

CITY COUNCIL
WORK SESSION AGENDA
TOWN HALL CONFERENCE ROOM
Wednesday, November 17, 2010
6:00 PM – 6:45 PM

A. Cronin Building Developer Presentation

B. Future Work Session Topics

Possible Topics:

Historic District Ordinance
Council Rules
Department operations and tours
Investment Policy

C. Other Items

MARSHALL CITY COUNCIL AGENDA

WEDNESDAY – 7:00 p.m.

NOVEMBER 17, 2010

HISTORIC MARSHALL

MAYOR: Bruce Smith

COUNCIL MEMBERS:
Ward 1 – James Dyer
Ward 2 – Nick Metzger
Ward 3 – Brent Williams
Ward 4 – Ryan Traver
Ward 5 – Jody Mankerian
At-Large – Kathy Miller

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) INVOCATION –
- 4) PLEDGE OF ALLEGIANCE
- 5) APPROVAL OF AGENDA – Items can be added or deleted from the Agenda by Council action.
- 6) PRESENTATIONS AND RECOGNITIONS
 - A. AMP Awards
 - B. New Employee Introductions
- 7) INFORMATIONAL ITEMS
- 8) PUBLIC COMMENT ON AGENDA ITEMS – Persons addressing 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 five (5) minutes on any agenda item.
- 9) PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION
 - A. Public Hearing – Revisions to Chapter 112: Peddlers, Solicitors and Temporary Businesses

City Council will hear public comment on the proposed addition to *Chapter 112: Peddlers, Solicitors and Temporary Businesses* of the Marshall City Code.
 - B. Public Hearing – Proposed New Ordinances 130.05 URINATION AND DEFECATION IN PUBLIC PLACES and 134.11 PROWLING and Revised Ordinances 131.04 OBSTRUCTING AN OFFICER, 131.07 PROVIDING FALSE INFORMATION TO OFFICER, 132.02 HARASSING COMMUNICATIONS, 134.03 DISORDERLY HOUSE and 134.10 WINDOW PEEPING.

City Council will hear public comment on the proposed additions and amendments to *Chapter 130, Chapter 131, Chapter 132, and Chapter 134* of the Marshall City Code.
 - C. Public Hearing – Proposed Ordinance 70.030

City Council will hear public comment on the proposed addition to *Chapter 70: General Provisions* of the Marshall City Code.
 - D. Public Hearing – Proposed Ordinance 73.19.1

City Council will hear public comment on the proposed additions to *Chapter 73: Parking Regulations* of the Marshall City Code.
- 10) OLD BUSINESS
- 11) REPORTS AND RECOMMENDATIONS
 - A. Freedom of Information Act Policy Revisions

City Council will consider the recommendation to support the current FOIA policy.

MAYOR: Bruce Smith

COUNCIL MEMBERS:
Ward 1 - James Dyer
Ward 2 - Nick Metzger
Ward 3 - Brent Williams
Ward 4 - Ryan Traver
Ward 5 - Jody Markarian
At-Large - Kathy Miller

B. Conflict of Interest Policy Revisions

City Council will consider the recommendation to adopt the revised Conflict of Interest Policy.

C. Proposed Fees for Chapter 112: Peddlers, Solicitors and Temporary Businesses

City Council will consider the recommendation to approve the increased fees for the licensing of roadside stands, temporary businesses, transient merchants, solicitors, and door-to-door salespersons.

D. Replacement of 2400 Volt Switchgear

City Council will consider the recommendation to approve the proposal from SSOE Group in the amount of \$41,000 for the replacement of a 2400 Volt Switchgear at the Powerhouse.

E. AMP Power Supply Agreement: 2015-2020

City Council will consider the recommendation to adopt the resolution authorizing the Clerk-Treasurer to sign the Supplement to the Power Sales Agreement with AMP for 2,500 kW of energy.

F. Firekeepers Local Revenue Sharing Board Disbursement

City Council will consider the recommendation to formally direct staff to disburse the 2009 Firekeepers Casino local revenue sharing allocation.

12) APPOINTMENTS / ELECTIONS

13) CONSENT AGENDA

A. MERS Benefit Program E - Pension Increase for Current Retirees

City Council will consider the recommendation to not authorize the Flexible E Benefit Program increase due to budget constraints.

B. City Council Minutes

Regular Session Monday, November 1, 2010

C. City Bills

Regular Purchases	\$ 140,696.79
Weekly Purchases - 10/29/10	\$ 28,425.95
Weekly Purchases - 11/5/10	\$ 95,475.11
Total.....	\$ 264,597.85

14) PUBLIC COMMENT ON NON-AGENDA ITEMS

Persons addressing 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 five (5) minutes on any item not on the agenda.

15) COUNCIL AND MANAGER COMMUNICATIONS

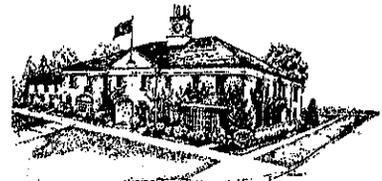
16) ADJOURNMENT

Respectfully submitted,


Tom Tarkiewicz
City Manager

City of Marshall

323 West Michigan Avenue - Marshall, MI 49068-1578 - Phone (269) 781-5183 - FAX (269) 781-3835



Marshall Town Hall ca: 1857

ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

REPORT TO: Mayor Bruce Smith and City Council Members

FROM: Natalie Huestis, Director of Community Services
Tom Tarkiewicz, City Manager

SUBJECT: Public Hearing to hear public comments on the text changes to Chapter 112: Peddlers, Solicitors and Temporary Businesses

BACKGROUND: In an effort to update Chapter 112: Peddlers, Solicitors and Temporary Businesses to better serve the community of Marshall; staff is proposing several changes to the current ordinance. Proposed changes include:

- **§112.02 Definitions.**
 - **Add:** PERMANENT BUSINESS. Any profession, trade, occupation, shop, store and any other kind of calling carried on in a building that is subject to Marshall City taxes on the subject lot or business.
 - **Change:** ROADSIDE STAND, TEMPORARY BUSINESS AND TRANSIENT BUSINESS. Any profession, trade, occupation, shop, store and any other kind of calling carried on at a lot or business within the city, the instrumentalities of which are not subject to Marshall City taxes.
 - **Change:** SOLICITOR OR DOOR-TO-DOOR SALESPERSON. Any person who by profession, trade, or occupation sells or offers for sale any goods, wares, merchandise or services by traveling about the city and, in the course of his or her business, may enter upon residentially-owned property and is not subject to Marshall City taxes on the subject business' real or personal property.
 - **Delete:** TRANSIENT MERCHANT. *(included with Roadside Stands and Temporary Businesses)*

- **§112.03 License Required.**
 - **Add:** Permanent Businesses are exempt.

- **§112.06 Exemptions**
 - **Change:** "locally recognized organization" to "any IRS recognized non-profit and governmental entities pay the fees prescribed herein: Duly authorized solicitors on behalf of any religious organization; Entities recognized by the United States Internal Revenue Service as tax-exempt organizations; Governmental entities."
 - **Delete:** "and any business operating under the auspices of a civic event sanctioned by the city."

