

### **CALL TO ORDER**

IN REGULAR SESSION, Monday, October 17, 2022 at 7:00 P.M., in the Council Chambers of City Hall, 323 West Michigan Avenue, Marshall, MI 49068. City Council was called to order by Mayor Caron.

### **ROLL CALL**

Roll was called:

Present: Council Members: Mayor Caron, Gates, Rice, Schwartz, Traver, Underhill and Wolfersberger.

Also Present: City Manager Perry and Clerk Eubank

Absent: None

### **INVOCATION/PLEDGE OF ALLEGIANCE**

Scott Loughrige of Cross Roads Church and Ministries lead the invocation. Mayor Caron led the Pledge of Allegiance.

### **APPROVAL OF THE AGENDA**

**Moved** Wolfersberger, supported Gates, to approve the agenda as presented. On a voice vote – **MOTION CARRIED.**

### **PUBLIC COMMENT ON AGENDA ITEMS**

Barry Reiter stated that after his appearance at the last City Council meeting, he received a letter in response from City Manager Perry and wanted to thank him for the timely reply.

Bart Goldberg stated that he is running for the US Congress in the 5<sup>th</sup> District and spoke on the key values of his campaign.

### **CONSENT AGENDA**

**Moved** Gates, supported Schwartz, to approve the Consent Agenda:

- A. Minutes of the City Council Regular Session held on Monday, October 3, 2022;
- B. Approve city bills in the amount of \$ 5,525,227.37

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

### **PRESENTATIONS AND RECOGNITION**

None.

### **INFORMATIONAL ITEMS**

None.

## **PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION**

### **A. Ventura Way ROW Vacation-701 N Linden**

Director Davenport provided background regarding the request from the property owner at 701 N Linden to vacate the Right of Way located at the property.

Mayor Caron opened the public hearing to hear public comment regarding the vacating of the Ventura Way ROW at 701 N Linden.

Becky Samra, Director of Kinderhaus Montessori, located at 701 N Linden, stated that they are looking to protect their investment and preserve the area. Council questioned the use of the newly acquired lot and if they were intending to close off the trails to the public. Samra answered that they are intending to leave the lot as it currently sits with trails and they have no intentions of closing the trails off, unless there becomes a habit of negligent behavior, in which case they may need to take further action to protect them from liability risks. Council questioned if an easement would protect Kinderhaus while keeping the trail open. At tourney Revore stated that an easement could negotiated, but that it would carry liability to the city which does not currently exist.

Mayor Caron closed the public hearing.

**Moved** Rice, supported Traver, to authorize the Clerk to sign City of Marshall Resolution 2022-027 approving the vacation of Ventura Way subject to reimbursement of the associated survey and legal fees.

## **CITY OF MARSHALL, MICHIGAN RESOLUTION NO. 2022-027**

### **RESOLUTION TO VACATE VENTURA WAY**

#### **RECITALS**

**WHEREAS**, a request has been received to vacate Ventura Way to N. Linden Street, within the City of Marshall, County of Calhoun, State of Michigan, and

**WHEREAS**, the City has the authority to vacate streets within the City under Michigan's Home Rule City Act, being MCL 117.1, *et seq.*, as amended, Section 2.23 of the City of Marshall Charter, as amended, and Article VII, Section 31 of the Michigan Constitution of 1963, and

**WHEREAS**, Notice of the Public Hearing for vacating Ventura Way to N. Linden Street was published by the City of Marshall on \_\_\_\_\_. \_\_, 2022, with a notice of the hearing mailed via first class mail to all property owners of record for any property adjoining the parcel in question; and

**WHEREAS**, the City conducted a hearing on vacating Ventura Way, and

determined that the police and fire departments believe that the vacation will not adversely affect public safety, and

**WHEREAS**, the City has determined that the street right-of-way recommended for vacation is not needed by the City Department of Public Works or Public Safety Department, and

**WHEREAS**, the City of Marshall deems it advisable and necessary for the health, safety, comfort, and safety of the people of the City of Marshall to discontinue and vacate Ventura Way, a public street, identified as Parcel No. 53-002-027-01, and legally described as:

MARSHALL CITY, BEG PT ON WEST LI N LINDEN ST DIS 330 N FROM NE COR LOT 1 LINDEN HILLS PLAT; TH N 89 DEG 12 MIN W, 198. FT; TH N 85 DEG 44 MIN W, 209 FT; TH N 78 DEG 59 MIN W, 143.78 FT; TH N 66 FT; TH S 78 DEG 59 MIN E, 143.78 FT; TH S 85 DEG 44 MIN E, 209 FT; TH S 89 DEG 12 MIN E, 198 FT; TH S 66 FT TO POB. (CURRENT INGRESS/EGRESS TO PARCEL 13-53-002-027-00).

