



**COUNCIL AGENDA
CITY HALL COUNCIL CHAMBERS
DECEMBER 28, 2009 at 12:00 PM (NOON)**

NOTICE TO PUBLIC: The Mayor and City Council welcome comment from the public during discussion. You are required to step to the microphone, state your name and address for the record and to limit the time used to present your remarks in order that others may be given the opportunity to speak.

CALL TO ORDER: Mayor Beach

PLEDGE OF ALLEGIANCE:

ROLL CALL: Wirin, Backoff, Grabenbauer, Hoop, Maxwell, Schubert, Wenner.

MAYOR, COUNCIL AND ADMINISTRATOR COMMENTS:

APPROVAL OF AGENDA:

CONSENT AGENDA: All items listed under the consent agenda will be enacted by one motion. There will be no separate discussion of these items unless a request is made prior to the time Council votes on the motion.

1. Approve Council Minutes of December 14, 2009, and Special Council Minutes of December 22, 2009.
2. Approve Bill List in the amount of \$996,621.36
3. Approval of November, 2009, Financials, Capital Improvement Plan and Certified Annual Finance Report
4. Reappoint to Parks & Recreation Advisory Board, terms expire 1/1/2011: Joel Greer, Todd Eipperle, Janet Weiss.
5. Receipt of:
 - a. Senior Citizen's Treasurer Report, December 2009
 - b. Building Report, November 2009
6. Resolution 2009-191 Approving Contract Change Order #1 for the Iowa Avenue HMA Resurfacing Project 76009003, of a deduct \$72,794.70.
7. Resolution 2009-192 Approving Engineer's Certificate of Completion and Accepting the Iowa Avenue HMA Resurfacing Project 76009003 with a final project cost of \$451,876.89.
8. Resolution 2009-193 Rescinding Resolution 2009-169 Approving Engineer's Certificate of Completion and Accepting the West Merle Hibbs Street Construction Project 76008003A, with a final project cost of \$280,537.83.
9. Resolution 2009-194 Approving Engineer's Statement of Completion and Accepting the West Merle Hibbs Boulevard Construction Project 76008003A, final cost of \$362,085.
10. Resolution 2009-195 Approving Contracts and Bonds for Construction of the Carnegie Building Project 21007001A for a total of \$902,327.00, with alternates.
11. Resolution 2009-196 Approving Sewer Equipment Purchase Contract with Trans Iowa Equipment, Inc., of Ankeny, Iowa, for a VACTOR 2110-16 PD Plus Combination Sewer Truck of \$307,515.

(end of consent agenda items)

REPORTS:

12. Installation of Elected Officials

13. Tobacco Enforcement:

<u>VIOLATION</u>	<u>RETAILER</u>	<u>RETAILER'S ADDRESS</u>	<u>CIVIL DISPOSITION</u>
2nd Violation	Bricks, LLC	207 E Main St	Permit surrendered – no hearing, no fine
2nd Violation	Caseys 1564	1009 W Lincoln Way	Settlement Agreement Signed- \$1500
2nd Violation	Git N Go #35	902 W Lincoln Way	Settlement Agreement Signed-\$1500
2nd Violation	Haley's Grocery	501 N 3rd Avenue	Hearing Date 12/28
1st Violation	Hy-Vee 1403	802 S Center St	Settlement Agreement in the mail -\$300
2nd Violation	The Depot	114 N Center Street	Settlement Agreement Signed, pending payment agreement (two months left @\$500 each).
2nd Violation	TP Plaza	1701 Iowa Avenue	Hearing Date 12/28 (inquiry re: affirmative defense, but no documents produced as of agenda time)
1st Violation	Vaughn's Pub	22 N 1st Avenue	Settlement Agreement Signed \$300

- a. Motion to accept Settlement Agreements and/or approve forfeiture order for:
 - i. Bricks, LLC, 2nd Violation, Forfeiture
 - ii. Caseys, 2nd Violation, Settlement
 - iii. Git N Go, 2nd Violation, Settlement
 - iv. HyVee, 1st Violation, Settlement (in the mail)
 - v. Vaughn's Pub, 1st Violation, Settlement
- b. Motion to defer Settlement Agreement until March 8, 2009, and to approve payment plan for The Depot, 2nd Violation, penalty of \$1500 - \$500 each month, remaining balance due \$1,000 with payments due in January and February.
- c. Motions regarding administrative hearings for
 - i. Haley's Grocery, 2nd Violation
 - ii. TP Plaza, 2nd Violation.

