
CITY COUNCIL MINUTES

August 7, 2023
Regular Meeting - 7:00 PM

1) CALL TO ORDER

IN A REGULAR SESSION held on Monday, August 7, 2023 at 7:00 PM in the Council Chambers of Town 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 Underhill, Scott Wolfersberger

Also Present: Manager Perry and Clerk Eubank

Absent: Ryan Traver

Moved Wolfersberger, supported Caron to excuse Member Traver. On a voice vote: **Motion carried.**

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.

Mayor Schwartz confirmed the timing of the road closure for the Home Tour for 9am-10pm on Saturday, September 9 and 9am-5pm on Sunday, September 10.

Moved Caron, supported 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 should 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.

Glenn Kowalske of Marshall Township stated that his FOIA request was for documents related to a 2013 referendum, which was similar to the current effort, and that he believes it is convenient that the documents do not exist.

Barry Wayne Adams of 622 W Green St objected to the approval of the agenda, as it goes against what the founding fathers intended.

7) CONSENT AGENDA

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

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

Nays: None
Abstain: None
Motion carried.

A. City Council Minutes
Regular Session - July 17, 2023

B. <u>City Bills</u>	
Purchases- 7/17/23	\$678,942.57
Purchases- 7/21/23	\$228,442.66
Purchases- 7/28/23	\$285,653.40
Total	\$1,193,038.63

C. MOTOR POOL EQUIPMENT PURCHASES

D. SPECIAL EVENT REQUEST - SKELETONFEST

E. SPECIAL EVENT REQUEST - STEP OUT OF DARKNESS

F. SPECIAL EVENT REQUEST- CHRISTMAS PARADE 2023

G. SPECIAL EVENT REQUEST - COSTUME PARADE

H. SPECIAL EVENT REQUEST - HOME TOUR

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.

A. DREAMERS BUILDING OPRA CERTIFICATE

Mayor Schwartz opened the public hearing on resolution 2023-026 at 7:13 p.m.

Barry Wayne Adams of 622 W Green St spoke of corporate fascism and that it is a form of military law for people to have to ask council for permission to do things.

Mayor Schwartz closed the public hearing on resolution 2023-026 at 7:17 p.m.

Caron stated that he is employed by the property owner, and while he has no financial interest in the project, he would like to be recused for a potential conflict of interest.

Wolfersberger stated that while there is no financial conflict, he would recommend recusal for this matter for Caron's comfort.

Moved Scott Wolfersberger, supported Jacob Gates to recuse Member Caron for item 10A of the agenda. On a voice vote: **Motion carried.**

Schwartz stated that the property would still be taxed at the value that it is currently at and after the OPRA expires, the full value of the property would be assessed. He questioned how parking would be handled for the proposed project. Zuzga stated that there is no site plan in place at this point, but that parking for the project would be looked at as part of that process. Schwartz stated that the parking garage was within a walkable distance and there was some on-street parking available. Zuzga stated that they are working on a parking study for the entire downtown area. Chaney-Huggett stated that she heard from a property owner that they had not received notice of the previous meeting, and while they have no concerns with the OPRA, they do worry about parking. Perry stated that the DDA is looking at parking for the entire downtown. Gates concurred on the parking issue, but saw this as a great project that will revitalize the downtown and repurpose as building that is currently a hazard.

Moved Scott Wolfersberger, supported Ryan Underhill to approve Resolution 2023-026 which would provide for an OPRA exemption for 12 years for the redevelopment of 112 North Eagle Street. On a roll call vote:

Ayes: Theresa Chaney-Huggett, Jacob Gates, Ryan Underhill, Scott Wolfersberger, James Schwartz

Nays: None

Abstain: Joe Caron

Motion carried.

**RESOLUTION TO APPROVE AN OBSOLETE PROPERTY
REHABILITATION EXEMPTION CERTIFICATE APPLICATION
PA 146 OF 2000 AS AMENDED**

Minutes of a regular meeting of the Council of the City of Marshall, held on August 7, 2023 at 7:00 PM.

PRESENT:

ABSENT:

The following preamble and resolution were offered by _____, and supported by _____.