and all easements of record, (collectively, the "Property"), and

**WHEREAS**, the City determines it advisable and reserves and maintains an easement in the Property, and any resulting parcels therefrom, for all public and private utilities, to include but not limited to, storm sewer, water, water mains and line or lines of pipe for the transportation of water and sewage, together with all necessary and convenient equipment, facilities, pumps, pipes, lines, and FiberNet, electric, cable, aerial electric, air rights and connections therefor, and all other fixtures and appliances appurtenant thereto, and to operate, by means thereof, in, upon, along, over and across the following described Property; and further, to lay, install, maintain, construct, operate, repair, replace, renew, add, expand, remove utilities and/or lines, together with all necessary and convenient equipment, facilities, pipes, lines, connections therefor and all other fixtures and appliances appurtenant thereto (the "Utility Easement"), and

**WHEREAS**, the City conducted a public hearing on the 17th, of October, 2022, on the vacation of the Property, in the City Council Chambers at City Hall, 323 W. Michigan Avenue, Marshall Michigan, and

**WHEREAS**, no objections were made to said vacation of the Property;

**NOW, THEREFORE BE IT RESOLVED:**

1. That the above RECITALS are incorporated herein.
2. That pursuant to the authority granted the Michigan's Home Rule City Act, being MCL 117.1, *et seq*, as amended, Section 2.23 of the City of Marshall Charter, as amended, and under Article VII, Section 31 of the Michigan Constitution of 1963, the City Council of the City of Marshall hereby vacates and discontinues and above-

described Property as a public street, subject to easements reserved herein over the entire vacated area for public utility purposes, including an easement for, but not limited to, storm sewer, water, water mains and line or lines of pipe for the transportation of water and sewage, together with all necessary and convenient equipment, facilities, pumps, pipes, lines, and FiberNet, electric, cable, aerial electric, air rights and connections therefor, and all other fixtures and appliances appurtenant thereto, and to operate, by means thereof, in, upon, along, over and across the following described Property; and further, to lay, install, maintain, construct, operate, repair, replace, renew, add, expand, remove utilities and/or lines, together with all necessary and convenient equipment, facilities, pipes, lines, connections therefor and all other fixtures and appliances appurtenant thereto (the "Utility Easement").

3. That, in addition to the easement rights in Paragraph 2 above, this Utility Easement shall include the following additional rights:

- A. The right to move earth materials, including the right to dig soil, and to cut, trim, remove or otherwise control all trees, branches, bushes, brush, undergrowth, crops or other growth or vegetation located or growing upon or in the easement area as may be reasonably necessary to permit the City's use the easement area for the installation, construction and maintenance of the water main and utilities and the equipment and facilities connected therewith.
- B. The right to temporarily and reasonably store materials and conduct other "staging" and necessary activities for the installation, construction and maintenance of the water main and all other utilities.
- C. The right to prohibit the erection or placement of any buildings or structures (excluding roadways and driveways) in or upon said easement area.
- D. The right of ingress to, egress from and passage on and over the Property to the easement area for the purpose of exercising the easement rights hereinbefore described.

4. That vacation of said Property shall be subject to and under the conditions of this Resolution, the Utility Easement, and the agreements herein, and that the parcels identified in **Exhibit A** shall become parts of the adjacent properties described in **Exhibit A** as:

- A. Vacated Parcel #1 to Parcel No. 53-002-027-00, by Quit Claim Deed (**Exhibit B**),
- B. Vacated Parcel #2 to Parcel No. 53-002-026-00, by Quit Claim Deed (**Exhibit C**), and
- C. Vacated Parcel #3 to Parcel No. 53-002-029-04, by Quit Claim Deed (**Exhibit D**), and

D. Vacated Parcel #4 to Parcel No. 53-002-040-00, by Quit Claim Deed **(Exhibit E)**.

5. That vacation of said Property is conditioned upon, and as agreed to by the owner(s) of Parcel No. 53-002-026-00, BROWN FAMILY TRUST (Trust dated March 15, 2021) and Mary E. Brown, Trustee (collectively, "owners of Parcel No. 53-002-026-00"), to convey and transfer Vacated Parcel #2 to the owners of Parcel No. 53-002-027-00 (i.e., KINDERHAUS MONTESSORI PRESCHOOL OF MARSHALL); and the owner(s) of Parcel No. 53-002-040-00, GLOTFELTY MARLENE J TRUST (Trust dated) \_\_\_\_\_ and Marlene J. Glotfelty, Trustee (collectively, "owners of Parcel No. 53-002-040-00"), to convey and transfer Vacated Parcel #4 to the owners of Parcel No. 53-002-029-04 (i.e., KINDERHAUS MONTESSORI PRESCHOOL), that upon vacation of the Property, said owners of Parcel No. 53-002-026-00 and owners of Parcel No. 53-002-040-00, will transfer and convey Parcel #2 and Parcel #4, respectfully, as follows:

