

Marshall City Council, Regular Session
Tuesday, December 3, 2013

CALL TO ORDER

IN REGULAR SESSION Tuesday, December 3, 2013 at 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Dyer.

ROLL CALL

Roll was called:

Present: Council Members: Mayor Dyer, Mankerian, Metzger, Miller, Reed, Revore, and Williams.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: None

INVOCATION/PLEDGE OF ALLEGIANCE

David Good of First Baptist Church gave the Invocation and Mayor Dyer led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Miller, supported Metzger, to add item 13B-Parks and Recreation Board Appointment. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Metzger, supported Williams, to approve the Consent Agenda:

Moved Metzger, supported Williams, to amend the 2014 City Council Meeting calendar and change the first meeting in July to Tuesday, July 8, 2014. On a voice vote - **MOTION CARRIED.**

- A. Approve 2014 City Council Meeting Dates;
- B. Approve 2014 Boards and Commission positions that scheduled to expire and the term of office;
- C. Approve minutes of the City Council Work Session and Regular Session held on Monday, November 18, 2013;
- D. Approve city bills in the amount of \$ 419,320.45.

On a roll call vote – ayes: Mankerian, Metzger, Miller, Reed, Revore, Williams, and Mayor Dyer; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITIONS

A. Certificates of Appreciation:

Mayor Dyer presented Certificates of Appreciation to past Boards and Commission members.

B. North Country Trail Association:

Eric Longman and Andrea Ketchmark of North Country Trail presented their Association goals of Marshall becoming a Trail City.

C. Audit Presentation :

Mark Kettner of Rehmann Robson gave a presentation on the Fiscal Year 2013 Audited Financial Statements for the City of Marshall.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Repeal Ordinance §130.01: Begging:

City Manager Tarkiewicz provided background on the repealing of Chapter 130: General Provisions, Section 130.01 Begging.

Mayor Dyer opened the public hearing to hear public comment on the repealing of Section 130.01 Begging.

Hearing no comment, the hearing was closed.

Moved Metzger, supported Williams to approve the repealing of Chapter 130: General Provisions, Section 130.01: Begging. On a roll call vote – ayes: Miller, Reed, Revore, Williams, Mayor Dyer, Mankerian, and Metzger; nays: none.

MOTION CARRIED.

CITY OF MARSHALL, MICHIGAN
ORDINANCE NO. 2013-12

AN ORDINANCE REPEALING § 130.01 BEGGING;

WHEREAS, the City of Marshall, Michigan has previously enacted an ordinance making it unlawful for any person to wander about and beg in the streets, or from house to house, or sit, stand or take a position in any place and beg from passers-by, either by words, gestures or by the exhibiting of a sign; and

WHEREAS, the City of Marshall's ordinance proscribing begging was substantially similar to a Michigan statute codified at MCL 750.167(1)(h); and

WHEREAS, the United States District Court for the Western District of Michigan has ruled that the Michigan statute after which the Marshall City Ordinance was drafted violates the First Amendment to the United States Constitution;

NOW, THEREFORE,

THE CITY OF MARSHALL ORDAINS that Section 130.01 of the Marshall City Code is hereby repealed in its entirety.

REPEALER

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City Of Marshall City Code shall remain in full force and effect, amended only as specified above.

SEVERABILITY

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

SAVINGS

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

EFFECTIVE DATE

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

ENACTMENT

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 3rd day of December, 2013, and ordered to be given publication in the manner prescribed by law.

AYES: Miller, Reed, Revore, Williams, Mayor Dyer, Mankerian, and Metzger.

NAYES: None.

STATE OF MICHIGAN
COUNTY OF CALHOUN

I, Trisha Nelson, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the

ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 3rd day of December, 2013, the original of which is on file in my office.

Trisha Nelson, Clerk

Adopted: 12/3/2013
Published: 12/7/2013

B: Chapter 91: Parks and Recreation:

City Manager Tarkiewicz provided background on the proposed amendment to Chapter 91: Parks and Recreation, Section 91.05.

Mayor Dyer opened the public hearing to hear public comment on the proposed amendments to Section 91.05.

Hearing no comment, the hearing was closed.

Moved Williams, supported Metzger to approve the proposed amendment to Chapter 91: Parks and Recreation, Section 91.05. On a roll call vote – ayes: Metzger, Miller, Reed, Revore, Williams, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN
ORDINANCE NO. 2013-13

AN ORDINANCE AMENDING § 91.05 WEAPONS AND FIREARMS;

WHEREAS, the City of Marshall, Michigan has previously enacted an ordinance generally making it unlawful for persons to carry certain weapons and firearms upon city owned land, including parks; and

WHEREAS, the City of Marshall's Ordinance conflicts with Michigan statutes (M.C.L. 123.1102 *et. seq.*) that limit a municipality's ability to regulate firearms;

NOW, THEREFORE,

THE CITY OF MARSHALL ORDAINS that Section 91.05 of the Marshall City Code is hereby amended as set forth herein. The text of Section 91.05 is stricken and is replaced with the following:

§ 91.05 WEAPONS AND FIREARMS.

