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**COUNCIL AGENDA**  
CITY HALL COUNCIL CHAMBERS, 10 W STATE STREET  
JULY 12, 2010 at 5:30 PM

**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:** Wenner, Wirin, Backoff, Grabenbauer, Hoop, Maxwell, Schubert.

**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 June 28, 2010.
2. Approve Bill List in the amount of \$1,834,766.84
3. Receipt of May 2010 Building Report
4. Motion approving FYE Budgeted Transfers as outlined in memo dated 7/2/2010.
5. Motion approving the following Tobacco Permits, valid through 6/30/2011; for TP Plaza, Ampride.
6. Motion accepting Settlement Agreement for HyVee and The Depot, relating to a tobacco sale to a minor.
7. Resolution 2010-103 Accepting Bid and Authorizing the Award of Contract for the MEGA 10 Project to Con-Struct, Inc., of \$62,300.00 for Base Bid plus Alternate.
8. Resolution 2010-104 Approving Contract Change Orders for the Carnegie Building Rehabilitation Project 22007001A of \$5,061.00 and CPMI Fees for City Hall Renovation of \$7,990.00.
9. Resolution 2010-105 Approving Regulations for Administration of the Deer Hunting Program.
10. Tentative Resolution 2010-106 Providing for the Conveyance and Transfer of Title to the Property Herein Described from the City of Marshalltown, Iowa, to James E. Shaw, setting public hearing for July 26. (Relating to sale of a portion of Judge Park)
11. Resolution 2010-107 Accepting Quit Claim Deed, regarding Theisen Development Company, extension of South 6<sup>th</sup> Street.
12. Alcohol Licenses New Alcohol license – MCBBD for Car Show July 24
13. Renewal Alcohol licenses: Zenos Pizza, Special Beer & Wine; Applebees, Class C Liquor; Legends American Grill, Class C Liquor; Mike's Diner, Class C Beer; Center Street Station, Class C Liquor; Stone's Restaurant, Class C Liquor; Casey's, N 3<sup>rd</sup> Ave, Class C Beer; Wal-Mart, Class E Liquor.

**(end of consent agenda items)**

**REPORTS:**

14. Council Member Appointment process for replacement of Bill Backoff, Councilor At Large.

**RESOLUTIONS:**

Public Hearing

15. Resolution 2010-108 Approving Plans & Specifications, Form of Contract and Cost for the 2009 Sidewalk Construction Project 76009008A (bids due 7/14 at 10 am, City Clerk's office)
16. Resolution 2010-109 Authorizing the City Housing & Community Development Department to Submit on Behalf of the City of Marshalltown a Grant Application to the US Department of Housing & Urban Development (HUD) and Department of Transportation (DOT) for Community Challenge Planning Grant.
17. Resolution 2010-110 Denying the Liquor License Renewal for Coppertop Lounge / DS Management Company, L.L.C, Class C Liquor License LC0037022.

**ORDINANCES:**

18. Ordinance 14875 Approving Changes to the Municipal Code, Regarding Chapter 20, Traffic, first reading, and possible waiving of readings for passage of the final reading at this meeting.
19. Ordinance 14876 Approving Changes to the Municipal Code, Regarding Chapter 13, first reading, and possible waiving of readings for passage of the final reading at this meeting.
20. Ordinance 14877 to Vacate Portions of E. Quarry Road from Nevada Street to the East City Limits all in Marshalltown, Iowa, as Herein Described and to Terminate the Right of Public Use, setting public hearing date on August 9, 2010, prior to the third reading.

**PUBLIC COMMENTS:**

**ADJOURNMENT:**

RAW

# ORDER ACCEPTING ACKNOWLEDGMENT/SETTLEMENT AGREEMENT 3<sup>rd</sup> VIOLATION

BEFORE THE MARSHALLTOWN CITY COUNCIL

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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

: **ORDER ACCEPTING  
ACKNOWLEDGMENT/SETTLEMENT  
AGREEMENT – THIRD VIOLATION**

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On July 12, 2010, in lieu of a public hearing on the matter, the Marshalltown City Council approves the attached Acknowledgement/ Settlement Agreement between the above-captioned permittee and the City of Marshalltown.

Pursuant to the Agreement, IT IS THEREFORE ORDERED that

a civil penalty of a one thousand, five hundred dollars (\$1,500.00) fine be accepted;

and

a thirty (30) day cigarette permit suspension be executed against the above-captioned permittee effective August 1, 2010;

for a violation that occurred on March 3, 2010. This sanction will count as a third violation of Iowa Code section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(b).