RESOLUTIONS:

14. Amended Resolution 2009-197 Approving 28E Agreement Regarding Parking Enforcement

ORDINANCES:

15. Ordinance 14866 Amending Chapters 3, 20, 23, 28 and 30 of the Marshalltown Zoning Ordinance of 1998, second reading. Regarding caretaker units in commercial zones.

16. Ordinance 14867 Amending Chapters 27 and 28 of the Marshalltown Zoning Ordinance Regarding Building Heights in M1 and M2 Industrial Districts, first reading.

BUDGET DISCUSSION:

17. Continued Budget Discussion

PUBLIC COMMENTS:

ADJOURNMENT:

Ward List January 2010

MAYOR	Gene Beach 408 Edgeland Drive Marshalltown, IA 50158 <u>gbeach@ci.marshalltown.ia.us</u>	O: 754-5712 H: 752-0017 C: 485-6066	12-31-2013
AT LARGE	William Backoff 203 W Ferner Street Marshalltown, IA 50158 <u>wdbackoff@mchsi.com</u>	H: 752-7333	12-31-2011
AT LARGE	Robert Wenner 1109 Prairie Lane Marshalltown, IA 50158 <u>Bob50158@gmail.com</u>	H: 752-3302 C: 485-0827	12-31-2013
AT LARGE <i>Mayor Pro-tem</i>	Bethany Wirin 417 N 8 th Street Marshalltown, IA 50158 <u>bethanywirin@yahoo.com</u>	H: 752-2661 C: 691-5509	12-31-2013
1st Ward	Robert Schubert 701 Lee Street Marshalltown, IA 50158 <u>Grumpypappy2003@yahoo.com</u>	H: 753-8959 C: 751-2406	12-31-2013
2nd Ward	Andrea Maxwell 4 Denmead Blvd Marshalltown, IA 50158 <u>bahrj2@earthlink.net</u>	H: 753-4077	12-31-2011
3rd Ward	Marla Grabenbauer 212 Meadow Lane Marshalltown, IA 50158 <u>Marlas_212@yahoo.com</u>	H: 752-4802	12-31-2013
4th Ward	Al Hoop 905 S 12th Avenue Marshalltown, IA 50158 <u>ahoop7@mchsi.com</u>	H: 753-3508 C: 691-8813	12-31-2011

December 21, 2009

I Connie Hoskins of Bricks Pub (207 E Min Street Marshalltown)
serenade my cigarette and tobacco
License #2010-4708

Connie Hoskins

**ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT
2nd VIOLATION**

IN RE:

Permit Holder
Caseys 1564

: **Legal Name**
Casey's Marketing Company

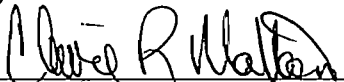
Address
1009 W Lincoln Way
Marshalltown, IA 50158

: **Legal Address**
PO BOX 3001
Ankeny, IA 50021-8045

: **ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT**

ACKNOWLEDGMENT/SETTLEMENT AGREEMENT

I (We) hereby knowingly and voluntarily acknowledge that we have received the Notice of Hearing and the Complaint in the above case. I (We) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation dated October 15, 2009, will count as an official "Second Violation" of Iowa Code section 453A.2 pursuant to Iowa Code section 453A.22. I (We) understand that the penalty for this second violation is a \$1,500 fine or a suspension of my (our) cigarette permit for thirty days, beginning on the date that will be specified in the official City Of Marshalltown order that I will receive. I (We) understand that in order to conclude this matter the Mayor of the City of Marshalltown must approve this settlement agreement.



Claire R. Mattun, Legal Counsel

DATE: 12.17.09

In accordance with Iowa Code section 453A.22(2)(b), the above-captioned permittee chooses the following penalty:

\$1,500 fine

30-day cigarette permit suspension

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign this ACKNOWLEDGMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your \$1,500.00 check made payable to the "City of Marshalltown", (if choice of penalty is fine) should be returned

no later than 10 business days prior to December 28, 2009,

to: City of Marshalltown, City Clerk's Office Tobacco Enforcement, 24 North Center Street, Marshalltown, Iowa, 50158.

**ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT
2nd VIOLATION**

IN RE:

Permit Holder

Git N Go #35

: **Legal Name**

Git N Go Convenience Stores, Inc

Address

902 W Lincoln Way
Marshalltown, IA 50158

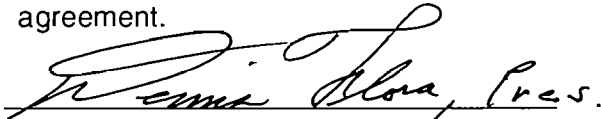
: **Legal Address**

2716 Indianola Avenue
Des Moines, IA 50315

: **ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT**

ACKNOWLEDGMENT/SETTLEMENT AGREEMENT

I (We) hereby knowingly and voluntarily acknowledge that we have received the Notice of Hearing and the Complaint in the above case. I (We) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation dated October 15, 2009, will count as an official "Second Violation" of Iowa Code section 453A.2 pursuant to Iowa Code section 453A.22. I (We) understand that the penalty for this second violation is a \$1,500 fine or a suspension of my (our) cigarette permit for thirty days, beginning on the date that will be specified in the official City Of Marshalltown order that I will receive. I (We) understand that in order to conclude this matter the Mayor of the City of Marshalltown must approve this settlement agreement.


Permit Holder, Pres.

DATE: 12/16/09

In accordance with Iowa Code section 453A.22(2)(b), the above-captioned permittee chooses the following penalty:

\$1,500 fine

30-day cigarette permit suspension

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign this ACKNOWLEDGMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your \$1,500.00 check made payable to the "City of Marshalltown", (if choice of penalty is fine) should be returned

no later than 10 business days prior to December 28, 2009,

to: City of Marshalltown, City Clerk's Office Tobacco Enforcement, 24 North Center Street, Marshalltown, Iowa, 50158.

CITY OF MARSHALLTOWN
24 NORTH CENTER STREET
MARSHALLTOWN, IA 50158
641-754-5701

Reg# #/Rcpt#: 001-00143732 [R]
Accounting Date: Thu, Dec 17, 2009
Date/Time: Thu, Dec 17, 2009 12:53 PM

6002/COURT FINES
101000.4510.000
REF#: TOBACCO PENALTY 10-15-09
FEE AMOUNT: \$1,500.00

RECEIPT TOTAL = \$1,500.00

Payment Data:

Pat# :1

Payer: GIT N GO

Method: CK

Ref#: 096496

AMOUNT = \$1,500.00

RECEIPT SUMMARY

TOTAL TENDERED = \$1,500.00

RECEIPT TOTAL = \$1,500.00

CHANGE DUE = \$0.00

THANK YOU!!

**ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT
1st VIOLATION**

IN RE:

Permit Holder
Vaughn's Pub

: **Legal Name**
Vaughn's Pub

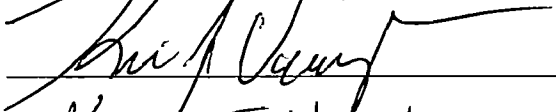
Address
22 N 1st Avenue
Marshalltown, IA 50158

: **Legal Address**
22 N 1st Avenue
Marshalltown, IA 50158

: **ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT**

ACKNOWLEDGMENT/SETTLEMENT AGREEMENT

I (We) hereby knowingly and voluntarily acknowledge that we have received the Notice of Hearing and the Complaint in the above case. I (We) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation dated October 15, 2009 will count as an official "First Violation" of Iowa Code section 453A.2 pursuant to Iowa Code section 453A.22. I (We) have enclosed a check for the amount of \$300.00 made payable to the "City of Marshalltown" to settle the above referenced complaint.



- Kevin S Vaughn

12/15/09

DATE

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign this ACKNOWLEDGMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your \$300.00 check made payable to the "City of Marshalltown", should be returned **no later than 10 business days prior to December 28, 2009** to: City of Marshalltown, City Clerk's Office Tobacco Enforcement, 24 North Center Street, Marshalltown, Iowa, 50158.