**Resolution 2023-26 Approving Obsolete Property Rehabilitation Exemption
Certificate Application for 112 North Eagle Street**

WHEREAS, pursuant to PA 146 of 2000, as amended, the City of Marshall is a Qualified Local Governmental Unit eligible to establish one or more Obsolete Property Rehabilitation Districts (OPRA); and

WHEREAS, the City of Marshall legally established the Obsolete Property Rehabilitation District 112 North Eagle Street Obsolete Property Rehabilitation District No. 1 on July 17, 2023, after a public hearing held on July 17, 2023; and

WHEREAS, the taxable value of the property proposed to be exempt plus the aggregate taxable value of property already exempt under Public Act 146 of 2000 and under Public Act 198 of 1974 (IFT's) does not exceed 5% of the total taxable value of the City of Marshall; and

WHEREAS, the application was approved at a public hearing as provided by section 4(2) of Public Act 146 of 2000, as amended, on August 7, 2023; and

WHEREAS, the owner is not delinquent in any taxes related to the facility; and

WHEREAS, the application is for obsolete property as defined in section 2(h) of Public Act 146 of 2000, as amended; and

WHEREAS, the applicant has provided answers to all required questions under the application instructions to the City of Marshall; and

WHEREAS, the City of Marshall requires that rehabilitation of the facility shall be completed by December 31, 2024; and

WHEREAS, the commencement of the rehabilitation of the facility did not occur before the establishment of the Obsolete Property Rehabilitation District; and

WHEREAS, the application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of Public Act 146 of 2000, as amended, and that is situated within an Obsolete Property Rehabilitation District established in the City of Marshall eligible under Public Act 146 of 2000, as amended, to establish such a district; and

WHEREAS, completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate, have the reasonable likelihood to create employment, revitalize urban areas, and increase the number of residents in the community in which the facility is situated; and

WHEREAS, the rehabilitation includes improvements aggregating 10% or more of the true cash value of the property at commencement of the rehabilitation as provided by section 2(l) of Public Act 146 of 2000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marshall and hereby is granted an Obsolete Property Rehabilitation Exemption for the real property of 112 North Eagle Street, excluding land, located in 112 North Eagle Street Obsolete Property Rehabilitation District No. 1 at 112 North Eagle Street for a period of 12 years,

beginning December 31, 2023, and ending December 30, 2036, pursuant to the provisions of PA 146 of 2000, as amended.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, Michigan at a regular meeting held on August 7, 2023.

Clerk

B. MARSHALL HOUSE PILOT ORDINANCE

Mayor Schwartz opened the public hearing on Ordinance 2023-10 at 7:27 p.m.

Barry Wayne Adams of 622 W Green St again spoke on corporate fascism and military law and further stated that it could be taken to federal court.

Mayor Schwartz closed the public hearing on Ordinance 2023-10 at 7:31 p.m.

Woltersberger questioned if a PILOT based on rent versus property value is common. Perry stated that it comes from a state act how the city is allowed to come up with PILOTS.

Moved Jacob Gates, supported Theresa Chaney-Huggett to enact Ordinance 2023-10, An Ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project for low income persons and families to be financed with a federally-aided mortgage loan pursuant to the provisions of the state housing development authority act of 1966 (1966 pa 346, as amended; mcl 125.1401, et seq) (the "act") and direct the City Clerk to publish the ordinance in full. On a roll call vote:

Ayes: Theresa Chaney-Huggett, James Schwartz, Joe Caron, Scott Woltersberger, Jacob Gates, Ryan Underhill

Nays: None

Abstain: None

Motion carried.

CITY OF MARSHALL

ORDINANCE #2023-10

AN ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A MULTIPLE FAMILY DWELLING PROJECT FOR LOW INCOME PERSONS AND FAMILIES TO BE FINANCED WITH A FEDERALLY-AIDED MORTGAGE LOAN PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (1966 PA 346, AS AMENDED; MCL 125.1401, *ET SEQ*) (THE "ACT").

THE CITY OF MARSHALL, MICHIGAN ORDAINS:

SECTION 1. Short Title.

This Ordinance shall be known and cited as the "City of Marshall Tax Exemption Ordinance-Marshall House."

SECTION 2. Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL Section 125.1401 *et seq.*) The City of Marshall ("City") is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons and families of low income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing project that is acquired with financing extended in reliance on such tax exemption.

The City of Marshall acknowledges that the "Sponsor" (as defined below) has offered, subject to receipt of a Mortgage Loan, to own and operate the Housing Development (defined below) to serve Low Income Persons and Families (defined below), and that the Sponsor has offered to pay the City on account of the Housing Development an annual service charge for public services in lieu of all *ad valorem* property taxes.

SECTION 3. Definitions.

Authority means the Michigan State Housing Development Authority.

Act means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

Contract Rents/Annual Shelter Rents means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.

Housing Development means that certain development commonly known as Marshall House, which is located at 200 East Spruce Street in Marshall, Michigan, which development contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the Authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.

Low Income Persons and Families means persons and families eligible to move into a housing project.

Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the acquisition and/or permanent financing of the Housing Development, and secured by a mortgage on the Housing Development.

Sponsor means Gene B. Glick Family Housing Foundation or its affiliate, and any successor owner of the Housing Development that receives or assumes a Mortgage Loan.