- **§112.07 Change Title: Application and conditions; notice of denial.**
 - **Change:** (A) The applicant shall provide the following information to the City Clerk :
 -

1. Applicant's name, location of business, home address, social security number and preferred telephone number.
 2. A description of the type of business operation the applicant will conduct, including hours of operation.
 3. Name and social security number of each employee, agent, or independent contractor working on behalf of the proposed business within the City.
 4. A description of the goods, wares, merchandise or services the applicant will offer for sale.
 5. Written permission from the owner of the business location, acknowledging responsibility for the care and custody of the property from/on which the business will operate.
 6. Address of the applicant's most recent place of business.
 7. Proof of compliance with all applicable county, state, and federal requirements.
- **Change:** (B) Upon the receipt of application, the City Clerk will issue a notice of review for:
 1. Approval of a criminal background check by the Police Department.
 2. Approval by the Planning & Zoning Department with respect to compliance with the City's Zoning and Sign ordinance.
 3. Approval through the City Engineers office with respect to the use of streets, sidewalks, and right-of-ways.
 4. Approval by the Building Official with respect to the safety and compliance of any structures being used.
 5. Approval by the Fire Department with respect to compliance with Fire Code.
 - **Change/Add:** (C) "The City Clerk shall keep a full record in his or her office of all licenses issued, approvals given, and shall submit a copy of the record to the Chief of Police. Within ten working days of receipt of an application, the City Clerk shall either issue to the applicant the requested license or issue a written notice of denial and the reasons there for."
 - **§112.08 Expiration of License.**
 - **Change:** "All licenses issued under the provisions of this chapter shall expire within ten, thirty, sixty or ninety days of issuance. Each business may only be issued a license for up to ninety days maximum per year."
 - **§112.11 Hours of Operation.**
 - **Add:** "No person shall engage in any door-to-door soliciting at any residence within the city during the period from dusk until 9:00 a.m."
 - **§112.12 Location.**

Add: "Roadside stands, temporary businesses, and transient businesses shall comply with the following location requirements:

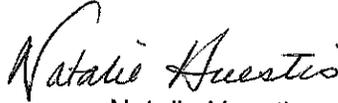
- (A) Stands or businesses are allowed, with owner permission and license approval, on all non-residential, taxable parcels for a period of up to 90 days per calendar year.
- (B) Stands or businesses must meet the following requirements:
 - (1) Structures must be sixteen feet from the face of each curb abutting a street.
 - (2) Structures must provide at least six feet clearance on all public walks or pedestrian ways.

RECOMMENDATION: After hearing public comments on proposed changes pertaining to Chapter 112 of the ordinance, it is recommended that City Council consider approval and enactment.

FISCAL EFFECTS: None.

ALTERNATIVES: As suggested by Council.

Respectfully submitted,


Natalie Huestis
Director of Community Services


Tom Tarkiewicz
City Manager

CITY OF MARSHALL
ORDINANCE ##-10

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE, CHAPTER 112:
PEDDLERS, SOLICITORS AND TEMPORARY BUSINESSES.

THE CITY OF MARSHALL ORDAINS:

Section 1. That section **§112.02 Definitions** of the Marshall City Code, is hereby amended to read as follows:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERMANENT BUSINESS. Professions, trades, occupations, shops, stores and every other kind of calling carried on in a building that is subject to Marshall City taxes on the subject lot or business.

ROADSIDE STAND, TEMPORARY BUSINESS and TRANSIENT MERCHANTS. Professions, trades, occupations, shops, stores and every other kind of calling carried on at a lot or business within the city, the instrumentalities of which are not subject to Marshall City taxes.

SOLICITOR or DOOR-TO-DOOR SALESPERSON. Any person who by profession, trade, or occupation sells or offers for sale any goods, wares, merchandise or services by traveling about the city and, in the course of his or her business, may enter upon residentially-owned property and is not subject to Marshall City taxes on the subject business' real or personal property.

Section 1a. That section **§112.03 License Required** of the Marshall City Code, is hereby amended to read as follows:

Solicitors, transient merchants, door-to-door salespersons, roadside stands, temporary businesses shall not operate within the city without first obtaining a license in compliance with the provisions of this chapter. Permanent Business are exempt.

Section 1b. That section **§112.06 Exemptions, subsections (A) and (B)** of the Marshall City Code, is hereby amended to read as follows:

- (A) The following persons shall not be required to obtain licenses as specified herein and shall not be required to pay the fees prescribed herein: Duly authorized solicitors on behalf of any religious organization; Entities recognized by the United States Internal Revenue Service as tax-exempt organizations; Governmental entities. The City Clerk shall make the final determination regarding exemptions. Exempt persons or organizations shall be required to register with the City Clerk for identification purposes when engaging in any activity regulated by this chapter.

(B) Persons selling newspapers, commercial travelers or selling agents calling upon commercial establishments in the usual course of business shall not be required to obtain a license.

Section 1c. That section **§112.07 Investigation and issuance; notice of denial** of the Marshall City Code, is hereby amended to read as follows:

§ 112.07 APPLICATION AND CONDITIONS; NOTICE OF DENIAL.

(A) The applicant shall provide the following information to the City Clerk:

1. Applicant's name, location of business, home address, social security number and preferred telephone number.
2. A description of the type of business operation the applicant will conduct, including hours of operation.
3. Names and social security numbers of each employee, agent, or independent contractor working on behalf of the proposed business within the City.
4. A description of the goods, wares, merchandise or services the applicant will offer for sale.
5. Written permission from the owner of the business location, acknowledging responsibility for the care and custody of the property from/on which the business will operate.
6. Address of the applicant's most recent place of business.
7. Proof of compliance with all applicable county, state, and federal requirements.

(B) Upon the receipt of application, the City Clerk will issue a notice of review for:

1. Approval of a criminal background check by the Police Department.
2. Approval by the Planning & Zoning Department with respect to compliance with the City's Zoning and Sign ordinance.
3. Approval through the City Engineers office with respect to the use of streets, sidewalks, and right-of-ways.
4. Approval by the Building Official with respect to the safety and compliance of any structures being used.
5. Approval by the Fire Department with respect to compliance with Fire Code.

(C) The City Clerk shall keep a full record in his or her office of all licenses issued, approvals given, and shall submit a copy of the record to the Chief of Police. Within ten working days of receipt of an application, the City Clerk shall either issue to the applicant the requested license or issue a written notice of denial and the reason

therefore. The person whose license has been denied shall have the right to appeal to the City Council within seven days of the denial.

Section 1d. That section **§112.08 Expiration of License** of the Marshall City Code, is hereby amended to read as follows:

All licenses issued under the provisions of the chapter shall expire within ten, thirty, sixty or ninety days of issuance. Each business may only be issued a license for up to ninety days maximum per year.

Section 1e. That section **§112.11 Hours of operation** of the Marshall City Code, is hereby amended to read as follows:

No person shall engage in any door-to-door soliciting at any residence within the city during the period from dusk until 9:00 a.m.

Section 1f. That section **§112.12 Location** of the Marshall City Code, is hereby amended to read as follows:

Roadside stands, temporary and transient businesses shall comply with the following location requirements:

(A) Stands or businesses are allowed, with owner permission and license approval, on all non-residential, taxable parcels for a period of up to 90 days per calendar year with proper licensing approval.

(B) Stands or businesses must:

(1) Structures must be sixteen feet from the face of each curb abutting a street.

(2) Structures must provide at least six feet clearance on all public walks or pedestrian ways.