(A) It shall be unlawful for any person, except authorized peace officers, to discharge on any land operated under the jurisdiction of City of Marshall, any gun

including shotgun, rifle, pistol, revolver, air or BB gun unless specifically authorized by the City Council or unless discharged in the lawful defense of oneself or another.

(B) It shall be unlawful for any person, except authorized peace officers, to possess, display, or use on any land operated under the jurisdiction of City of Marshall, any sling shot, bow and arrow, switchblade knife with spring loaded blade, throwing knife, tomahawk, or throwing axe, unless specifically authorized by the City Council.

REPEALER

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City Of Marshall City Code shall remain in full force and effect, amended only as specified above.

SEVERABILITY

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

SAVINGS

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

EFFECTIVE DATE

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

ENACTMENT

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 3rd day of December, 2013, and ordered to be given publication in the manner prescribed by law.

AYES: Metzger, Miller, Reed, Revore, Williams, Mayor Dyer, and Mankerian.

NAYES: None.

STATE OF MICHIGAN

COUNTY OF CALHOUN

I, Trisha Nelson, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 3rd day of December, 2013, the original of which is on file in my office.

Trisha Nelson, Clerk

Adopted: 12/3/2013

Published: 12/7/2013

C. Proposed Amendment to §156.122 and Addition of §156.205:

Natalie Huestis, Director of Community Services, provided background on the proposed amendment to §156.122 and the addition of §156.205 to General Standards and Exceptions, Use Standards: Laboratories.

Mayor Dyer opened the public hearing to hear public comment regarding the proposed amendments.

Hearing no comment, the hearing was closed.

Moved Williams, supported Metzger, to approve the proposed amendment to §156.122 and the addition of §156.205 to General Standards and Exceptions, Use Standards: Laboratories. On a roll call vote – ayes: Williams and Mankerian; nays: Reed, Revore, Mayor Dyer, Metzger, and Miller. **MOTION DEFEATED.**

D. Proposed Additions to §156.003 Definitions and §156.221 Accessory Structures and Uses regarding Donation Collection Bins:

Natalie Huestis, Director of Community Services, provided background on the proposed changes to §156.003 Definitions and §156.221 Accessory Structures and uses regarding Donation Collection Bins.

Mayor Dyer opened the public hearing to hear public comment regarding the proposed changes.

Dan Dalton, the attorney representing Planet Aid, spoke regarding the proposed ordinance and suggested some alternatives.

Kat Sutter from American Textile Recycling Services spoke in favor of the regulation for the Donation Bins.

Hearing no further comment, the hearing was closed.

Moved Metzger, supported Williams, to send the ordinance back to the Planning Commission for further study and review the materials provided. On a voice vote – **MOTION CARRIED.**

E. Water and Sewer Rate Ordinance Amendment:

City Manager Tarkiewicz provided background on the proposed amendments to the Water and Sewer Rate Ordinance in Chapter 53: Rates of the Marshall City Code.

Mayor Dyer opened the public hearing to hear public comment regarding the proposed amendments.

Hearing no comment, the hearing was closed.

Moved Metzger, supported Mankerian, to approve the proposed amendment to Chapter 53: Rates of the Marshall City Code. On a roll call vote – ayes: Revore, Williams, Mayor Dyer, Mankerian, Metzger, Miller, and Reed; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE 2013-14**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE §53 RATES OF THE MARSHALL CITY CODE OF ORDINANCES.

THE CITY OF MARSHALL ORDAINS:

Section 1. That the Marshall City Code §53 be amended as follows:

CHAPTER 53: RATES

§ 53.01 WATER RATES.

(A) All metered water shall be charged to a two-part rate consisting of a readiness to serve charge plus a commodity charge.

(B) Water Readiness to Serve Charge shall be billed by meter size. The effective rates are included in the table below:

Meter Size	Readiness to Serve Charge As of: January 1, 2014	Readiness to Serve Charge As of: January 1, 2015	Readiness to Serve Charge As of: January 1, 2016
1" or smaller	\$ 18.12	\$ 18.27	\$ 18.68
1.5"	\$ 48.00	\$ 48.00	\$ 48.00
2"	\$ 86.50	\$ 86.50	\$ 86.50
3"	\$ 195.00	\$ 195.00	\$ 195.00
4"	\$ 365.00	\$ 365.00	\$ 365.00
6"	\$ 785.00	\$ 785.00	\$ 785.00

(1) The Readiness to Serve Charge outside the corporate limits of the City of Marshall shall be 200% of the rate as established for use within the corporate limits of the City of Marshall, Michigan.