City means the City of Marshall.

Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the Housing Development.

SECTION 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that the Housing Development is of this class.

SECTION 5. Establishment of Annual Service Charge.

The Housing Development and the property on which it is located shall be exempt from all *ad valorem* property taxes from and after of enactment of this Ordinance. (Or, commencement of construction or rehabilitation.) The City acknowledges

that the Sponsor has established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the Housing Development for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to acquire and operate the Housing Development, the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 4% of the Contract Rents/Annual Shelter Rents.

SECTION 6. Contractual Effect of Ordinance.

Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary hereunder, to provide tax exemption and accept payments in lieu thereof as previously described, is created by enactment of this Ordinance. Failure of the Sponsor or its successor in interest to operate and maintain said Housing Development so as to be eligible for a payment in lieu of taxes as provided in this Ordinance, or a judicial determination of a material violation of the Act or regulations of the Authority shall be deemed to be a violation of this Ordinance and default hereunder. Notice of such violation shall be provided to the Sponsor and the Authority and, if not cured within thirty (30) days after the date of Notice, the City may revoke or repeal the Ordinance pursuant to Section 9 below.

SECTION 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the Housing Development that is tax exempt, but which is occupied by other than Low Income Persons and Families shall be equal to the full amount of the taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before March 31st of the following year, prorated for the first year, payable on or before March 31, 2024, as applicable. The Sponsor shall verify Contract Rents/Annual Shelter Rents with a statement of profit and loss or other form of financial documentation. Payment of the service charge in lieu of taxes after March 31st shall be subject to an additional monthly service charge of 0.5% on the unpaid balance. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

SECTION 9. Duration.

This Ordinance shall remain in effect and shall not terminate so long as the Housing Development shall remain subject to the Mortgage Loan. The City further reserves the right, in the event of noncompliance by the Sponsor, to revoke or repeal this Ordinance in accordance with the Act.

It is further the intent of the Parties that in the event Housing Development is sold, transferred, or refinanced by the Sponsor or a related entity of the Sponsor, this Ordinance shall remain in full force and effect and without further action by the Sponsor or the City to otherwise change, alter or amend this Ordinance. Furthermore, this Ordinance shall not be terminated in event of foreclosure or deed in lieu of foreclosure of a Mortgage Loan and any subsequent transfer of the Housing Development.

SECTION 10. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

SECTION 11. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION 12. Code Edits.

The editors of the Marshall City Code are hereby authorized, subject to approval of the City Manager, or designee, to update and revise code section numbers to effectuate the provisions of this Ordinance.

SECTION 13. Publication.

This Ordinance 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, within ten (10) days after its adoption. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signature of the Mayor and the City Clerk.

SECTION 14. Effective.

This Ordinance be effective publication upon the expiration of 7 days after publication.

Introduced by the Marshall City Council this 17 day of July, 2023.

Adopted by the Marshall City Council this 7 day of August, 2023.

Motion by Gates

Second by Chaney-Huggett

Ayes: Underhill, Wolfersberger, Mayor Schwartz, Caron, Chaney-Huggett, Gates

Nays: None

Absent: Traver

Approved:

James Schwartz, Mayor

STATE OF MICHIGAN
COUNTY OF CALHOUN

I, Michelle Eubank, Marshall City Clerk, certify this is Ordinance #2023-10 adopted by the Marshall City Council at a meeting held the 7 day of August, 2023, a meeting held according to the Open Meetings Act, Public Act No. 267 of 1976, as amended. I further certify Ordinance # 2023 - 10 was published in the Marshall Ad-Visor, a newspaper of general circulation in the City of Marshall, the 12 day of August, 2023, subsequent to its adoption.

Michelle Eubank, City Clerk

Introduced: July 17, 2023
Public Hearing: August 7, 2023
Adopted: August 7, 2023
Published: August 12, 2023
Effective:

11) OLD BUSINESS

12) REPORTS AND RECOMMENDATIONS

A. SPECIAL EVENT REQUEST- MANDY RUNS MICHIGAN 5K RUN

Wolfersberger questioned the parking plan for the event. Mandy Frye, sponsor of the event, stated that Progressive Dynamics and LeggLumber are allowing the use of their lots for parking for the event. Schwartz questioned if there would be running on the boardwalk, and it was confirmed that runners would be on the hard concrete path, while walkers utilize the board walk.