12/15/09

CITY OF MARSHALLTOWN
24 NORTH CENTER STREET
MARSHALLTOWN, IA 50158
641-754-5701

Reg# #/Rcpt#: 001-00143693 [R]
Accounting Date: Wed, Dec 16, 2009
Date/Time: Wed, Dec 16, 2009 1:04 PM

6002/COURT FINES
101000.4510.000
REF#: TOBACCO PENALTY 10-15-09
FEE AMOUNT: \$300.00

RECEIPT TOTAL = \$300.00

Payment Data:

Pmt# :1
Payer: VAUGHNS PUB
Method: CK
Ref#: 14029
AMOUNT = \$300.00
-

RECEIPT SUMMARY

TOTAL TENDERED = \$300.00
RECEIPT TOTAL = \$300.00

CHANGE DUE = \$0.00

THANK YOU!!

**ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT
2nd VIOLATION**

IN RE:

Permit Holder
The Depot

: **Legal Name**
The Depot

Address
114 N Center Street
Marshalltown, IA 50158

: **Legal Address**
114 N Center Street
Marshalltown, IA 50158

: **ACKNOWLEDGMENT/SETTLEMENT
AGREEMENT**

ACKNOWLEDGMENT/SETTLEMENT AGREEMENT

I (We) hereby knowingly and voluntarily acknowledge that we have received the Notice of Hearing and the Complaint in the above case. I (We) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation dated October 15, 2009, will count as an official "Second Violation" of Iowa Code section 453A.2 pursuant to Iowa Code section 453A.22. I (We) understand that the penalty for this second violation is a \$1,500 fine or a suspension of my (our) cigarette permit for thirty days, beginning on the date that will be specified in the official City Of Marshalltown order that I will receive. I (We) understand that in order to conclude this matter the Mayor of the City of Marshalltown must approve this settlement agreement.

Patrick Richard

DATE: 12/21/09

In accordance with Iowa Code section 453A.22(2)(b), the above-captioned permittee chooses the following penalty:

\$1,500 fine

30-day cigarette permit suspension

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign this ACKNOWLEDGMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your \$1,500.00 check made payable to the "City of Marshalltown", (if choice of penalty is fine) should be returned

no later than 10 business days prior to December 28, 2009,
to: City of Marshalltown, City Clerk's Office Tobacco Enforcement, 24 North Center Street, Marshalltown, Iowa, 50158.

12/21/2009

Tobacco Enforcement Billing

The Depot
114 N Center Street
Marshalltown, IA 50158

\$1500, payable with \$500 down and 2 months to pay
for compliance failure, 10/15/2009

Downpayment:
12/21/2009 \$ 500.00

Billed: January (\$500)

Billed February (\$500)

Balance due in full by 2/28/2009.

acct# 101000.4510.000

CITY OF MARSHALLTOWN
24 NORTH CENTER STREET
MARSHALLTOWN, IA 50158
641-754-5701

Reg# #/Rcpt#: 001-00143020 [S]
Accounting Date: Tue, Dec 22, 2009
Date/Time: Mon, Dec 21, 2009 3:59 PM

6002/COURT FINES
101000.4510.000
REF#:FIRST INSTALLMENT PENALTY
FEE AMOUNT:\$500.00

RECEIPT TOTAL = \$500.00

Payment Data:
Pmt# :1
Payer: THE DEPOT SPIRITS
Method: CK
Ref#: 2292
AMOUNT = \$500.00

RECEIPT SUMMARY

TOTAL TENDERED = \$500.00
RECEIPT TOTAL = \$500.00

CHANGE DUE = \$0.00

THANK YOU!!