A. BROWN FAMILY TRUST, the owner(s) of Parcel No. 53-002-026-00 agree to and shall convey and transfer by Quit Claim Deed Vacated Parcel #2 to KINDERHAUS MONTESSORI PRESCHOOL, the owners of Parcel No. 53-002-027-00, **(Exhibit F)**, and

B. GLOTFELTY MARLENE J TRUST, the owners of Parcel No. 53-002-040-00 agree to and shall convey and transfer by Quit Claim Deed Vacated Parcel #4 to KINDERHAUS MONTESSORI PRESCHOOL, the owners of Parcel No. 53-002-029-04, **(Exhibit G)**.

6. That this Resolution No. 2022-027 and its Exhibits A-H shall be recorded with the Register of Deeds of Calhoun County, State of Michigan, and shall be binding upon the heirs, successors and permitted assigns of said identified parcels and shall run with the land.

7. That vacation of said Property shall be subject to, and contingent upon, the filing of an Affidavit by the City Clerk affirming the closing of the transactions identified herein as required under paragraphs no. 4 and no. 5 above and the Agreements identified on page no. 6. **(Exhibit H.)**

8. That the City Clerk shall be, and hereby is, authorized for and on behalf of the City to execute and deliver any documents necessary or appropriate.

The foregoing Resolution was moved by Council Member Rice and seconded by Council Member Traver and declared adopted by the following vote:

AYES: Schwartz, Traver, Underhill, Wolfersberger, Mayor Caron, Gates, and Rice

NAYES: None

ABSENT: None

RESOLUTION DECLARED ADOPTED.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

STATE OF MICHIGAN )

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COUNTY OF CALHOUN )

I, the undersigned duly qualified and acting Clerk of the City of Marshall, County of Calhoun, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Marshall at a Regular meeting held on the 17th, of October, 2022, the original of which is a part of the City Council's minutes and further certifies that notice of the meeting was given to the public pursuant to the provisions of the Open Meetings Act, 1976 PA 267, as amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed seal of said City of Marshall, this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Michelle Eubank, City Clerk

**AGREEMENT**

I (we), the owner(s) of Parcel No. 53-002-026-00, BROWN FAMILY TRUST, (Trust dated March 15, 2021) and Mary Brown, Trustee, hereby agree to and shall convey and transfer by Quit Claim Deed Vacated Parcel #2 to the owners of Parcel No. 53-002-027-00, as indicated in City Resolution No. 2022-027. Mary Brown (print), \_\_\_\_\_(sign), \_\_\_\_\_ (date).

STATE OF MICHIGAN )

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COUNTY OF CALHOUN )

On this \_\_ day of \_\_\_\_\_, 2022 before me, a Notary Public, in and for said County, personally appeared \_\_\_\_\_, known to be the same described in and who executed the within instrument, who has



**A. Parks, Rec & Cemetery and Brooks Nature Area Advisory Board:**

**Moved** Schwartz, supported Wolfersberger, to approve the following reappointments to their respective boards with the associated term expirations:

**Airport Board**

Scott Southwell 10/1/2025  
David Mead 10/1/2025

**Northeast Neighborhood Improvement Authority**

Scott Wolfersberger 12/31/2025

**Planning Commission**

Lisa McNiff 11/1/2025

**Downtown Development Authority & Local Development Finance Authority**

Sue Damron 09/15/2025

**South Neighborhood Improvement Authority**

Ryan Underhill 12/31/2025

**Sister City Committee**

Andrei Radulescu 10/16/2024  
Sally Garman 10/16/2024  
Sue Rosko 10/16/2025  
Candi Putnam 10/16/2025  
Gabriella Radulescu 10/16/2025

On a voice vote- **Motion Carried.**

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

None.

**COUNCIL AND MANAGER COMMUNICATIONS**

**ADJOURNMENT**

The meeting was adjourned at 7:54 p.m.

\_\_\_\_\_  
Joe Caron, Mayor

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Michelle Eubank, City Clerk