Moved Scott Wolfersberger, supported Ryan Underhill to approve the Mandy Runs Michigan 5K Run Special Event Application Request for October 21, 2023. On a voice vote: **Motion carried.**

B. FOIA APPEAL REQUEST - MR. GLENN KOWALSKE

Perry gave background on the FOIA request and the city's retention policy. Kowalske stated that he was asking for 3 documents in relation to the 2013 referendum which should have been easy to keep. Wolfersberger questioned why it was considered a denial if a document was given. Clerk Eubank stated that it was considered a partial grant/partial denial, as some of the requested documents were unavailable. Gates questioned if we would keep anything that says final determination. Perry stated that we follow the approved retention schedule, so the only way they may be kept longer is if they are in a permanent document. Schwartz stated that the records were looked for and they don't exist.

Moved Scott Wolfersberger, supported Jacob Gates to issue a written letter to Glenn Kowalske upholding the FOIA denial . On a roll call vote:

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

Nays: None

Abstain: None

Motion carried.

C. PA 425 CONDITIONAL LAND TRANSFER REQUEST - SET PUBLIC HEARING 440 WEST HUGHES, PARCEL ID 16-260-003-01

Schwartz confirmed there was no eminent domain used to bring the property into the city. Perry stated that it was correct, that the property owner must request and initiate the process.

Moved Joe Caron, supported Ryan Underhill to set a Public Hearing for August 21, 2023, to hear comments on the proposed transfer of property located at 440 W. Hughes Street (parcel ID 16-260-003-01) and consider Resolution 2023-22, A Resolution Authorizing Execution of Contract for Conditional Transfer of Property under PA 425 of 1984. On a voice vote: **Motion carried.**

D. FIRE CODE AND INSPECTION SERVICES AGREEMENT

Fire Chief Martin Erskine gave background on the proposed company, stating that they have extensive background working with facilities similar to Blue Oval all across the country. Schwartz questioned the length of the contract. Perry stated that it was up to 3 years.

Moved Scott Wolfersberger, supported Joe Caron to approve the Code Concepts Group contract as to form, authorize the City Manager to extend the agreement up to 36 months as necessary, and authorize the City Manager and City Clerk to sign the necessary documents. On a roll call vote:

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

Nays: None

Abstain: None

Motion carried.

E. PSB ASPHALT MAINTENANCE AND IMPROVEMENTS

Schwartz questioned the difference in quotes. Zuzga stated that the companies had different approaches.

Moved Scott Wolfersberger, supported Theresa Chaney-Huggett to Approve the quote from Asphalt Solutions in the amount of \$19,987 for asphalt sealing and replacement at the Public Services Building (PSB), amend the PSB budget by adding \$20,000 to 101-573-820.00 and authorize the City Manager and City Clerk to sign the necessary documents. On a roll call vote:

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

Nays: None

Abstain: None

Motion carried.

13) APPOINTMENTS / ELECTIONS

A. PARKS, RECREATION AND CEMETERY BOARD APPOINTMENT

Moved Joe Caron, supported Ryan Underhill to approve the reappointment of Jim Coury and the appointment of Alex Culver to the Parks, Recreation, and Cemetery Board for terms ending on July 1, 2026. On a voice vote: **Motion carried.**

B. BROOKS NATURE AREA ADVISORY BOARD APPOINTMENT

Moved Joe Caron, supported Scott Wolfersberger to approve the reappointment of Jane Schoenmeyer and Margaret Steele to the Brooks Nature Area Advisory Board with terms ending on August 15, 2026. On a voice vote: **Motion carried.**

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 should be addressed during the PUBLIC COMMENT-AGENDA ITEMS (Item 6) portion of the meeting agenda.

David Gilbert, county prosecutor for Calhoun County, spoke on proposed legislation that would change the maximum penalty for juveniles.

Diane Kowalske of Marshall Township stated that it was a shame what the city was doing to the Committee for Marshall-Not the Megasite and that they are unnecessarily dividing the community.

Michael Woods of Squaw Creek stated that the referendum could have been decided at

the elections the next day and that it should have been put to a vote.

Barry Wayne Adams of 622 W Green St stated that an officer spoke with the protesters about their signs the previous week, but there is no legal bearing on political signs and it can't be regulated.

15) COUNCIL AND MANAGER COMMUNICATIONS

Wolfersberger stated that they have broken ground on a new home at the end of Forest.

Gates stated that the Farmer's Market Committee was to meet the following day.

Chaney-Hugget stated that at the Airport Board meeting a new flight school coming in was discussed as well as there being a fly in breakfast on August 19.

Perry stated that the supplies for the AV upgrades should arrive in around 2 weeks and at that time an installation timeline will be put in place.

Eubank stated that the county is working on a location in or near Marshall for the county-wide early voting center and reminded everyone about the election the following day.

Schwartz stated that the election was for the Marshall Area Fire-Fighters Ambulance Authority and that they are a great asset to the community.

16) ADJOURNMENT

The meeting was adjourned at 8:14 p.m.

Respectfully submitted by,

Michelle Eubank
City Clerk