

CALL TO ORDER

IN REGULAR SESSION Monday, April 15, 2019 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 Caron.

ROLL CALL

Roll was called:

Present: Council Members: Mayor Caron, Gates, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Brandon Crawford gave the invocation and Mayor Caron led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Wolfersberger, to approve the agenda with the addition of the Michigan South Central Power Agency invoice in the amount of \$628,115.60 and addition of Michigan Department of Transportation Sidewalk Café Resolution On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

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

- A. Approve the resolution authorizing the Director of Public Services and City Clerk to act as agents on behalf of the City to request Transportation Economic Development Fund Category B Program Funding, to act as the applicant's agent during the project development and to sign a project agreement upon receipt of a funding award;
- B. Approve the Annual Sidewalk Use Licenses for Pastrami Joe's, Schuler's Restaurant, and Grand River Brewery to operate an outdoor restaurant/café effective May 1, 2019 through April 30, 2020;
- C. Approve the request by the American Legion to conduct their Annual Poppy Sales on Friday, May 17th and Saturday, May 18th;
- D. Approve the resolution in support of the submittal to the Michigan Department of Transportation by the Broadway Grill LLC for a sidewalk café permit;
- E. Minutes of the City Council Work Session and Regular Session held on Monday, March 18, 2019;
- F. Approve city bills in the amount of \$ 863,768.24.

On a roll call vote – ayes: Gates, McNeil, Metzger, Traver, Underhill, Wolfersberger, and Mayor Caron; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

None.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Amendments to Chapter 51: WATER of the City of Marshall Code of Ordinances:

Director of Public Services Kristin Bauer provided background regarding the amendments to Chapter 51 of the City of Marshall Code of Ordinances. City staff, along with Hydro Corp, reviewed the City's Cross-Connection Ordinance and found that updates were needed to protect the City and its water supply. Hydro Corp has inspected and maintained the City's Cross-Connection Control Program for several years. Rules and reporting agencies have changed over the years causing the need for updates.

Mayor Caron opened the public hearing to hear comments regarding the amendments.

Hearing no comment, the public hearing was closed.

Moved McNeil, supported Underhill, to approve the changes to the City of Marshall Ordinance Chapter §51, WATER as presented. On a roll call vote – ayes: Metzger, Traver, Underhill, Wolfersberger, Mayor Caron, Gates, and McNeil; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
ORDINANCE #2019-02**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE §51: WATER, OF THE MARSHALL CITY CODE OF ORDINANCES.

THE CITY OF MARSHALL ORDAINS:

Section 1. THAT CHAPTER 51: WATER BE AMENDED AS FOLLOWS:

Section

- 51.01 Regulations for connections
- 51.02 Water supply cross connections
- 51.03 Pollution of wells
- 51.04 Connection to city water supply system required
- 51.05 Installation of backup water wells

§ 51.01 REGULATIONS FOR CONNECTIONS.

All connections with the city water supply system shall be made in accordance with the rules and regulations prescribed by the Board of Public Utilities. (Prior Code, § 27-11)

§ 51.02 WATER SUPPLY CROSS CONNECTIONS.

(A) The Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality, being R. 325.11401 through R. 325.11407 of the Michigan Administrative Code, are hereby adopted.

(B) It shall be the duty of the Water Department of the City of Marshall to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Water Department and as approved by the Michigan Department of Environmental Quality.

(C) The representative of the Water Department shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross connections.

(D) On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on the property. The refusal of the information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(E) The Water Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to the property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(F) (1) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the state's Plumbing Code.

(2) Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

(G) That all testable backflow prevention assemblies shall be tested upon installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be on an annual basis or as required by the City of Marshall and in accordance with Michigan Department of Environmental Quality requirements. Only individuals that hold an active ASSE 5110 tester's certification shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.

(H) That any person or customer found guilty of violating any of the provisions of this ordinance or any written order of the City of Marshall Water Department, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine for each violation. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purposes of this ordinance.

(Prior Code, § 27-12)

§ 51.03 POLLUTION OF WELLS.

(A) It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of 200 feet from any of the municipal water wells within the city from which the city draws its water supplies, any source of possible contamination or pollution to the wells.

(B) It shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water systems of the city.

(Prior Code, § 27-13)

§ 51.04 CONNECTION TO CITY WATER SUPPLY SYSTEM REQUIRED.

