOTION CARRIED.

B. Sidewalk Deferment – 1120 Industrial Road:

Moved Metzger, supported Williams, to approve a deferment of the sidewalk installation at 1120 Industrial Road and approve the City Manager and/or City Clerk to execute an

agreement with Delta One Consulting, LLC for and irrevocable Letter of Credit in the amount of \$44,500. On a voice vote – **MOTION CARRIED.**

C. Wellhouse Repair:

Moved Costa, supported Wolfersberger, to approve the reallocation of the Capital Outlay projects in the Water Capital Outlay budget from Water Treatment Plant Office to Well House Roofs and Siding and accept the bid from Meeker Building & Remodeling, LLC of Olivet in the amount of \$49,750. On a roll call vote – ayes: Williams, Wolfersberger, Caron, Costa, McNeil, Metzger, and Mayor Reed; nays: none. **MOTION CARRIED.**

D. Notice of Intent to Issue Bonds-Water Fund:

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

E. 2019 Electric Line Tree Trimming Program:

Moved Caron, supported Costa, to approve the retention of ARS Corporation to continue to perform the tree clearance program for the City of Marshall and authorize the City Clerk to sign the contract addendum for a one-year extension with a 3% price escalator. On a roll call vote – ayes: Wolfersberger, Caron, Costa, McNeil, Metzger, Mayor Reed, and Williams.; nays: none. **MOTION CARRIED.**

F. Fredonia Township Sanitary Sewer Agreement Extension:

Moved Wolfersberger, supported Caron, to ratify the Fredonia Township Sanitary Sewer Agreement Extension. On a voice vote – **MOTION CARRIED.**

APPOINTMENTS/ELECTIONS

A. Northeast Neighborhood Improvement Authority Board:

Moved Williams, supported Metzger, to approve the following members and terms to the Northeast Neighborhood Improvement Authority:

| | |
|----------------------|---------------------------------|
| Krista Trout-Edwards | Term expiring December 31, 2019 |
| Richard Lindsey | Term expiring December 31, 2020 |
| David DeGraw | Term expiring December 31, 2021 |
| Scott Wolfersberger | Term expiring December 31, 2022 |

On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

Scott Fleming, on behalf of MAEDA, thanked Mayor Jack Reed for his contributions to Marshall.

Mary Jo Byrne, 729 E. Prospect, thanked Mayor Reed for his service and expressed that caring and compassion starts from the top.

Cheryl Vosburg, 20606 Partello Road, expressed gratitude for Mayor Reed.

Kathy Miller, 540 Cosmopolitan, presented gifts to Mayor Reed and Lisa Reed and expressed her gratitude for all of his contributions to Marshall.

CLOSED SESSION

Moved Williams, supported Caron, to enter into Closed Session under section 8 (a) of the Michigan Open Meetings Act to discuss the periodic employee evaluation of the City Manager. On a roll call vote – ayes: Caron, Costa, McNeil, Metzger, Mayor Reed, Williams, and Wolfersberger.; nays: none. **MOTION CARRIED.**

Enter into Closed Session at 9:10 p.m.

Return to Open Session at 9:58 p.m.

Moved Caron, supported McNeil, to accept the City Manager's 2018 evaluation and increase his salary by 2%, retroactive to July 1, 2018. On a roll call vote – ayes: Caron, Costa, McNeil, Metzger, Mayor Reed, Williams, and Wolfersberger.; nays: none. **MOTION CARRIED.**

Moved Williams, supported Wolfersberger, to accept the City Manager's recommendation, based on market salaries, beginning January 6, 2019 to increase the salary of the Finance Director to \$81,000 and increase the salary of the Public Services Director to \$81,000. On a roll call vote – ayes: Wolfersberger, Caron, Costa, McNeil, Metzger, Mayor Reed, and Williams.; nays: none. **MOTION CARRIED.**

COUNCIL AND MANAGER COMMUNICATIONS

ADJOURNMENT

The meeting was adjourned at 10:02 p.m.

Jack Reed, Mayor

Trisha Nelson, City Clerk