*Gene L. Beach*  
GENE L. BEACH, MAYOR  
CITY OF MARSHALLTOWN

True

# ORDER ACCEPTING ACKNOWLEDGMENT/SETTLEMENT AGREEMENT 2<sup>nd</sup> VIOLATION

BEFORE THE MARSHALLTOWN CITY COUNCIL

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IN RE:

**Permit Holder**  
HyVee Drugstore

: **Legal Name**  
Hy Vee, Inc.

**Address**  
1706 S Center Street  
Marshalltown, IA 50158

: **Legal Address**  
5820 Westown Pkwy  
West Des Moines, IA 50266

: **ORDER ACCEPTING  
ACKNOWLEDGMENT/SETTLEMENT  
AGREEMENT – SECOND VIOLATION**

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On July 12, 2010, in lieu of a public hearing on the matter, the Marshalltown City Council approves the attached Acknowledgement/ Settlement Agreement between the above-captioned permittee and the City of Marshalltown.

Pursuant to the Agreement, IT IS THEREFORE ORDERED that

a civil penalty of a one thousand, five hundred dollars (\$1,500.00) fine be accepted;

or

a thirty (30) day cigarette permit suspension be executed against the above-captioned permittee effective \_\_\_\_\_ ;

for a violation that occurred on March 3, 2010. This sanction will count as a second violation of Iowa Code section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(b).

Gene L. Beach  
GENE L. BEACH, MAYOR  
CITY OF MARSHALLTOWN

RAW

2010-

RESOLUTION APPROVING CONTRACT CHANGE ORDERS FOR THE  
CARNEGIE BUILDING REHABILITATION PROJECT NO. 22007001A  
IN THE AMOUNT OF \$5061.00 AND CPMI EXPANDED WORK FEES OF \$7,990.00

WHEREAS the City of Marshalltown, Iowa has heretofore entered into contracts for labor and material for the Carnegie Building Rehabilitation Project No. 22007001A, and

WHEREAS extra work is required to satisfactorily complete said project by the following contractors and in the following amounts:

- a. Bjelland Plumbing, CP-07.3 ..... \$3,987.00
- b. Wes Jarnagin, CP-06.3 ..... \$1,074.00
- c. CPMI, expanded work ..... \$7,990.00

WHEREAS extra work is required to satisfactorily complete said project.

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

Section 1. That the contract Change Orders noted above for the Carnegie Building Rehabilitation Project 22007001A in the amount of \$5,061.00 and \$7,990.00 for CPMI expanded construction management fees are hereby accepted and approved for addition to said project.

Passed this 12<sup>th</sup> day of July, 2010, and signed this \_\_ day of July, 2010.

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Gene L. Beach, Mayor

ATTEST:

\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk

1200

#2010-

RESOLUTION APPROVING REGULATIONS FOR ADMINISTRATION OF THE DEER HUNTING PROGRAM

WHEREAS there has been presented to the Marshalltown City Council regulations for administration of the deer hunting program within the City of Marshalltown, Iowa; and

WHEREAS this Council has considered the terms, conditions and intended use of such administrative regulations and found same to be in the best interest of the city and should be approved.

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

Section 1. This Council hereby approves the Regulations for Administration of the Deer Hunting Program.

Section 2. A copy of said Regulations amending the rules as approved in Resolution #2009-047 are attached hereto and made part of this Resolution.

Section 3. This Resolution shall be in full force and effect from and after the passage provided by law.

Passed this 12<sup>th</sup> day of July, 2010, and signed this \_\_\_ day of July, 2010.

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Gene L. Beach, Mayor  
ATTEST:

\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk

**City of Marshalltown**  
**Special Urban Deer Hunting Season**  
**Rules and Regulations**  
**July 2010**

The Urban Deer Bow Hunting Program is a cooperative effort between the City of Marshalltown and the Iowa Department of Natural Resources (IDNR). The purpose of the program is for deer management within the city limits. The IDNR controls the number of deer hunting licenses issued for hunting within the city limits. Licenses for the identified perimeter areas outside of the city limits will also be available, but are not regulated by these urban hunting regulations. The urban bow hunting license will be for hunting during an annually specified season and will be for antlerless deer only.

**SPECIAL PERMIT:** The City will issue the permit necessary to obtain the urban deer hunting license. The permits are available at the Parks and Recreation Department, 803 N Third Avenue. The cost of the permit is \$10.00. The IDNR special urban license can be purchased through the DNR.

To receive the urban hunting permit, hunters must meet all the requirements established by the IDNR for bow hunting except when the City regulations are more restrictive than the State regulations.