(C) When located on public property other than the public rights-of-way, the stands or businesses shall be permitted at the discretion of the City Manager under the policy guidance of the City Council. The City Council may, by ordinance or resolution, establish such additional programs or requirements it deems fit for the operation on public property of any business regulated by this chapter.

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 _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

CHAPTER 112: PEDDLERS, SOLICITORS AND TEMPORARY BUSINESSES

Section

112.01 Purpose

112.02 Definitions

112.03 License required

112.04 Application for license

112.05 Fees required

112.06 Exemptions

112.07 Investigation and issuanceApplication and Conditions; notice of denial

112.08 Expiration of license

112.09 Revocation of license; appeal

112.10 Display of license

112.11 Hours of business

112.12 Location

112.13 Sales from a vehicle

112.14 Restrictions on operations of solicitors, roadside stands and temporary businesses

112.15 Enforcement

112.16 Relationship to other ordinances

§ 112.01 PURPOSE.

The purpose of this chapter shall be to protect the health, safety and welfare of the citizens of the city by regulating solicitors, transient businesses, door-to-door salespersons, roadside stands, street vendors and other temporary businesses.

(Prior Code, § 20-1) (Ord. passed 3-21-1983)

§ 112.02 DEFINITIONS.

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For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERMANENT BUSINESS. Professions, trades, occupations, shops, stores and every other kind of calling carried on in a building that is subject to Marshall City taxes on the subject lot or business.

ROADSIDE STAND, OF TEMPORARY BUSINESS and/or, TRANSIENT BUSINESS MERCHANTS. Any place at which goods, wares, merchandise or services are sold or offered for sale, other than from a permanent structure duly approved for such use. Professions, trades, occupations, shops, stores and every other kind of calling carried on at a lot or business within the city, the instrumentalities of which are not subject to Marshall City taxes on the subject lot or business.

SOLICITOR or DOOR-TO-DOOR SALESPERSON. Any person who through-by profession, trade, or occupation sells or offers for sale any goods, wares, merchandise or services by traveling about the city and, in the course of his or her business, enters may enter upon residentially-owned property and areis not subject to Marshall City taxes on the subject business' real or personal property.

TRANSIENT MERCHANT. Any person who temporarily offers for sale or sells any goods, wares, merchandise or services from a permanent structure duly approved for the use.

(Prior Code, § 20-2) (Ord. passed 3-21-1983)

§ 112.03 LICENSE REQUIRED.

Solicitors, transient businesses, door-to-door salespersons, roadside stands, temporary businesses shall not operate within the city without first obtaining a license in compliance with the provisions of this chapter. Permanent Business are exempt.

(Prior Code, § 20-3) (Ord. passed 3-21-1983)

§ 112.04 APPLICATION FOR LICENSE.

Persons required to obtain a license shall apply for it at the office of the City Clerk. Each individual solicitor will apply for a license and provide a valid driver's license or State ID. The content of the application form shall be prescribed by the City Clerk.

(Prior Code, § 20-4) (Ord. passed 3-21-1983; Am. Ord. 07-05, passed 7-2-2007)

Statutory reference:

Home solicitation sales, see M.C.L.A. §§ 445.111 et seq.; M.S.A. §§ 19.416(201) et seq.

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§ 112.05 FEES REQUIRED.

A license fee, set by resolution of the City Council, shall be paid in full prior to issuance of the license.

(Prior Code, § 20-5) (Ord. passed 3-21-1983)

§ 112.06 EXEMPTIONS.

(A) The following persons shall not be required to obtain licenses as specified herein and shall not be required to pay the fees prescribed herein: ~~duly authorized solicitors on behalf of any religious organization and any locally recognized organization and any other persons otherwise exempted by law herein;~~ Duly authorized solicitors on behalf of any religious organization; Entities recognized by the United States Internal Revenue Service as tax-exempt organizations; Governmental entities. The City Clerk shall make the final determination regarding exemptions. Exempt persons or organizations shall be required to register with the City Clerk for identification purposes when engaging in any activity regulated by this chapter.

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(B) Persons selling newspapers, commercial travelers or selling agents calling upon commercial establishments in the usual course of business, ~~and any business operating under the auspices of a civic event sanctioned by the city,~~ shall not be required to obtain a license.

(Prior Code, § 20-6) (Ord. passed 3-21-1983)

§ 112.07 INVESTIGATION AND ISSUANCE APPLICATION AND CONDITIONS; NOTICE OF DENIAL.

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(A) Upon receipt of an application for a solicitor's or temporary business license, ~~the City Clerk and the Chief of Police may cause the investigation of the person's or persons' business responsibility or moral character to be made as they deem necessary for the protection of the public good. If, as a result of the investigation, the applicant's character and business reputation appear to be satisfactory.~~ The applicant shall provide the following information shall be provided to the City Clerk by the applicant; ~~the City Clerk shall proceed to issue a license.~~

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1. Applicant's name, location of business, home address, social security number and preferred telephone number.
2. A description of the type of business operation the applicant will conduct, including hours of operation.
3. Names and social security numbers of each employee, agent, or independent contractor working on behalf of the proposed business within the City at the business location.
4. A description of the goods, wares, merchandise or services the applicant will offer for sale.

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5. Written permission from the owner of the business location, acknowledging responsibility which the City will hold responsible for for the care and custody of the property from/on which the business will operate.
6. Address of the applicant's most recent place of business.
7. Proof of compliance with all applicable county, state, and federal requirements.

(B) Upon the receipt of application, the City Clerk will issue a notice of review for:

1. Approval of a criminal background check by the Police Department.
2. Approval by the Planning & Zoning Department with respect to compliance with the City's Zoning and Sign ordinance.
3. Approval through the City Engineers office with respect to the use of streets, sidewalks, and right-of-ways.
4. Approval by the Building Official with respect to the safety and compliance of any structures being used.
5. Approval by the Fire Department with respect to compliance with Fire Code.

(CB) The City Clerk shall keep a full record in his or her office of all licenses issued, approvals given, and shall submit a copy of the record to the Chief of Police. Within three ten working days of receipt of an application, the City Clerk shall either issue to the applicant the requested license or issue a written notice of denial and the reason therefore. The person whose license has been denied shall have the right to appeal to the City Council within seven days of the denial.

(Prior Code, § 20-7) (Ord. passed 3-21-1983)

§ 112.08 EXPIRATION OF LICENSE.

All licenses issued under the provisions of the chapter shall expire as of the date listed on the face thereof within ten, thirty, sixty or ninety days of issuance. Each business may only be issued a license for up to ninety days maximum per year.

(Prior Code, § 20-8) (Ord. passed 3-21-1983)

§ 112.09 REVOCATION OF LICENSE; APPEAL.

(A) The licenses issued pursuant to this chapter may be revoked at any time by the City Clerk or the Chief of Police, or their duly authorized representatives, for any of the following reasons:

- (1) Any fraud, misrepresentation or false statement contained in the application for license;

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(2) Any fraud, misrepresentation or false statement contained in connection with the selling of goods, wares, merchandise or services;

(3) Any violation of a city ordinance, including the city zoning code and the city sign code;

(4) Conviction of the applicant or other persons acting under the authority of the applicant's license for any felony or of a misdemeanor conviction involving moral turpitude within five years; and/or

(5) Conducting the business permitted under this chapter in an unlawful manner or in such a manner as, to constitute a breach of the peace, nuisance or a menace to the health, safety or general welfare of the public.