Dec. 22. 2009 3:28PM Clerk Of Court

No. 5848 P. 1

Re: Haley 10/15/2009
2nd offense

IN THE IOWA DISTRICT COURT FOR MARSHALL COUNTY

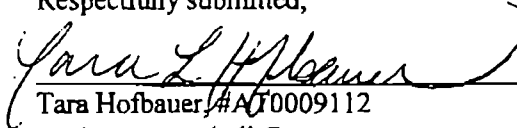
STATE OF IOWA,	*	
Plaintiff,	*	CRIMINAL NO. STA0014353
v.	*	
	*	
JUSTIN EBERHARDT,	*	MOTION TO CONTINUE
Defendant.	*	& ORDER
	*	

COMES NOW the State of Iowa by Tara Hofbauer, Assistant Marshall County Attorney, and hereby states the following:

1. That pursuant to a plea agreement, the State is deferring prosecution on this charge for 6 months.
2. That the parties have agreed if the Defendant completes the deferred prosecution period with no new offenses and files with the court proof of completion of a tobacco compliance class, the State will agree to dismiss this citation with the Defendant paying the costs. If the Defendant does incur any new charges, he/she agrees to plead guilty to the above citation.
3. That this matter shall be set for further review.

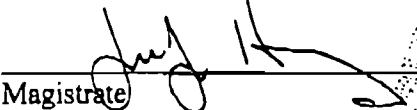
WHEREFORE, the State of Iowa prays that the Court enter an order granting this motion.

Respectfully submitted,


 Tara Hofbauer, #A0009112
 Assistant Marshall County Attorney

ORDER

IT IS THEREFORE ORDERED, that this matter be continued and set for further proceedings on the 8th day of June, 2010, at 9:00A.M. in the Magistrate Court; Marshall County Courthouse; 4th Floor; Marshalltown, Iowa 50158.


 Magistrate

Copies to:
 Defense Counsel / Defendant - Hoglan
 Assistant County Attorney - Hofbauer

12/22/09
CK

FILED
 2009 DEC 22 AM 10:20
 CLERK OF DISTRICT COURT
 MARSHALL COUNTY IOWA

Shari Coughenour

From: Shari Coughenour
Sent: Tuesday, December 22, 2009 3:42 PM
To: Gene Beach; Roger Nowadzky; Richard Hierstein
Subject: TP Plaza - tobacco offense - record of phone call with Mr. O'Hare

Kevin O'Hare called - asked for either Gene & Roger, I offered to assist with any questions.
These are my notes of the call.

TP Plaza desires to use the affirmative defense.

Mr O'Hare didn't know if the training certificate pre-dates the offense.

I asked him to provide a letter from the retailer requesting to use the affirmative defense along with a copy of the completion certificate. I gave him my phone & fax number.

(Just to make sure - I verified with the AG's office, yes the certificate must pre-date the offense)

And... according the AG's office - the only thing the city needs is the citation. "as long as a citation has been issued" (no minor, no other evidence or testimony)

I talked with Connie Larson. 515-281-5846

The state doesn't have jurisdiction with the retailer until after 60 days following disposition, so they would have to wait until the criminal proceedings are done.

Shari L. Coughenour, CMC
City Clerk
Marshall County CCC 2010 Census Coordinator
City of Marshalltown
24 North Center Street
Marshalltown, IA 50158
phone - 641-754-5701
fax - 641-754-5717
email - scoughenour@ci.marshalltown.ia.us

_____ Information from ESET NOD32 Antivirus, version of virus signature database 4710 (20091222) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 4712 (20091223) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

RESOLUTION APPROVING AMENDED 28E AGREEMENT WITH
MARSHALL COUNTY, IOWA
REGARDING PARKING ENFORCEMENT

WHEREAS representatives of the City of Marshalltown, Iowa, and the County of Marshall, Iowa, have negotiated an Agreement regarding parking enforcement services in the interest of intergovernmental co-operation, a copy of which proposed AMENDED Agreement is attached to this resolution; and

WHEREAS the City Council finds that it is in the best interest of the City of Marshalltown to enter into this contract for this purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
MARSHALLTOWN, IOWA:

Section 1. The attached AMENDED Agreement between Marshall County, Iowa, and the City of Marshalltown is hereby approved and ratified.

Section 2. The Mayor and the City Clerk are hereby authorized and directed to execute said AMENDED Agreement on behalf of the City of Marshalltown, and the City Clerk is authorized and directed to file this Agreement with the Secretary of State.

Passed this 28th day of December, 2009, and signed this __ day of December, 2009.