The City has set the following requirements that must be met in order to receive an Urban Bow Hunting Permit:

1. Successfully complete a ten hour bow hunter safety education program and provide proof.
2. Successfully complete an annual archery proficiency test and provide proof.
3. Be at least 18 years of age the day of the hunt.

**The Proficiency Test:**

1. Hunters must pass an authorized proficiency test each year with the weapon they will use to hunt with in Marshalltown.
2. Tests must be administered by a certified International Bowhunter Education Foundation (IBEF/NBEF) instructor.
3. Hunters must show evidence that they have passed a one time Bow Hunter safety course administered by the DNR. (These are taught by a certified NBEF Instructor).

**BOW HUNTER EDUCATION:** Check out the Iowa DNR website for information about that program. [www.iowadnr.gov/law/hunter/boweducation.html](http://www.iowadnr.gov/law/hunter/boweducation.html)

**Special Bow Hunting Rules:**

1. The Urban Deer Bow Hunting season is from the third Saturday of September and ends on the last legal hunting day of the deer hunting season as set by the Iowa DNR.
2. The boundaries will be described as everywhere within the city limits that comply with the bow hunting distance requirements. Some public areas, specifically parks, may have further restrictions.
3. Hunter cannot hunt within 200 feet of a house or building and cannot shoot an arrow back into the distance separation. Exceptions:

- When hunting on their own property and adhering to the distance separation requirements from the house or building of adjoining property owners.
  - When a property owner waives the distance requirement in a written permission form furnished by the City.
4. Hunter must carry with them while hunting:
    - the license for the special bow hunting issued by the IDNR; and
    - a signed permission form granting hunting rights on the private property being hunted; and
    - all IDNR required licenses
  5. Hunter cannot position or use an elevated stand within 75 feet of a recreational trail, road or right-of-way and no shot can be taken that may cross or enter the same.
  6. All shots must be taken from an elevated stand at least 8 feet above the ground and at a deer no further than 75 feet. All shots shall be made in a downward trajectory and an attempt must be made to retrieve every arrow.

Where it is not feasible to hunt from an elevated stand or where the possibility of hunting success would be improved from a ground blind or hunting from the ground, an exception may be granted.

The location for the exception must meet approval as determined by two members of the Deer Committee. The committee will review the location, mark the acceptable area, and place limitations as to what direction shots can be made to insure that no shots would be elevated. Shots must be down hill unless an acceptable backstop exists behind the target for shots parallel to the ground. If a ground blind is made of natural cover materials from the area, the usage of that material must be agreed to by the property owner.

7. All elevated stands must be portable with no permanent stands erected. Stands on public property: Stands on public property cannot be erected using nails or screws driven into trees. Stands cannot be erected sooner than one week prior to the start of the season and must be removed within one week following the season.
8. All bows must be cased while traveling to and from the hunting stand site.
9. Hunter must cover harvested deer before transporting or moving deer.
10. Field dressing is not allowed on public property. In the case of private property, the viscera and other offal shall be disposed of in a manner that is acceptable to the property owner and in location that is not visible from adjoining public or private property.
11. If a deer is mortally wounded and wanders off the property being hunted onto another property, the hunter shall attempt to notify the other property owner before entering the property to recover the deer.
12. A hunter who wounds a deer and is unable to locate the deer shall report it to the Marshalltown Police Department (641-754-5725) as soon as possible.

**Incentive Program to Allow DNR Special Issue Buck Tag;**

1. Hunters in the 2010 season that take 3 does by October 31, 2010, will be placed on a list in the order they complete the taking of 3 doe deer. These deer must be taken to the Marshalltown Fire Station for review and to have the right ear notched. A record of the deer taken to the Fire Station will be retained to compile the list for antlered tags for the 2010 season.

2. A request will be placed with the DNR for the special buck tags. One incentive buck tag per hunter will be permitted. The allowable number of buck tags to be issued will be at the discretion of the DNR. The tags will be issued on or after 11/1/2010.
3. This incentive may be extended for future seasons at the discretion of the DNR. One carry-over doe will be allowed for does taken between 11/1/2010 and 1/31/2011. This carry over doe will be used as one of the three does for the 2011 season provided the incentive program is renewed

**Other Program Information:**

Hunters must remove themselves immediately from any harassment situation and contact the Marshalltown Police Department at (641-754-5725).

Deer management notification signage will be posted in parking lots and other appropriate locations within each identified park during the authorized bow hunting season.

Hunters are asked to report violations of these rules to the Marshalltown Police Department at (754-5725).