(A) The owner of any house, building, structure or property which is used for human occupancy, employment, recreation or other purposes and for which the nearest point of any house, building or structure located on the property is not more than 200 feet away from the right-of-way line of any street, alley or right-of-way in which the public water supply system is available, shall be required, at the owner's expense, to install a suitable water supply system therein and to connect the water supply system to the city's water supply system upon the earlier of the following events:

(1) When any repair, improvement or replacement which would require a permit from the county's Health Department is required to be made to an existing well servicing any house, building, structure or property; and

(2) Upon any sale of the house, building, structure or property.

(B) Except as set forth in § 51.05 below, no new private well shall be installed serving any house, building, structure or property which is used for human

occupancy, employment, recreation or other purposes, and for which the nearest point of the house, building or structure located at the property is not more than 200 feet away from the right-of-way line of any street, alley or right-of-way in which the city has installed water mains as part of the city water supply system.

(Prior Code, § 27-14) (Ord. 96-7, passed 9-3-1996; Am. Ord. 04-07, passed 8-2-2004; Am. Ord. 2010-03, passed 7-19-2010)

§ 51.05 INSTALLATION OF BACKUP WATER WELLS.

The owner of any place of public accommodation may install a private water well when it can demonstrate to the reasonable satisfaction of the Director of Public Services each of the following:

(A) A private well is necessary or helpful in meeting the requirements of any county, state or federal law, regulation, accreditation standard or ordinance requiring a supply of water in addition to the city's municipal water supply:

(B) The additional well will not pose a danger to the city's municipal water supply, whether by way of contamination, depletion of water supply or other cause;

(C) The additional well will be used only as a secondary or backup source of water in the event of failure or contamination of the city's water supply system;

(D) Adequate mechanical and procedural safeguards exist that will prevent the well from being used except in the case of a water system failure, water system contamination, or for routine maintenance of the well;

(E) The well shall be installed in compliance with the regulations of the Calhoun County Health Department and the Michigan Department of Natural Resources and Environment, as well as all other applicable laws, ordinances and regulations; and

(F) The additional well will be metered for sewage return.
(Ord. 2010-03, passed 7-19-2010)

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 15th day of April, 2019.

Joe Caron, 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 April 15, 2019, 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. Northeast Neighborhood Improvement Authority's Development Plan and Tax Incremental Financing Plan:

Finance Director Jon Bartlett provided the background regarding the creation of the Northeast Neighborhood Improvement Authority and explained the development plan and tax increment finance plan.

Mayor Caron opened the public hearing to hear public comment regarding the Northeast Neighborhood Improvement Authority Development and Tax Incremental Financing Plan.

Richard Lindsey requested a sentence be removed from page 40 of the agreement regarding the Oaklawn Hospital property and expressed excitement about the plan and redevelopment.

Dennis Chimner spoke regarding the property he owns at 1406 O'Keefe.

Eric Murray of 617 Hill Road inquired about the term of the TIF, what percentage goes to the administration of the plan, and what happens over the long-term.

John Fahrenbruch of 401 Julia's Place feels the not enough of an explanation has been given to people who do not understand and asked for more information.

Vince Trudell expressed concerns because of the Pratt Park situation 9 years ago and asked that there be assurances so a developer follows through.

Eric Murray inquired if the TIFA had authority over zoning.

Hearing no further comments, the hearing was closed.

Moved McNeil, supported Wolfersberger, to approve the Northeast Neighborhood Improvement Authority's Development Plan and Tax Incremental Financing Plan with the removal of the sentence: "Oaklawn Hospital has indicated that it is willing to

sell or give away a portion of the property that they do not use for residential development” on page 40, paragraph 1. Oaklawn Hospital Property of the plan document. On a roll call vote – ayes: Traver, Underhill, Wolfersberger, Mayor Caron, Gates, McNeil, and Metzger; nays: none. **MOTION CARRIED.**

MARSHALL CITY ORDINANCE
CALHOUN COUNTY, MICHIGAN

ORDINANCE NUMBER #2019-03

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

- | | |
|-------|--|
| 31.78 | Establishment of Development Plan and TIF Plan |
| 31.79 | Amendments to Development Plan and TIF Plan |

31.78 ESTABLISHMENT OF DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN.

Pursuant to the provisions of and under the authority of Public Act 57 of 2018, as amended there is hereby created and approved the Northeast Neighborhood Improvement Plan and Tax Increment Financing Plan; an official copy of which shall be maintained by the Marshall City Clerk and available for copy or inspection at Marshall City Hall. The Marshall City Council does adopt by this section that the proposed Development Plan and Tax Increment Financing Plan is feasible and that the Northeast Neighborhood Improvement Authority Board has the ability to implement the plans with the consent and approval of the Marshall City Council.