(B) Within three working days of the revocation of a license, the City Clerk shall send to the person whose license has been revoked, notice setting forth specifically the grounds of the revocation. The notice shall be mailed to the person to whom the license was issued at the address shown on the license application.

(C) The person whose license has been revoked shall have the right to appeal to the City Council within seven days of the revocation.

(Prior Code, § 20-9) (Ord. passed 3-21-1983)

§ 112.10 DISPLAY OF LICENSE.

Any person or business licensed under the provisions of this chapter shall have the license issued to him or her in his or her immediate possession and shall display the same upon demand of any duly authorized representative of the city. Solicitors shall produce their license upon demand by any person.

(Prior Code, § 20-10) (Ord. passed 3-21-1983)

§ 112.11 HOURS OF BUSINESS.

No person shall engage in any door-to-door soliciting or operate any roadside stand or other temporary business at any place-residence within the city during the period from 9:00 p.m. dusk until 9:00 a.m.

(Prior Code, § 20-11) (Ord. passed 3-21-1983)

§ 112.12 LOCATION.

Roadside stands, and temporary and transient businesses shall comply with the following location requirements:

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(A) ~~When located upon private property, the stands or businesses must be located within the central business district or a commercial use district provided in Title XV.~~ Stands or businesses are allowed, with owner permission and license approval, on all non-residential, taxable parcels for a period of up to 90 days per calendar year with proper licensing approval.

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(B) ~~When located within a public right-of-way, such stands~~ Stands or businesses must, if not continually moving:

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(1) ~~Be located within or adjacent to the central business district or a commercial use district as provided in Title XV;~~

(12) ~~Be at least~~ Structures must be ten-sixteen feet from the traveled portion of any drive, roadway or alley, and face of each curb abutting a street.

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(23) ~~Provide~~ Structures must provide at least six feet clearance on all public walks or pedestrian ways.

(C) When located on public property other than the public rights-of-way, the stands or businesses shall be permitted at the discretion of the City Manager under the policy guidance of the City Council. The City Council may, by ordinance or resolution, establish such additional programs or requirements it deems fit for the operation on public property of any business regulated by this chapter.

(Prior Code, § 20-12) (Ord. passed 3-21-1983)

§ 112.13 SALES FROM A VEHICLE.

It shall be unlawful for any person traveling about the city doing business from any vehicle which is self-propelled, propelled by human power or propelled by any other means to:

- (A) Operate a vehicle when under the age of 18 years;
- (B) Double park in any manner;
- (C) Operate the vehicle backwards in making or attempting to make a sale;
- (D) Permit any person to hang on the vehicle;

(E) Refuse to remove the vehicle from any street, sidewalk or public place in the city upon the request of a police officer when, in the opinion of the police officer, the vehicle is causing traffic congestion;

(F) Cry his wares in a loud voice or use any noise-making device other than a soft chime and the limit of audibility of his or her voice or chime shall not be more than 200 feet from the source of the sound; or

(G) Make or attempt to make a sale from a side of a vehicle not closest to the nearest curb or bean.

(Prior Code, § 20-13) (Ord. passed 3-21-1983)

§ 112.14 RESTRICTIONS ON OPERATIONS OF SOLICITORS, ROADSIDE STANDS AND TEMPORARY BUSINESSES.

(A) The City Manager, City Clerk or Chief of Police may place such reasonable restrictions upon the location, hours, provisions for parking, ingress or egress or methods of operation of any solicitor, roadside stand or temporary business licensed under this chapter, as deemed necessary to protect the general public health, safety or welfare. The restrictions may be imposed, modified or withdrawn at the time of licensure or any point thereafter.

(B) The City Council may, by resolution, establish general policies and guidelines, in addition to the provisions of this chapter, governing the location, hours or methods of operation of solicitors, roadside stands or temporary business in general, or any class thereof. Any such resolution shall not have the effect of invalidating any license already issued.

(Prior Code, § 20-14) (Ord. passed 3-21-1983)

§ 112.15 ENFORCEMENT.

The Chief of Police and the City Clerk and their duly authorized representatives shall have the authority to examine all places of business and persons within the city, subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating same.

(Prior Code, § 20-15) (Ord. passed 3-21-1983)

§ 112.16 RELATIONSHIP TO OTHER ORDINANCES.

The terms of this chapter shall in no manner alter the interpretation or requirements of any other chapter of the City Code, whether the person is licensed or exempt under this ordinance shall comply with all applicable provisions of the city's Zoning, Sign and Building Codes. The City Clerk may require evidence of compliance with the codes prior to issuing a license.

(Prior Code, § 20-16) (Ord. passed 3-21-1983)

City of Marshall

323 West Michigan Avenue • Marshall, MI 49068-1578 • Phone (269) 781-5183 • FAX (269) 781-3835



ADMINISTRATIVE REPORT **November 17, 2010 - CITY COUNCIL MEETING**

TO: Honorable Mayor and City Council

FROM: James M. Schwartz, Police Chief
Tom Tarkiewicz, City Manager

SUBJECT: Public Hearing on Proposed New Ordinances: 130.05 Urination and Defecation in Public Places and 134.11 Prowling and Revised Ordinances 131.04 Obstructing an Officer, 131.07 Providing False Information to Officer, 132.02 Harassing Communications, 134.03 Disorderly House and 134.10 Window Peeping.

BACKGROUND: In April 2010, a meeting between the Marshall Police Department, Battle Creek Police Department, City Attorney Paul Beardslee, City Prosecuting Attorney John Brundage and City Prosecuting Attorney John Sullivan was conducted address current ordinances that were ineffective or missing.

As a result of the meeting the above listed ordinances were identified as lacking or in need of updating. Battle Creek Police Department was able to provide assistance with developing and revising our ordinances to meet current standards.

The information was then collected and revised over several months to include the attached proposed new ordinances and updates to our current ordinances. The newly added information is on bold lettering and any proposed deletions are struck through.

These changes are done with the objective of keeping our current ordinances effective and enforceable. Laws change periodically due to court ruling or obsolete because of changing times. While reviewing these ordinances we developed changes that remediate our current deficiencies and further strengthen our current ordinances.

The purpose of this ordinance is to gain compliance with persons residing or visiting within the City of Marshall.

RECOMMENDATION:

As the Police Chief for the City of Marshall it is the recommendation that the Council approve the attached ordinance upon completion of the public hearing.



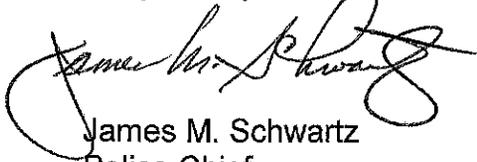
FISCAL EFFECTS:
the fees collected.

The General Fund revenues will increase dependent upon

ALTERNATIVES:

As suggested by Council.

Respectfully submitted,



James M. Schwartz
Police Chief



Tom Tarkiewicz
City Manager

CITY OF MARSHALL
ORDINANCE #2010-

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE. CHAPTER 130
GENERAL PROVISIONS

THE CITY OF MARSHALL ORDAINS

Section 1. That section 130.05 URINATION OR DEFECACTION IN PUBLIC PLACE of the Marshall City Code, is hereby added to read as follows:

CHAPTER 130: GENERAL PROVISIONS

Section

- 130.01 Begging
- 130.02 Fortune Telling
- 130.03 Spitting
- 130.04 Radio and television interference
- 130.05 Urination or defecation in public place

§130.05 URINATION OR DEFECACTION IN PUBLIC PLACE

No person shall urinate or defecate in any public place, or on any outdoor private property, except in designated public or private restrooms.