When a permit is issued, a vehicle tag will also be issued. It is recommended that hunters display this tag prominently in the windshield to help identify the presence of hunters in the area.

Hunters found in violation of these rules will be subject to having their permits revoked.

The City reserves the right to control the number of hunters in certain areas when deemed necessary.

**Reporting Harvest:**

Hunters must report harvest within 24 hours to the Iowa DNR as required by law. To better help the city manage and evaluate the success of this program, hunters are asked to report the harvest and location of harvest to the Marshalltown Parks & Recreation Department by calling (641-754-5715). If calling outside of regular business hours, a message may be left. Please give your name and complete harvest information.

**Parkland Area Restrictions:**

Riverview Park: No hunting allowed between the dike and Woodland Street.

RW



Gene L. Beach, Mayor  
Randy Wetmore, Administrator  
24 North Center Street  
Shari L. Coughenour, Clerk  
Marshalltown, IA 50158-4911  
Tel - (641) 754-5701  
Fax - (641) 754-5717

MEMO

July 9, 2010

TO: MAYOR, COUNCIL

FROM: SHARI COUGHENOUR, CITY CLERK

RE: AT LARGE COUNCIL VACANCY

Due to the resignation of William Backoff, Council at Large, the Council is faced with the task of replacing one of their members.

Should the council decide to appoint a member, a suggested timeline is provided:

- July 13, 2010      Applications are available at the city clerk's office
- July 27, 2010      Applications and nomination papers (25 signatures) are due at the City Clerk's office
- August 2, 2010      Applicants are discussed in open session at the Committee of the Whole Meeting. Applications are included in the "packet."
- August 2, 2010      At the Special Meeting following the Committee of the Whole, the Council would vote and the new Council member determined.
- August 9, 2010      Installation of the new member.

If it so pleases the council, I suggest the council make a motion at the July 12, 2010, Council Meeting to fill the vacancy of William Backoff by appointment, using the timeline as presented in this memorandum.

Sincerely,

Shari L. Coughenour, CMC  
City Clerk  
City of Marshalltown, Iowa

## PUBLIC NOTICE

All members of the electorate of the City of Marshalltown are hereby notified of the vacancy on the City Council due to the resignation of William Backoff. William Backoff was elected to the Marshalltown City Council as an at large representative.

Notice is further given that the Marshalltown City Council intends to fill the vacancy by appointment. The appointment will be made at a meeting of the City Council on August 9, 2010 at 5:30 PM and the appointee will serve until the next municipal election. However, the electors of the City of Marshalltown have the right to file a petition requiring that the vacancy be filled by a special election. This petition must be filed in the office of the Marshalltown City Clerk, Municipal Building, 24 North Center Street, Marshalltown, Iowa, 50158. The petition must be signed by at least 1,000 members of the electorate or at least the number of signatures equal to 15% of the voters who voted for candidates for the vacant office at the preceding regular election at which the office was on the ballot, whichever is fewer. This petition must be filed no later than 14 days after publication of this notice or 14 days after the appointment is made, whichever is later.

Mr. Backoff was elected At Large, which is as a representative for the entire City. Therefore, any member of the Marshalltown electorate may complete an application to fill this unexpired term through the Office of the Marshalltown City Clerk. Applications and nomination papers are due no later than 5 PM, Tuesday, July 27, 2010, at the City Clerk's Office, 24 N Center Street.

Shari Coughenour, City Clerk  
24 North Center Street  
Marshalltown, IA 50158



Please indicate why you would like to serve on the City Council. For instance, previous experience, expertise of or interest, improvements, etc., you believe you would bring to the City Council.

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Please explain your availability and any limitations in terms of meeting attendance.

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Have you ever been convicted of a crime or felony? If yes, explain:

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Please list three references.

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If you have a resume, please attach it to this form so that the Mayor and City Council can most effectively evaluate your interests.

The City appreciates your time and volunteer spirit. This interest form will be retained for one year.

\_\_\_\_\_  
Signature

Return to: City Clerk's Office  
City Hall, 24 North Center Street  
Marshalltown, Iowa 50158  
(641) 754-5701

Please return to the Clerk's Office no later than July 27, 2010, by 5:00 P.M.  
I:\Dept Head\Applications-Forms\app-council-appointment-07-12-2010.doc

I, the undersigned, an eligible elector of the City of Marshalltown and State of Iowa, hereby nominate \_\_\_\_\_ who is a resident of the city and a candidate for the office of Council Member At Large.