CITY OF MARSHALLTOWN, IOWA

Gene L. Beach, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

Resolution #2009-0029 and 28E Agreement between Marshall County and the City of Marshalltown--

**RESOLUTION APPROVING 28E AGREEMENT WITH
THE CITY OF MARSHALLTOWN, IOWA
REGARDING PARKING ENFORCEMENT**

WHEREAS representatives of Marshall County, Iowa, and the City of Marshalltown, have negotiated an Agreement regarding parking enforcement services in the interest of intergovernmental co-operation, a copy of which proposed Agreement is attached to this resolution; and

NOW, THEREFORE, BE IT RESOLVED BY THE MARSHALL COUNTY BOARD OF SUPERVISORS:

Section 1. The attached Agreement between Marshall County, Iowa, and the City of Marshalltown is hereby approved and ratified.

Section 2. The Board of Supervisors and the Auditor are hereby authorized and directed to execute said Agreement on behalf of Marshall County, and the Auditor is authorized and directed to file this Agreement with the Secretary of State.

**28E COOPERATIVE AGREEMENT BETWEEN THE CITY OF
MARSHALLTOWN AND MARSHALL COUNTY FOR PARKING
ENFORCEMENT ON COUNTY PROPERTY AT AND NEAR THE
COUNTY COURT HOUSE**

THIS AGREEMENT made and entered into this 24th day of November 2009, (the "Agreement") by and between the City of Marshalltown, Iowa (the City) and Marshall County, Iowa, (the County), known as ("the Parties") WITNESSETH:

WHEREAS the County desires parking enforcement on county property at and near the Marshall County Court House in an efficient and cost effective manner; and

WHEREAS, the City desires to assist the County in the interest of mutual cooperation; and

WHEREAS it is in the best interest of the City and the County to enter into this cooperative agreement.

THEREFORE, IN CONSIDERATION of the recitals, representation, covenants and agreements set forth herein, the Parties hereby represent, covenant and agree as follows:

Section 1. Grant and Assignment of Parking Enforcement for Described County- Owned Area.

The County grants and the City agrees to accept and assume the assignment of all administrative, enforcement and prosecution responsibilities related to parking violations in the area within the City of Marshalltown, County of Marshall, State of Iowa, described as follows:

Marshall Add Lot L &, Lot 6 and N ½ Lot 7 Ex W 90' thereof Blk 14; and the E 10' of Courthouse Square & the West 10' of S 1st Ave between Main St. and Church St.; and the circle parking located on the South side of Courthouse Square

Section 2. City Parking Enforcement

The City shall be responsible for all parking enforcement measures in the area described in Section 1 of this Agreement. These parking enforcement measures include but are not limited to ticketing, administering ticketing and collection systems, collection of enforcement moneys, prosecutions, administrative appeals, and court appeals. Enforcement shall commence February 1, 2010. **The County reserves the right to issue permits to allow parking without ordinance violation.**

Section 3. Fines. Fees. and Penalties.

Fines, fees, and penalties shall be established by the City for parking violations in the area described in Section 1 of this Agreement, and for the collection and processing of these violations. Fines, fees, and monetary penalties imposed by the city shall inure to the benefit of the City, shall be kept by the City, and shall be consideration in part for entering into this Agreement.

Section 4. Length of Agreement.

The term of this Agreement shall run from the date of its signing until it is terminated by the Parties.

Section 5. Modification of Agreement. Notice to Parties.

The Agreement may be modified upon agreement and written approval by the Parties.

1. Any notice, demand, or communication to be given pursuant to this Agreement shall be in writing and mailed by certified mail, postage prepaid and properly addressed to the Parties as follows:

City of Marshalltown
City Clerk
24 North Center Street
Marshalltown, IA 50158

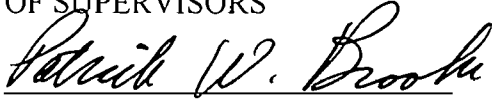
Marshall County
Board of Supervisors
1 East Main Street
Marshalltown, IA 50158

2. This Agreement when executed shall be filed with the Secretary of State to become effective as required by the Code of Iowa.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

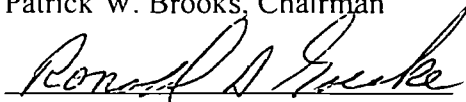
MARSHALL COUNTY BOARD
OF SUPERVISORS

CITY OF MARSHALLTOWN, IA



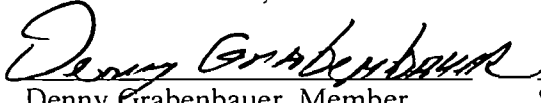
Patrick W. Brooks, Chairman

Gene L. Beach, Mayor



Ronald D. Goecke, Vice Chairman

ATTEST:



Denny Grabenbauer, Member

Shari L. Coughenour, CMC, City
Clerk

Attest:


Karen Squiers
Marshall County Auditor

Passed this 24th day of November, 2009, and signed this 24th day of November, 2009.