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 _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open

Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

**CITY OF MARSHALL
ORDINANCE #2010-**

**AN ORDINANCE TO AMEND CITY OF MARSHALL CODE. CHAPTER 134:
OFFENSES AGAINST PUBLIC PEACE AND SAFETY**

THE CITY OF MARSHALL ORDAINS

Section 1. That section 134.03 DISORDERLY HOUSE of the Marshall City Code, is hereby amended to read as follows:

§ 134.03 DISORDERLY HOUSE.

(A) No person shall permit or suffer any house, building or other place owned or occupied by him to be a resort for noisy, boisterous or disorderly persons, nor permit or suffer to remain therein any noisy, boisterous or disorderly persons.

(B) **No person shall attend, frequent, operate or be an occupant of any place where prostitution, gambling or the illegal sale or use of intoxicating liquor is permitted or conducted or where any other illegal or immoral business or occupation is permitted or conducted.**

Section 2. That section 134.10 WINDOW PEEPING of the Marshall City Code, is hereby amended to read as follows:

§ 134.10 WINDOW PEEPING.

It shall be unlawful for a person to look, peer or peep into any window on the property of another person under circumstances which **would be likely to cause affront or alarm.**

Section 3. That section 134.11 PROWLING of the Marshall City Code, is hereby added to read as follows:

§134.11 PROWLING

No person shall prowl about any public place or the private premises of any other person.

Section 4. 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 5. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

**CITY OF MARSHALL
ORDINANCE #2010-**

**AN ORDINANCE TO AMEND CITY OF MARSHALL CODE. CHAPTER 131:
OFFENSES AGAINST PUBLIC ADMINISTRATION**

THE CITY OF MARSHALL ORDAINS

Section 1. That section 131.04 OBSTRUCTING AN OFFICER of the Marshall City Code, is hereby amended to read as follows:

§ 131.04 OBSTRUCTING AN OFFICER.

(A) No person shall knowingly and willfully obstruct, resist, hinder or oppose any member of the Police Department or any peace officer.

(B) An individual who violates this section shall be guilty of a misdemeanor.

Section 2. That section 131.07 PROVIDING FALSE INFORMATION TO OFFICER of the Marshall City Code, is hereby amended to read as follows:

§ 131.07 PROVIDING FALSE INFORMATION TO OFFICER.

It shall be unlawful for a person to:

(A) Provide false information, including, but not limited to, name, address or other identifying information about one's self or another, to a police officer.

(B) Refuse to identify himself or herself by name and date of birth, when requested by a police officer, where the officer has encountered the person under circumstances which reasonably indicate to the officer that the person has committed, is committing or is about to commit a violation of a local, state or federal law.

(C) A person who violates this section shall be guilty of a misdemeanor.

Section 3. 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 4. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

**CITY OF MARSHALL
ORDINANCE #2010-**

**AN ORDINANCE TO AMEND CITY OF MARSHALL CODE. CHAPTER 132:
OFFENSES AGAINST PERSONS**

THE CITY OF MARSHALL ORDAINS

Section 1. That section 132.02 HARRASSING COMMUNICATIONS of the Marshall City Code, is hereby amended to read as follows:

§ 132.02 HARASSING COMMUNICATIONS.

(A) It shall be unlawful for a person, with intent to harass or alarm another person, to communicate with a person, anonymously or otherwise, by telephone or by telegraph, mail or any other form of written communications, in a manner likely to harass or cause alarm.

(B) It shall be unlawful for any person to use any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a telephone conversation;

(2) Falsely and deliberately reporting any telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death or has been the victim of a crime or of an accident;

(3) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service; and

(4) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation.

(5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(6) Deliberately calling a telephone of another person in a repetitive manner which causes interruption in telephone service or prevents the person from utilizing his or her telephone service.

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 _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

City of Marshall

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Marshall Town Hall ca: 1857

ADMINISTRATIVE REPORT **November 17, 2010 - CITY COUNCIL MEETING**

TO: Honorable Mayor and City Council

FROM: James M. Schwartz, Police Chief
Tom Tarkiewicz, City Manager

SUBJECT: Public Hearing for Proposed Ordinance 70.030 Viewing, Creating or Sending Text Messages or Photographs

BACKGROUND: The State of Michigan has instituted a law prohibiting viewing, creating or sending of text messages or photographs while driving a motor vehicle. Because this law exists under state statute, it is recommended by the Chief of Police with review by the City Attorney to adopt this law as an ordinance.

The current law allows for an individual to text in an emergency situation. The law states that you may text to report an accident or other emergency situation to report the incident. This ordinance defines that you may contact police, fire or medical personnel to report an incident.

The purpose of this ordinance is to gain compliance with persons driving within the City of Marshall and provide safety to other motorist and pedestrians.

RECOMMENDATION: As the Police Chief for the City of Marshall it is the recommendation that the Council approve the attached ordinance after the public hearing on this matter.

FISCAL EFFECTS: The General Fund revenues will increase dependent upon the fees collected.

ALTERNATIVES: As suggested by Council.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James M. Schwartz".

James M. Schwartz
Police Chief

A handwritten signature in black ink, appearing to read "Tom Tarkiewicz".

Tom Tarkiewicz
City Manager



**CITY OF MARSHALL
ORDINANCE #2010-**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE. CHAPTER 70: GENERAL PROVISIONS

THE CITY OF MARSHALL ORDAINS

Section 1. That section 70.030 VIEWING, CREATING OR SENDING TEXT MESSAGES OR PHOTOGRAPHS of the Marshall City Code, is hereby added to read as follows:

§ Sec. 70.030 VIEWING, CREATING OR SENDING TEXT MESSAGES OR PHOTOGRAPHS

(A) Except as otherwise provided in this section, a person shall not read, view, manually type, or send a text message or photographic image on a wireless 2-way communication device including a wireless telephone used in cellular telephone service or personal communication service, while operating a motor vehicle that is moving on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.

(B) Subsection (A) does not apply to an individual who is using a device described in subsection (A) to do any of the following:

- (1) Report a traffic accident, medical emergency or serious road hazard to law enforcement or emergency personnel.
- (2) Report to law enforcement a situation in which the person believes his or her personal safety is in jeopardy.
- (3) Report to law enforcement or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
- (4) Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.

(C) An individual who violates this section is responsible for a civil infraction and shall be ordered to pay a civil fine as follows:

- (1) For a first violation, \$100.00

(2) For a second or subsequent violation, \$200.00.

Statutory Reference:

Similar Provisions, see MCL 257.602b

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 _____ day of _____, 2010.

