CITY COUNCIL MINUTES

June 5, 2023
Regular Meeting - 7:00 PM

1) CALL TO ORDER

IN A REGULAR SESSIONS held on Monday, June 5, 2023 at 7:00 PM in the Council Chambers of City Hall, 323 West Michigan Ave, Marshall, MI 49068, the Marshall City Council was called to order by Mayor Schwartz.

2) ROLL CALL

Roll was called:

Present: Mayor James Schwartz, Joe Caron, Theresa Chaney-Huggett, Jacob Gates, Ryan Traver, Ryan Underhill, Scott Wolfersberger

Also Present: Manager Perry and Clerk Eubank

Absent: None

3) INVOCATION

4) PLEDGE OF ALLEGIANCE

Mayor Schwartz led the Pledge of Allegiance.

5) APPROVAL OF AGENDA - Items can be added or deleted from the Agenda by City Council action.

Moved Joe Caron, supported Scott Wolfersberger to approve the agenda as submitted. On a voice vote: **Motion carried.**

6) PUBLIC COMMENT ON AGENDA ITEMS Persons addressing City Council are required to give their name and address for the record when called upon by the Mayor. Members of the public shall be limited to speaking for a maximum of three (3) minutes. Comments shall address AGENDA ITEM topics. Public Hearing items shall be addressed during the PUBLIC HEARING portion (Item 10) of the meeting agenda. Non-Agenda items shall be addressed during the PUBLIC COMMENT-NON-AGENDA ITEMS (Item 14) portion of the meeting agenda.

Barry Wayne Adams of 622 W Green St stated that he objected to the minutes as they don't accurately reflect the public comments and that it is padding the records. He further stated that it is a violation of the First Amendment to limit public comment and that council should reverse the decision to limit the time to three minutes.

Jerod Sweet of Us Hwy 27 N stated that he was there to represent Jam for the Cure, which was established in 2008 to raise funds for the American Cancer Society and in 2017 the organization transitioned to helping Calhoun County residents fund their cancer treatments. They are asking to be recognized by the city as a non-profit organization.

Autumn Smith of Battle Creek stated that she objects to the idea of having a public copy of the full packet while only having agendas for each person. She further stated her objection to Battle Creek supplying the water to the megasite, as it is aiding the CCP.

Jerry Bossard of Marshall Township stated that if there is a conflict of interest, that person shouldn't vote. He further stated that he is taking a 6 hour class on how to react and that council should take the class.

Maggie Emersen-Rich of 616 Union St questioned what the larger bills were for in the city purchases.

7) CONSENT AGENDA

Moved Scott Wolfersberger, supported Ryan Underhill to approve the consent agenda as presented. On a roll call vote:

Ayes: Joe Caron

Chaney-Huggett wished to abstain. Mayor Schwartz questioned the reasoning. Chaney-Huggett disclosed that she is a member of the Jam for the Cure board. Schwartz questioned if any compensation was received. Chaney-Huggett stated there was not. Council consensus was that there was no conflict of interest requiring her to abstain from the vote. Voting resumed.

Ayes: Theresa Chaney-Huggett, Jacob Gates, Ryan Traver, Ryan Underhill, Scott Wolfersberger, James Schwartz
Nays: None
Abstain: None

Motion carried.

A. **City Council Minutes**
Regular Session - May 15, 2023
Work Session- May 15, 2023

B. **City Bills**

Purchases- 5/12/23	$43,372.57
Purchases- 5/19/23	$228,087.59
Purchases- 5/26/23	$198,797.41
April Power Invoice	$784,411.29
Total	**$1,365,668.86**

C. ROTARY FOUNDATION- CHARITABLE GAMING LICENSE

D. JAM FOR THE CURE- CHARITABLE GAMING LICENSE

E. MARSHALL HOUSE PSA FIRST AMENDMENT AND REINSTATEMENT

8) PRESENTATIONS AND RECOGNITIONS

9) INFORMATIONAL ITEMS

10) PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION Persons addressing City Council are required to give their name and address for the record when called upon by the Mayor. Members of the public shall be limited to speaking for a maximum of three (3) minutes per public hearing.

11) OLD BUSINESS

12) REPORTS AND RECOMMENDATIONS

A. VINTAGE MARKET SPECIAL EVENT REQUEST

Moved Jacob Gates, supported Joe Caron to approve the Vintage Garden Market Special Event Application. On a voice vote: **Motion carried.**

B. HOME TOUR MARKET SPECIAL EVENT REQUEST

Moved Scott Wolfersberger, supported Ryan Underhill to approve the Hometour Vintage Market Special Event Application. On a voice vote: **Motion carried.**

C. YPC-FRIDAY'S AT THE FOUNTAIN SPECIAL EVENT REQUEST

Traver questioned if there were any plans for crowd control, as there were some more popular bands playing. Davenport stated that she was not aware of any. Schwartz stated that if the event gets too large they will either need to move to a larger venue or turn people away.