	Name	Street Address
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7600

2010-

RESOLUTION APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT AND COST FOR THE 2009 SIDEWALK CONSTRUCTION PROJECT, IN THE CITY OF MARSHALLTOWN, IOWA, BEING PROJECT NO. 76009008

WHEREAS there was placed on file in the office of the Clerk of the City of Marshalltown, Iowa, proposed plans and specifications, proposed form of contract and estimated cost for a public improvement in the City of Marshalltown, Iowa, for the 2009 Sidewalk Construction Project, Project No. 76009008, as fully set forth in the resolution ordering same, and that public notice of hearing on such plans, specifications and form of contract were duly published in the Marshalltown Times-Republican in time for hearing now before the Council; and

WHEREAS written objections to the plans, specifications and form of contract have been called for and no such written objections have been filed with the City Clerk, and oral objections being called for and no oral objections being made in open Council, it is the decision of this Council that such plans, specifications, form of contract and estimate of cost should be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, that the plans, specifications, form of contract and estimated cost heretofore placed on file and upon which public notice has been duly given and no objections thereto have been made either in writing or in open council, the Council does now adopt and approve the plans, specifications, form of contract and estimate of cost for Project No. 76009008, being the 2009 Sidewalk Construction Project in the city of Marshalltown, Iowa.

Passed this 12<sup>th</sup> day of July, 2010, and signed this \_\_ day of July, 2010.

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Gene L. Beach, Mayor

ATTEST:

\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk

TBW

**RESOLUTION AUTHORIZING THE CITY HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT TO SUBMIT ON BEHALF OF THE CITY OF MARSHALLTOWN A GRANT APPLICATION TO THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT (HUD) AND DEPARTMENT OF TRANSPORTATION (DOT) FOR COMMUNITY CHALLENGE PLANNING GRANT**

**WHEREAS** the City of Marshalltown (hereinafter referred to as the "City"), State of Iowa, is a political subdivision organized and existing under the law and the Constitution of the State of Iowa (the "State"); and

**WHEREAS** the City is supportive of redevelopment and community betterment of Marshalltown's north entrance and has identified a need for planning, transportation improvements, economic development opportunities and neighborhood stabilization; and

**WHEREAS** the City is eligible to apply for a grant award up to \$3 million under the Community Challenge Planning Grant; and

**WHEREAS** the City is committed to leveraging investment in support of the grant specifically related to the transportation improvements and new construction of the Riverside Street extension up to 10% of construction costs; and

**WHEREAS** the City will work to leverage other resources including State funding associated with the conversion of Highway 14 from a four lane to a three lane roadway.

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

Section 1. The City of Marshalltown, Iowa authorizes and directs the City Housing & Community Development Department Director to apply for a Community Challenge Planning grant for the purposes of planning, transportation improvements, economic development opportunities and neighborhood stabilization near the north entrance to the City. The City Housing & Community Development Director is authorized to sign on behalf of the City of Marshalltown these applications and other necessary documents to effectuate this Resolution.

Passed this 12th day of July 2010, and signed this \_\_\_\_\_ day of July 2010.

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Gene L. Beach, Mayor

ATTEST:

\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk

RAW



Gene L. Beach, Mayor  
Dick Hierstein, City Administrator  
24 North Center Street  
Marshalltown, IA 50158-4911  
Tel - (641) 754-5756  
Fax - (641) 754-5742

**Housing & Community Development**

TO: Mayor and City Council members.  
FROM: Michelle Spohnheimer, Housing & Community Development Director *MS*  
DATE: July 8, 2010  
RE: **Community Challenge Planning Grant**

HUD and the DOT jointly announced the opportunity for communities to apply for funding through the Community Challenge Planning Grant program for projects relating to transportation, housing and economic development. In reviewing this notice I believe that Marshalltown is a good candidate for this grant.

The target area proposed would be along the North Highway 14 corridor extending east to JBS Swift. The proposal may include some of the following components.

- Riverside Street expansion east to JBS
- Highway 14 conversion from four lane to 3 lane
- Existing commercial rehabilitation
- Creation of new commercial and light industrial opportunities
- New housing development opportunities
- Comprehensive planning covering the target area
- Implementation of some of the Riverview Park master plan improvements

The maximum grant award is \$3,000,000. This is a graphic of the area being discussed.

Michelle Spohnheimer  
Housing & Community Development Director  
City of Marshalltown  
641-754-5756 phone  
641-754-5742 fax  
[mospohnheimer@ci.marshalltown.ia.us](mailto:mospohnheimer@ci.marshalltown.ia.us)



City Council  
William Backoff, Marla Grabenbauer, Al Hoop, Andrea Maxwell  
Robert Schubert, Robert Wenner, Bethany Wirin