Bruce R. Smith, MAYOR

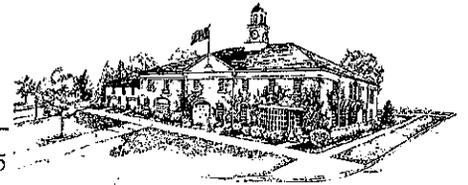
Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

City of Marshall

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Marshall Town Hall ca. 1857

ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

TO: Honorable Mayor and City Council

FROM: James M. Schwartz, Police Chief
Tom Tarkiewicz, City Manager

SUBJECT: Public Hearing for Proposed Ordinance 73.19.1 for Overnight Parking in the Downtown District Parking Lots

BACKGROUND: In June 2010, a meeting between the Downtown Development Authority (DDA) Director, City Manager and the Police Chief took place to discuss issues dealing with vacated vehicles and long term parking issues within the Downtown District. This meeting was to discuss an ordinance eliminating overnight parking in the City of Marshall Parking lots between the hours of 3:00am to 6:00am. The meeting also provided overnight parking for residents in the district by purchasing a permit. This is based on a yearly fee beginning in January of that year and prorated monthly. The recommended yearly fee is Ninety-Six (\$96.00) Dollars and expires on December 31st of the year purchased. Anyone purchasing a permit after January 31 of any year shall be charged a pro-rated amount of Eight (\$8.00) Dollars per month for each remaining month in the calendar year.

Owners and Operators of bed and breakfasts, motels, or other similar transient lodging may apply for and receive a permit for their establishment which shall be transferable to their guests.

Replacement of overnight parking permits shall be issued upon the payment of Seven (\$7.00) Dollars. Overnight Parking Permit fees shall not be refunded.

As a result of the discussions the proposed rules and ordinance that is attached with this report is proposed to address those concerns. The DDA Director, Diane Larkin, will propose this Ordinance and Rules to the Downtown Development Authority, prior to the November 1, 2010 council meeting to gather input from the district.

The purpose of this ordinance is to gain compliance with persons parking their vehicles within the City of Marshall owned parking lots for long periods of time. It will also enhance improved maintenance of the parking lots with reduced obstruction.

RECOMMENDATION: As the Police Chief and Traffic Engineer for the City of Marshall it is the recommendation that the Council approve the ordinance upon completion of the Public Hearing for the attached Ordinance and Rules.

FISCAL EFFECTS: The General Fund revenues will increase dependent upon the fees collected.

ALTERNATIVES: As suggested by Council.

Respectfully submitted,



James M. Schwartz
Police Chief

A handwritten signature in black ink, appearing to read 'Tom Tarkiewicz'.

Tom Tarkiewicz
City Manager

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE, CHAPTER 73: PARKING REGULATIONS.

THE CITY OF MARSHALL ORDAINS:

Section 1. That section **73.19.1 PARKING LIMITED BETWEEN 3:00 A.M. AND 6:00 A.M.** is hereby added to read as follows:

73.19.1 Overnight parking; violation as a civil infraction; authorization to issue permits.

(A) Parking in municipal parking lots is hereby prohibited between the hours of 3:00 a.m. and 6:00 a.m.

(B) The Traffic Engineer is authorized, with the consent of the City Council by motion, to establish procedures for the issuance of permits for parking overnight on municipal parking lots.

(C) A person who violates subsection (A) without first obtaining a permit or permission pursuant to subsection (B) is responsible for a civil infraction.

Section 2. That section **§73.48 SCHEDULE OF FINES PAYABLE TO PARKING VIOLATIONS BUREAU**, is hereby amended to add the following:

	Paid in Seven days or less	Paid after <u>Seven days</u>	Paid after <u>30 days</u>
Overnight Parking Without a valid permit:	\$25	\$30	\$50

Section 3. 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 4. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this _____ day of _____, 2010.

Bruce R. Smith, MAYOR

Sandra Bird, CLERK-TREASURER

I, Sandra Bird, being duly sworn as the Clerk-Treasurer for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting

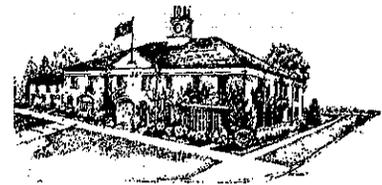
was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Sandra Bird, CLERK-TREASURER

The Traffic Engineer proposes the following system of overnight parking permits effective as of January 1, 2011:

1. Motorists may apply to the office of the City of Marshall Clerk-Treasurer for overnight parking permit for their vehicles. Overnight Parking Permits shall be issued for each vehicle enrolled in the program upon the completion and submission of forms created by the Traffic Engineer.
2. The cost of the Overnight Parking Permit will be Ninety Six (\$96) Dollars per year. Each Overnight Parking Permit shall expire on December 31 of the year issued. Any applicant applying for a permit after January 31 of any year shall be charged a pro-rated amount of Eight (\$8) Dollars per month for each month or portion of a month remaining in the calendar year.
3. Owners or operators of bed-and-breakfasts, motels, or other similar transient lodging quarters may apply for and shall receive from the Clerk-Treasurer a permit, as stated in sec. 2 above, which is transferrable to guests, tenants or boarders upon the completion and submission of forms created by the Traffic Engineer.
4. Temporary passes shall be issued by the City of Marshall Police Department upon request by telephone at (269) 781-0911. Temporary passes shall be issued at no charge to the requesting party. Temporary passes shall not be issued for the same vehicle for more than three consecutive nights.
5. Replacement of Overnight Parking Permits shall be issued upon the payment of Seven (\$7) Dollars to the Clerk-Treasurer. Overnight Parking Permit fees shall not be refunded.
6. Overnight Parking Permits shall be displayed in the lower portion of the rear-window of the vehicle, passenger side.

City of Marshall



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Marshall Town Hall ca: 1857

Administrative Report November 17, 2010 City Council Meeting

REPORT TO: Honorable Mayor and Council Members
FROM: Thomas Tarkiewicz, City Manager
SUBJECT: Freedom of Information Act (FOIA) Policy Revisions

BACKGROUND: At the October 16th work session, the City Attorney presented revisions to the Freedom of Information Act (FOIA) Policy. The attachments include the following:

Letter from the City Attorney
Current Policy
John LaPietra Policy Analysis

The City Attorney feels the current policy is adequate. The City Attorney will be present at the meeting to answer any questions. City Staff has not reviewed the fees but will report back in 90 days with any recommended fee changes.

RECOMMENDATION: After discussion, it is recommended that the Council support the current Freedom of Information Act (FOIA) Policy.

FISCAL EFFECTS: None.

ALTERNATIVES: As suggested by Council

Respectfully submitted,


Thomas Tarkiewicz
City Manager



HISTORIC
LANDMARK
DISTRICT



BEARDSLEE LAW OFFICES

206 S. KALAMAZOO AVE - MARSHALL MI - 49068

PAUL K. BEARDSLEE
ATTORNEY AT LAW

(269) 781-5193 Voice

(269) 781-2157 Fax

BEARDSLEELAW@JASNETWORKS.NET

The Honorable Bruce Smith
Marshall City Council
City Manager Tarkiwickz
323 W. Michigan Ave.
Marshall, MI 49068

October 14, 2010

Re: Freedom of Information Act Policy

Dear Mayor Smith, City Council Members, and City Manager Tarkiewicz,

I am attaching for your review the City's current *Freedom of Information Act Policy Statement*. This document was adopted by the Marshall City Council in July, 2005.

During the spring of 2010 a citizen, John LaPietra, provided some suggestions for revising our Policy Statement. I have also attached a portion of his proposed *Policy, Procedures, and Guidelines* for your review.

Michigan's FOIA statute contains its own policy statement (to the effect that all non-incarcerated people shall have access to information so that they may fully participate in the democratic process). Municipalities are not obligated to adopt their own policies about the benefit of providing information to the public; the legislature has already done that.