Moved Jacob Gates, supported Ryan Traver to approve the *Fridays at the Fountain* Special Event Application. On a voice vote: **Motion carried.**

D. STORIES AT THE FOUNTAIN SERIES SPECIAL EVENT REQUEST

Moved Ryan Traver, supported Joe Caron to approve the Marshall District Library *Stories at the Fountain* Special Event Application. On a voice vote: **Motion carried.**

E. GRAND RIVER ANNIVERSARY SPECIAL EVENT REQUEST

Moved Ryan Traver, supported Theresa Chaney-Huggett to approve the *Grand River 5-Year Anniversary* Special Event Application. On a voice vote: **Motion carried.**

F. GRAND RIVER BREWERY SIDEWALK USE PERMIT

Moved Scott Wolfersberger, supported Ryan Traver to approve the Sidewalk Use application from Grand River Brewery for the purpose of an outdoor cafe from May 1, 2023 to April 30, 2024. On a voice vote: **Motion carried.**

G. MARIA'S UNCORKED MLCC SOCIAL DISTRICT PERMIT REQUEST

Moved Joe Caron, supported Ryan Underhill to approve the Local Governmental Unit Approval For Social District Permit pursuant to MCL 436.1551 for Maria's Uncorked at 116 East Michigan Ave. On a voice vote: **Motion carried.**

H. AMP MICHIGAN CAT PEAKING PROJECT

Moved Scott Wolfersberger, supported Ryan Traver to adopt Resolution 2023-20, A Resolution to approve the form and authorize the execution of a power sales contract and supplemental agreement thereto with American Municipal Power, Inc. (AMP) and taking other actions in connection therewith regarding participation in the AMP Michigan CAT peaking project and authorize the City Manager and City Clerk to sig the necessary documents. On a roll call vote:

Ayes:Theresa Chaney-Huggett, Jacob Gates, Ryan Traver, Ryan Underhill, Scott Wolfersberger, James Schwartz, Joe Caron
Nays: None
Abstain: None
Motion carried.

I. GREEN STREET RECONSTRUCTION AND 2023 STREET IMPROVEMENTS CONSTRUCTION CONTRACT

Wolfersberger questioned if the NE NIA needed to approve the use of funds for their portion of roads. Zuzga stated that it would be discussed at the next NE NIA meeting. Caron questioned when they believed they would start on the work on Green St. Davenport stated that they are planning to start in mid-July and end by November 1st.

Moved Jacob Gates, supported Joe Caron to

- Approve the construction contract with Quality Excavators Inc for Part 1 in the amount of $476,196.24 with a contingency of $48,000 for a total funded amount of $524,196.24.
- Approve the construction engineering contract with Progressive AE for Part 1 in the amount of $85,300.
- Approve the construction contract with Quality Excavators Inc for Part 2 in the amount of $781,816.55 with a contingency of $159,000 for a total funded amount of $940,816.55.

On a roll call vote:

Ayes: Ryan Traver, Ryan Underhill, Scott Wolfersberger, James Schwartz, Joe Caron, Theresa Chaney-Huggett, Jacob Gates
Nays: None
Abstain: None
Motion carried.

J. CAHILL RENTAL REHABILITATION DEVELOPMENT AGREEMENT

Moved Joe Caron, supported Scott Wolfersberger to approve the Cahill Development Agreement and authorize the City Clerk to sign on behalf of the City. On a voice vote: **Motion carried.**

K. SET PUBLIC HEARING FOR OPRA DISTRICT CREATION FOR 112 N EAGLE STREET

Director Zuzga stated that the public hearing should be set for July 17, 2023 opposed to June 19, 2023 as stated in the packet.

Moved Scott Wolfersberger, supported Jacob Gates to Schedule a public hearing for July 17, 2023 to consider creation of an OPRA District for 112 North Eagle Street. On a voice vote: **Motion carried.**

L. SET PUBLIC HEARING FOR 902/1102 WEST HANOVER STREET SPECIAL LAND USE

Director Zuzga stated that the public hearing should be set for July 17, 2023 opposed to June 19, 2023 as stated in the packet.