Motion by Grabenbauer, second by Goecke to approve the Resolution 2009-0029 and the 28E Agreement between the City of Marshalltown and Marshall County for county parking enforcement on county property at and near the county courthouse **with the addition of a sentence in Section 2 that reads: The County reserves the right to issue permits to allow parking without ordinance violation.**

Roll call vote:	Brooks-Aye	Goecke-Aye	Grabenbauer-Aye
	Chairman	Vice Chairman	Member

Memorandum

To: City Council

From: Stephen Troskey – City Planner

Date: December 22, 2009

Re: **December 28, 2009 Council meeting**

Discussion on Industrial Zoning District Height changes

After Committee of the Whole on December 21st, 2009 I realize some details of the industrial height changes may have been unclear. This memo serves to provide some answers to questions you may have.

Right now the setback for a building in the industrial zones depends on whether we are discussing front yard, side yard, or rear yard. Even then the required setback may change based on what the adjoining property is zoned. For every foot of height above 50 we will require an additional foot of setback. So if a building has a required front-yard setback of 30 feet and a required side yard setback of zero feet, and 80 foot tall building would now need a front-yard setback of 60 feet and a side-yard setback of 30 feet. Attached is a map depicting this change.

I would ask that you please make an amendment to the previously presented code clarifying this point. I have included the changes in your packet.

P&Z recommended approval at their December 17th, 2009 meeting.

**CHAPTER 27
M1 LIGHT INDUSTRY**

Section 3. Bulk Requirements:

The following requirements shall be observed:

Front Yard Setback	<ol style="list-style-type: none"> 1. None 2. 30 feet if across from Residential 3. One (1) additional foot for every foot of height above 50'
Side Yard Setback	<ol style="list-style-type: none"> 4. None 5. 8 feet if adjacent to Residential 6. One (1) additional foot for every foot of height above 50'
Rear Yard Setback	<ol style="list-style-type: none"> 7. None 8. 15 feet if adjacent to Residential 9. One (1) additional foot for every foot of height above 50'
Lot Area	10. 20,000 square feet minimum
Lot Width	<ol style="list-style-type: none"> 11. Average width of 100 feet. However, a building may be erected which does not conform to this requirement if any of the following conditions are met: <ol style="list-style-type: none"> 1. The lot existed prior to the effective date of this ordinance 2. The minimum average lot width is not less than 35 feet 3. All required setbacks are met
Building Height	12. 75 feet.

**CHAPTER 28
M2 HEAVY INDUSTRY**

Section 3. Bulk Requirements.

The following requirements shall be observed:

Front Yard Setback	<ol style="list-style-type: none"> 1. None 2. 30 feet if across from Residential 3. One (1) additional foot for every foot of height above 50'
Side Yard Setback	<ol style="list-style-type: none"> 4. None 5. 15 feet if adjacent to Residential 6. One (1) additional foot for every foot of height above 50'
Rear Yard Setback	<ol style="list-style-type: none"> 7. None 8. 15 feet if adjacent to Residential One (1) additional foot for every foot of height above 50'
Lot Area	9. One Acre
Lot Width	<ol style="list-style-type: none"> 10. Average width of 200 feet. However, a building may be erected which does not conform to this requirement if any of the following conditions are met: <ol style="list-style-type: none"> 1. The lot existed prior to the effective date of this ordinance

	<ul style="list-style-type: none">2. The minimum average lot width is not less than 35 feet3. All required setbacks are met
Building Height	<ul style="list-style-type: none">11. 100 feet OR12. 80 feet when adjacent to any residential zone on at least two sides.