Public bodies, including the City of Marshall, are obligated to "establish and publish procedures and guidelines" regarding the costs associated with retrieving, copying and providing documents to members of the public. (See below.) The Act also creates other requirements for the City, such as identifying a FOIA Coordinator, but there is no mandate that this appointment be included in our procedures and guidelines.

For your reference I have also attached the City of Holland, Michigan's FOIA Policy and forms. This document was developed by Holland's City Attorney Andrew Mulder who is a frequent speaker on FOIA-related topics at MAMA seminars. Holland's approach is more voluminous and perhaps more thorough than our current document.

I look forward to receiving more direction from you on how you would like to proceed.

Yours truly,

Paul K. Beardslee

Paul K. Beardslee
City Attorney

FOIA Statute excerpt:

§15.234.

Sec. 4. (1) A public body may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record. Subject to subsections (3) and (4), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request to an individual who is entitled to information under this act and who submits an affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

(2) A public body may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records, if the fee authorized under this section exceeds \$50.00. The deposit shall not exceed 1/2 of the total fee.

(3) In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), a public body may not charge more than the hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request under this act. Fees shall be uniform and not dependent upon the identity of the requesting person. A public body shall utilize the most economical means available for making copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.

(4) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

Statute Interpreted:

The last sentence of section 4(3) of the FOIA directs a public body to establish and publish procedures and guidelines to implement this subsection. Thus, the Legislature has directed each public body to establish guidelines implementing section 4(3) regarding the charging of fees. These guidelines would set forth the standards for calculating labor costs for the tasks specified in the fourth sentence of section 4(3) for the determination, on a case-by-case basis, when failure to charge [*20] a fee would result in "unreasonably high costs to the public body" in responding to a particular request.

2001 Mich. AG LEXIS 14, 19-20 (Mich. AG 2001) (Granholm)

CITY OF MARSHALL
FREEDOM OF INFORMATION ACT
POLICY STATEMENT

It is the policy of the City of Marshall to fully comply with the letter and spirit of the Freedom of Information Act (hereafter referred to as FOIA or "the Act"). The City of Marshall shall appoint a FOIA Coordinator. Questions regarding the Act shall be directed to the FOIA Coordinator. The FOIA Coordinator shall contact the appropriate offices to provide information for requests addressed to the FOIA Coordinator. The FOIA Coordinator may designate other individuals to act on his/her behalf in these matters. As authorized, the City Clerk, City Manager and City Attorney are also designated to act on behalf of the FOIA Coordinator. The City Manager and City Attorney are designated as those persons responsible for approving a denial of a request. As necessary, other individuals may be delegated with these responsibilities.

The FOIA Coordinator shall keep a record of all FOIA requests and responses pursuant to the Act.

In accordance with 15.234, Section 4(3) of Public Act 442 of 1976, also known as the Freedom of Information Act (FOIA), the City of Marshall adopts the following policy statement:

Requests to inspect or copy public records as defined by Public Act 442 of 1976 shall be made in writing - see City of Marshall, Request for Information, Freedom of Information Act form - and shall contain the following information: Name of requesting person(s), complete address and telephone number.

The City of Marshall will charge search and review fees. The following fees are established and shall be assessed for the services performed by City of Marshall employees relating to the processing of any FOIA request:

For documents readily available to copy and/or twenty (20) pages or less the City may charge:

- A. Copies: \$0.25 per page.
- B. Mailing: Actual postage plus cost of envelope.

For documents requiring research, compilation and copy time and/or greater than 20 pages the City may charge:

- A. Copy charges: \$0.06 per page, single sided; \$0.08 per page, double sided
- B. Labor: charged at the rate of the City of Marshall lowest paid employee capable of performing the research, compilation and/or copying.
- C. Mailing: same as above.
- D. Other materials - CD's, diskettes, video recordings, etc. shall be charged at cost.

The City of Marshall does hereby establish fees for the following requests:

Address Labels-----\$0.05 per label
Property Cards/Records-----\$2.00 per parcel (all pages)
Computer generated reports/queries-----\$0.02 per item listed/per name
Zoning Ordinance Book-----\$25.00
Zoning Map-----\$5.00
Master Plan Map-----\$5.00
Master Plan for Land Use-----\$25.00 (includes 11" X 17" map)
Parks and Recreation Master Plan-----\$5.00 (black & white copy only)
Certificate of Occupancy (duplicate request)-----\$2.00
Police/Fire Report-----\$1.00 per page
Photos-----\$2.00 per photo
Faxed Information-----\$2.00 additional for faxing
any of the above (minimum)

The City of Marshall reserves the right to accept and process verbal requests to inspect or receive copies of public documents.

In accordance with 15.234, Section 4, Part 2 of Act 442 of 1976 the City of Marshall may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records if the fee for the FOIA request exceeds \$50.00 or if the person requesting the public record or series of public records owes the City of Marshall for any previous FOIA requests. Such good faith deposit shall not exceed 1/2 of the total fee for the request.

Effective: July 7, 2005

Working Forward . . . Toward a New FOIA Re-Draft

Analysis of the Changes Needed in the City's Current Freedom of Information Act "Policy Statement" to Come Up with a Set of Policy, Procedures, & Guidelines that Follow State Law (& Common Sense)

One objection raised against my July 15 re-draft of the FOIA "policy statement" adopted by City Council on July 6 is that it includes too much of the language of the Freedom of Information Act. This strikes me as an odd way to defend the current policy statement – which starts by declaring that City policy is "to fully comply with the letter and the spirit" of FOIA, but in fact doesn't do either one as well as some seem to believe.

I believe (among other things) that the first information that must be freely released to the people is information on how to be intelligent "customers" of public records – information about their FOIA rights and how to use them. If they don't have that "customer information", they can't use their rights . . . they can't participate fully in the democratic process, as FOIA envisions. If the City isn't doing its reasonable best to give them that information, it is not living up to the letter or the spirit of FOIA.

In my July 15 re-draft, I tried generally to use the material in the current policy statement, but left myself a good bit of room to edit and re-arrange and get us as far as possible toward where I thought we ought to be. This time, I started with the current policy statement and worked forward from it – hoping to show more clearly the holes that need plugging and the tangles that need unsnarling. The paragraph numbers below refer to paragraphs in the "Working Forward" document, which shows when words or sentences have been moved in, deleted from, or added to the current policy statement. I have also included references [frequently set off in brackets] to sections and subsections of the Freedom of Information Act (numbered as they are in the Michigan Compiled Laws) that justify the changes I am proposing this time.

<u>Key to "Working Forward" Document:</u>		<u>Abbreviations in the Analysis:</u>	
strikeout	= in current policy statement, proposed to be deleted	CPS	= current policy statement
<u>underline</u>	= in current policy statement, proposed to be moved	MCL	= Michigan Compiled Laws
<i>bold/italics</i>	= not in current policy statement, proposed to be added	PPG	= policy, procedures, and guidelines

Paragraph #1: The first sentence of the CPS is, as I mentioned above, the declaration of the City's policy to "fully comply with the letter and the spirit" of FOIA. But there just aren't that many homes with framed copies of the text of FOIA up on their walls . . . so the first bit of "customer information" people need is an introduction to what the letter of the law says, and what the spirit of the law is.