31.79 AMENDMENTS TO DEVELOPMENT PLAN AND TIF PLAN.

No amendments to the Development Plan or the TIF Plan shall be made by the Northeast Neighborhood Improvement Authority Board without prior approval by the Marshall City Council.

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.

Effective Date.

This Ordinance shall be effective on the day of publication.

Date Enacted: April 15, 2019

Date Published: April 20, 2019

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 15th day of April, 2019.

Joe Caron, 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 April 15, 2019, 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.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Special Land Use Application #SLU19.01-Domino's Pizza:

Moved Gates, supported McNeil, to approve Special Land Use application

#SLU19.01 for Domino’s Pizza at 912 W. Michigan Avenue for an accessory drive-through window. On a voice vote – **MOTION CARRIED.**

B. Fiber-To-The-Premise:

Moved Traver, supported Wolfersberger, to adopt the resolution which implements revised service level rates for the FiberNet project. On a voice vote – **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
 RESOLUTION #2019-08**

**RESOLUTION TO ESTABLISH A FEE SCHEDULE FOR
 FIBER TO THE PREMISE SERVICE**

WHEREAS, Article XI, Section 11.04 of the Marshall City Charter provides that the rates for public utility services within the city, shall be set by the city council and shall be at uniform and reasonable prices.

THEREFORE, BE IT RESOLVED that the City Council of the City of Marshall hereby adopts the following fee schedule for Fiber to the Premise service.

Residential			Commercial		
Download/Upload			Download/Upload		
Tier	Speed (Mbps)	Price/Mo.	Tier	Speed (Mbps)	Price/Mo.
1*	50/50	\$40	1*	60/60	\$60
2*	150/150	\$60	2*	250/250	\$99
3*	250/250	\$99	3**	150/150	\$150
4*	500/500	\$150	4**	300/300	\$300
5*	1Gbps/1Gbps	\$200	5**	500/500	\$500
			6**	1Gbps/1Gbps	\$1,000
			7**	10Gbps/10Gbps	\$10,000

* 1 NO STATIC IP ADDRESS

Adopted and signed this 15th day of April, 2019.

I, Trisha Nelson, being duly sworn as the Clerk for the City of Marshall, hereby certify that 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 April 15, 2019, and that said meeting was conducted and that the minutes of said meeting were kept and will be or have been made available

Trisha Nelson, City Clerk

C. Purchase of Overhead Conductor and Transformers for Michigan Pure Medical Facility:

Moved Metzger, supported McNeil, to approve the purchase of 30,000 feet of overhead 795 ACSR conductor from WESCO at \$1.70/ft. for a total amount of \$51,000 with a 10% contingency and approve the purchase of two transformers from Solomon Corporation at a cost of \$120,000. On a roll call vote – ayes: Underhill, Wolfersberger, Mayor Caron, Gates, McNeil, Metzger, and Traver; nays: none. **MOTION CARRIED.**

APPOINTMENTS/ELECTIONS

None.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Matt Parks, President of Local 1929, commented on the positive direction of the City of Marshall and the growth of the city. During the process of negotiations, they are ready to keep moving forward in a positive direction.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Gates, supported Wolfersberger, to enter into closed session under section 8 (c) of the Open Meetings Act to discuss strategy for collective bargaining agreements. On a roll call vote – ayes: Wolfersberger, Mayor Caron, Gates, McNeil, Metzger, Traver, and Underhill; nays: none. **MOTION CARRIED.**

Enter into closed session at 8:05 p.m.

Marshall City Council, Regular Session
Monday, April 15, 2019

Return to open session at 9:18 p.m.

ADJOURNMENT

The meeting was adjourned at 9:18 p.m.

Joe Caron, Mayor

Trisha Nelson, City Clerk