Moved Jacob Gates, supported Joe Caron to schedule a public hearing for June 19, 2023 to consider approval of a special land use for 902/1102 West Hanover Street. On a voice vote: **Motion carried.**

M. 2023-2026 POLICE PATROL COLLECTIVE BARGAINING AGREEMENT

Gates stated that it seemed to be a reasonable contract for both sides. Schwartz stated that they have earned their pay with how well they interact with the public. Wolfersberger questioned how the acting command would work. Lankerd stated that there are still some things to figure out as to how it will all work and that it is only being done on a trial basis at this point.

Moved Ryan Traver, supported Scott Wolfersberger to approve the 2023-2026 City of Marshall Collective Bargaining Agreement and the associated Acting Shift Command Officer Letter of Understanding with the Police Officers Labor Council, Patrol Officers Division and authorize the City Manager and City Clerk to sign. On a voice vote: **Motion carried.**

N. CITY OF MARSHALL MEMBERSHIP IN THE WEST MICHIGAN HEALTH INSURANCE POOL

Caron stated that this would move employees back to Blue Cross from Priority Health. Gates questioned if there were any other requirements. Perry stated that he sees no downside as rates tend to not increase as quickly and that it may lead to greater flexibility for employees and possibly greater incentives to not participate in the future.

Moved Ryan Traver, supported Ryan Underhill to approve Resolution #2023-19, A Resolution Authorizing City of Marshall Membership in the West Michigan Health Insurance Pool (WMHIP) for a minimum three-year period and authorize the City Manager and City Clerk to sign the required documents. On a voice vote: **Motion carried.**

O. MICHIGAN HARD CAP EXEMPTION

Moved Joe Caron, supported Ryan Underhill to approve Resolution #2023-21, A Resolution to adopt the annual exemption option as set forth in Public Act 152, the Publicly Funded Health Insurance Contribution Act and authorize the City Manager and City Clerk to sign the necessary documents. On a voice vote: **Motion carried.**

13) APPOINTMENTS / ELECTIONS

14) PUBLIC COMMENT ON NON-AGENDA ITEMS Persons addressing City Council are required to give their name and address for the record when called upon by the Mayor. Members of the public shall be limited to speaking for a maximum of two (2) minutes. Comments shall address NON-AGENDA ITEM topics. Public Hearing items shall be addressed during the PUBLIC HEARING portion (Item 10) of the meeting agenda. Agenda items shall be addressed during the PUBLIC COMMENT-AGENDA ITEMS (Item 6) portion of the meeting agenda.

Barry Wayne Adams of 622 W Green St stated that he submitted a FOIA request which he got a fee estimate back for that was ludicrous. He stated that it is a violation of the law to block access to public records and that the clerk needs to be arrested.

Jerry Bossard of Marshall Township questioned why people are voting on items if they have a conflict of interest and that there needs to be an ethical code.

Maggie Emersen-Rich of 616 Union St stated that the conflict of interest policy states that even if there is a deferential interest and not a monetary interest, the person should be recused. She further stated that she has concerns with emergency response times, as there were issues at a recent protest and it took 15 minutes for police to respond, and on a recent video of an accident it took 9 minutes for an ambulance, 11 minutes for fire services and 12 minutes before any police arrived on scene.

Autumn Smith of Battle Creek stated that the council was in violation of several things, including the open meetings act, the Americans with Disabilities Act, the Supremecy Law, and the First amendment. She further stated that the reason the city has problems attracting new police officers is because they don't want to be forced to be unethical.

Jerod Sweet of Us Hwy 27 N stated that Jam for the Cure was only there to be recognized as a non-profit and that no one on their board receives any money for their work.

Corey Schumaker of Kalamazoo stated his opposition to the change in the time for public comment and the change to having non-agenda comments limited to 2 minutes opposed to 3. He further stated that if a venue can be too small for an event, then the city can also be too small for a battery plant and that no one will be able to control the plant once it is open.

Julie Bryant of Squaw Creek stated her opposition to the megasite due to national security concerns. She stated that they have been organizing and fighting back and has been attacked for what she believes in, including a mailing with a red X over several faces.

Rick Sadler of Squar Creek stated that the size of Arlington National Cemetery is less than 1/3 the size of the megasite and that the 1.3 million soldiers who have lost their lives defending the county didn't do so to bring in the CCP.

Leigh Rothwell of Ceresco stated that the city should not annex any more property between 13 and 12 mile roads and that if they do it should be turned into a park for public use. She stated that nothing else should be zoned industrial. She further stated that she won't bring her grandson to protests and will not attend Saturday protests anymore due to fear from attacks.

15) COUNCIL AND MANAGER COMMUNICATIONS

Mayor Schwartz stated that he had not seen the flyer that people were commenting on, but that he does not believe people should be threatened, nor does he believe language of hurt and kill needs to be used.

16) ADJOURNMENT

The meeting was adjourned at 8:39 pm.