(2) When a battery of more than one meter is used in the place of a large single meter, then the readiness to serve charge shall be the charge of the single sized meter times the number of meters composing the battery.

(3) The "Readiness to Serve Charge" covers the cost necessary to keep the Water Works in good operating condition, and other fixed costs as designated by Council and is the amount of the minimum bill.

(C) Water Commodity Charges shall be based on actual consumption. The effective rates are included in the table below:

Cubic Foot		Commodity Charges As of: January 1, 2014 (per 100cft)	Commodity Charges As of: January 1, 2015 (per 100cft)	Commodity Charges As of: January 1, 2016 (per 100cft)
Up to	3,000	\$ 2.2200	\$ 2.3000	\$ 2.4200
Next	12,000	\$ 1.7800	\$ 1.8400	\$ 1.9400
Beyond	15,000	\$ 1.3300	\$ 1.3800	\$ 1.4500

(1) Commodity Charge outside the corporate limits of the City of Marshall shall be:
 200% of the rate as established for use within the corporate limits of the City of Marshall, Michigan.

(D) Automatic sprinkler services or hose connections for fire protection services only will be charge the following rates:

Connection Size	Charge per Annum
6" or smaller	\$120
8"	\$220
10"	\$340
12"	\$500

(E) The City may provide a fire hydrant connection for Circuses, Tent Shows, Carnivals, Exhibitions, and for Construction purposes. Fees and charges shall be established by resolution. The Meter Security Deposit will be returned when the hydrant meter is returned without damage. Any loss or damage to the reducing connection, valve, hydrant, meter or operating wrench will be charged to the person making application for the use of the hydrant. On large construction projects, the Water Department may require the setting of an appropriate meter and to charge for water and service as for regular service supply.

(F) All service taps to water mains shall be made by the Water Department except when approved by the Water Superintendent. The charge for the water main tapping shall be paid by the customer and shall include all materials, equipment, and contracted costs incurred by the City.

(G) The City may provide meter testing. The meter testing fees shall be established by resolution. If, after testing, the meter is found to be in error above allowable percent, which is two percent (2%) plus or minus, then the amount deposited will be refunded, but if the water meter is found to be registering within the test limits, then the amount deposited will be retained to cover the cost of the testing.

(H) A turn-on fee for the restoration of service during business hours or after business hours will be charged to a customer in order to reconnect his service if service has been interrupted. A turn-on fee shall be established by resolution.

(I) Anyone seeking to make a connection to any public water main within the City of Marshall shall first obtain a permit to make such connection from the offices of the City of Marshall. Prior to the issuance of said permit, the applicant must pay to the City a Water Connection Fee representing the cost of construction of that portion of the City-wide water system attributable to the proportionate benefit to be received by the applicant's property.

(1) The Water Connection Fee shall be based on a unit factor system wherein each single-family residence shall be classified as one unit. Other occupational uses shall be charged on multiples of units as may be determined by resolution of the City Council from time to time. Said units and multiples thereof will be established and computed on the same basis as for the Sanitary Sewer Connection Fee contained further in this Section and the number of units charged to a premise shall be the same for both water and sanitary sewer. The Water Connection Fee shall be established by resolution. The fee for premises connected from outside the corporate limits of the City of Marshall shall be 1.5 times the in-city rate.

(J) Designated irrigation meters will only be billed between the months of May to September.

(K) The Charges for water services set forth in this ordinance and furnished to any premises are a lien on the premises to which this service is provided and those charges which are delinquent for six (6) months or more shall be certified by the City Treasurer to the City Assessor who shall enter the charges on the next tax roll against the premises to which the services have been rendered. Said charges shall be a lien as of the date services are provided and shall be enforced in the same manner as provided for by the collection of the taxes assessed upon the tax roll and the enforcement of the lien for taxes. The City Treasurer may certify all charges delinquent for six (6) months or more at any time prior to the date on which the City tax roll is approved.

§ 53.02 SEWER RATES.

(A) Monthly Rates for sewer service inside the corporate limits of the City of Marshall shall be:

Water Meter Size	Service Charge As of January 1, 2014	Service Charge As of January 1, 2015	Service Charge As of January 1, 2016
1" or smaller	\$ 14.48	\$ 14.54	\$ 14.72
1 1/2"	\$ 28.96	\$ 29.08	\$ 29.44
2"	\$ 34.75	\$ 37.80	\$ 41.22
3"	\$ 39.10	\$ 52.34	\$ 66.24
4"	\$ 69.50	\$ 104.69	\$ 141.31
6"	\$ 104.26	\$ 157.03	\$ 211.97

(B) Monthly Rates for sewer service outside the corporate limits of the City of Marshall shall be:

Water Meter Size	Service Charge As of January 1, 2014	Service Charge As of January 1, 2015	Service Charge As of January 1, 2016
1" or smaller	\$ 15.98	\$ 16.04	\$ 16.22
1 1/2"	\$ 30.46	\$ 30.58	\$ 30.94
2"	\$ 36.25	\$ 39.30	\$ 42.72
3"	\$ 40.60	\$ 53.84	\$ 67.74

(C) The Sewer commodity charge shall be:

	Commodity Charge per 100 cft As of January 1, 2014	Commodity Charge per 100 cft As of January 1, 2015	Commodity Charge per 100 cft As of January 1, 2016
Within the City of Marshall	\$ 3.11	\$ 3.16	\$ 3.18
Outside the City of Marshall	\$ 4.67	\$ 4.74	4.77

(D) Flat rate customer shall pay the following rates in addition to appropriate service charge:

Flat Rate As of January 1, 2014	Flat Rate As of January 1, 2015	Flat Rate As of January 1, 2016
\$ 34.70	\$ 35.08	35.39

(E) The sewer commodity may be reduced for residential customers because of lawn sprinkling. The procedure and policy for the sewer discount will be part of the Rules and Regulations.

(F) Anyone seeking to make a connection to any sanitary sewer system within the City of Marshall shall first obtain a permit to make such connection from the offices of the City of Marshall. Prior to the issuance of said permit, the applicant must pay to the City a Sanitary Sewer Connection Fee representing the cost of construction of that portion of the City-wide sewer system attributable to the proportionate benefit to be received by the applicant's property.

(1) The Sanitary Sewer Connection Fee shall be based on a unit factor system wherein each single-family residence shall be classified as one unit. Other occupational uses shall be charged on multiples of units as may be determined by resolution of the City Council from time to time. The Sanitary Sewer Connection Fee shall be established by resolution. The fee for premises connected from outside the corporate limits of the City of Marshall shall be 1.5 times the in-city rate.

(G) The Charges for waste water services set forth in this ordinance and furnished to any premises are a lien on the premises to which this service is provided and those charges which are delinquent for six (6) months or more shall be certified by the City Treasurer to the City Assessor who shall enter the charges on the next tax roll against the premises to which the services have been rendered. Said charges shall be a lien as of the date services are provided and shall be enforced in the same manner as provided for by the collection of the taxes assessed upon the tax roll and the enforcement of the lien for taxes. The City Treasurer may certify all charges delinquent for six (6) months or more at any time prior to the date on which the City tax roll is approved.

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401] 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. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 3. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 3rd day of December, 2013.

James Dyer, MAYOR

Trisha Nelson, City Clerk

OLD BUSINESS

A. Proposed Addition of Revised Language to §50.02 Garbage and Rubbish: Use of Containers on Private Property:

Moved Metzger, supported Mankerian, to adopt the revised addition of language to §50.02 Garbage and Rubbish: Use of Containers on Private Property.

**CITY OF MARSHALL
ORDINANCE #2013-15**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE, CHAPTER AND SECTION 50.02: GARBAGE AND RUBBISH; USE OF CONTAINERS ON PRIVATE PROPERTY. THE CITY OF MARSHALL ORDAINS:

Section 1. That chapter and section **50.02 Garbage and Rubbish: Use of Containers on Private Property** of the Marshall City Code, is hereby amended to add the following language:

Refuse containers, 20 cubic yards or greater, primarily used for repair or alteration of any structure require a zoning permit pursuant to §156.421.

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401] 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. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 3. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 3rd day of December, 2013.

James L. Dyer, MAYOR

Trisha Nelson, CITY CLERK

REPORTS AND RECOMMENDATIONS

A. Marshall House/Consumers Energy – Restrictive Covenant:

Moved Miller, supported Mankerian, to approve the signing of the Restrictive Covenant for the Marshall House Property. On a roll call vote – ayes: Metzger, Miller, Reed, Revore, Williams, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

B. Battle Creek Unlimited Services Agreement:

Moved Metzger, supported Williams, to approve the Services Agreement with Battle Creek Unlimited & MAEDA and authorize the Clerk to sign the agreement. On a roll call vote – ayes: Miller, Reed, Revore, Williams, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

APPOINTMENTS / ELECTIONS

A. Downtown Development Authority – Main Street Board Reappointments:

Moved Reed, supported Miller, to approve the reappointment of Barb Keith and Mark Stuart to the DDA/Main Street Board with terms expiring December 31, 2017. On a voice vote – **MOTION CARRIED.**

B. Parks and Recreation Board Appointment:

Moved Miller, supported Metzger, to approve the appointment of Travis Winchell to the Parks and Recreation Board with a term expiring July 1, 2016. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

ADJOURNMENT

The meeting was adjourned at 9:48 p.m.

James L. Dyer, Mayor

Trisha Nelson, City Clerk