I shortened and simplified the law's "public purpose" declaration [MCL 15.231(2)] for my slide-show presentation, so I used that as a basis for presenting the spirit of the law here. The same subsection is why I made sure the City would make the text of the Act available to citizens, so they could be assured of having full information on the letter of the law.

I also made the initial legal reference to FOIA more complete. That way, only "FOIA" or "the Act" need be said later.

Paragraph #2: The sentence adopting a policy should generally come as early in the document as possible, to avoid the chance for confusion about whether what comes before it isn't included. I moved the sentence earlier than it was in the CPS . . . putting it just after that general declaration of city policy, and the legal reference to FOIA.

I changed the legal reference here, because neither the CPS nor the PPG is based just on MCL 15.234(3). If they were, we would hardly be fully complying with the law. There's more to FOIA than that one subsection.

And it's not a policy statement that MCL 15.234(3) requires public bodies like the City to "establish and publish". It's "procedures and guidelines". That said, there's nothing wrong, or even unusual, in combining policies with procedures and guidelines; the City has done it in several other areas – it's convenient to have everything in one place. That's why I've changed the phrase "policy statement" to "policy, procedures, and guidelines" (PPG in the analysis) throughout.

Paragraph #3: This covers the rest of the opening paragraph of the CPS. Instead of promising to appoint a FOIA Coordinator, the re-draft designates the Deputy City Clerk to have that authority and handle those responsibilities. (I just got a copy of a memo from Maurice Evans to the April 21, 1997 Council meeting recommending that "Deputy City Clerk Donna Kolodica be designated as the City's Freedom of Information Act Coordinator." So it seems the CPS was incomplete in saying that the City was going to appoint someone; Council apparently already had. More on that memo later.)

The CPS just directs "[q]uestions regarding the Act" to the FOIA Coordinator. This re-draft says all FOIA requests, and any questions on the Act or our PPG, are to be directed to the FOIA Coordinator [MCL 15.233(1)].

Paragraph #4: The CPS barely mentions people's right to inspect records "during the usual business hours", and says nothing about reasonable opportunities or facilities to exercise that right. This re-draft does . . . and at the same time it tells people the City has the right to make reasonable rules and the duty to protect records [MCL 15.233(1) & (3)].

The text has been slightly edited to be in plainer language than FOIA's actual text. More such editing could be done.

Paragraph #5: The CPS paragraph on what goes into making a FOIA request leaves out several necessary details. This re-draft tries to rectify those errors. It mentions the right to request and get *certified* copies [MCL 15.233(6)], and the right to "subscribe" to public records "created, issued, or disseminated on a regular basis" – such as Council agendas or minutes [MCL 15.233(1)]. It shifts from directing everyone pointedly to the City's FOIA request form (implying that the form is required) to saying that the form is available, but that any request in writing is acceptable . . . and the Act's definitions of "writing" and "written request" are both very broad [MCL 15.232(h) & (i)].

The definitions cover electronic communications, such as e-mail and fax. And that brings in two other changes. The re-draft says plainly that a FOIA request sent electronically isn't officially received by the City until the next business day [MCL 15.235(1)]. And some people may want responses sent electronically – so I have added the suggestion that these people should tell the City how/where to send them the responses.

One sentence from farther down in the CPS – on the City's reserving the right to respond to verbal requests – has been moved up to be included in this paragraph. This past practice by the City is not required by the Act; however, as I have said before, I would like us to continue it. Perhaps it could be argued that this is part of the City's rules for making handling FOIA requests work more smoothly and preventing interference with other City functions [MCL 15.233(3)].

A few other minor changes have also been made. The legal reference is again simplified; I cut out the unnecessary phrase "of Marshall"; and I corrected "public documents" in the CPS to "public records". "Public documents" is a phrase never used in FOIA – and the Act defines "public records" [MCL 15.232(e) & (h)] to cover more than just documents.

Paragraph #6: The CPS only says records of FOIA requests and responses are to be kept "pursuant to the Act". This re-draft talks less legalistically but in more/clearer detail. It adds FOIA's 1-year minimum for keeping these records [MCL 15.233(2)], and lets City Council decide to keep the records longer – as in fact the City has been doing for at least eight years. Mentioning verbal requests here (rather than below) clarifies that they, too, are subject to record-keeping . . . they must be, to show that fees are "uniform and not dependent upon the identity of the requesting person" [MCL 15.234(3)].

Other details are added – inclusion of when and how requests are received and responses transmitted, as well as the suggestion to set up record-keeping to match other record-retention policies and requirements. This can improve the City's administration of handling FOIA requests – minimizing disruption of other City functions [MCL 15.233(1) & (3)], and boosting its responsiveness to citizens.

Paragraph #7: This paragraph is a basic review and timeline of the FOIA request process – another piece of vital FOIA "consumer information" that is not in the CPS at all. Not having that information would make it harder for citizens to participate [MCL 15.231(2)] – or even to decide whether participating would be worth the time, expense, and effort. The language is again simplified from the law text – and again, the slide show has been used as the pattern for the edit.

Even though the CPS does not talk about this at all, the text of this re-draft does contain a major correction of the City's actual practice. All City responses denying FOIA requests since 1997 which mention the prospect of an internal appeal say such appeals are to be made to the City Manager. This re-draft again corrects that error – this time, based on a page from the City's own records saying that the target of appeals should instead be City Council.

Last week, while searching City records to try to compile a comprehensive list of all documented City policies and procedures, I found a copy of an April 3, 1997 "Public Law Advisory" from Varnum Riddering Schmidt & Howlett. In this general-information newsletter, the law firm informed readers of changes to FOIA – including a new requirement to appoint a FOIA Coordinator. This is apparently what led Maurice Evans to write the memo (noted above) recommending to Council at its April 21, 1997 meeting that "Deputy City Clerk Donna Kolodica be designated as the City's Freedom of Information Act Coordinator".

But the advisory also said the amendments to FOIA law required a process of "Internal Administrative Appeals" to "the head of the public body" [MCL 15.235(4)(d)(i) & 15.240(a)] – and it added that this meant "the governing body of a public entity such as the city council, the township board, or school board". This was my thought originally – but, as you may recall, the only attorney I'd heard from before said the public body was the Council, so the Mayor was the "head".

I have contacted Varnum Riddering Schmidt & Howlett, and hope soon to find out the reasoning behind this advice. It may, like mine, have gone back to the Home Rule City Act. That law says all cities must have a chief executive officer (such as a Mayor) and a legislative body (City Council), but a chief administrative officer (City Manager) is optional. Such an officer – not elected, but hired (appointed) by elected local "legislators" [MCL 117.3(a) & (d)] – could not be the ultimate "head" of Marshall city government for any purpose . . . including receiving appeals of FOIA-request denials.

The fact that the CPS makes the City Manager the primary person designated to approve denials of FOIA requests [MCL 15.236(3)] compounds the problem. Part of the purpose of an internal appeal process is to give a requester a chance for a second opinion from someone not involved with the original denial. If the target of appeals were someone involved in the denial, that would violate basic common sense and fairness. And FOIA also says: "The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial" [MCL 15.235(5); emphasis added]. The CPS talks freely about delegating FOIA powers – but nothing in the law allows this particular authority to be delegated. If it could be, the designation specified by MCL 15.236(3) would be meaningless.

Paragraph #8: The sentence in the CPS on search and review fees grows to a paragraph in the new re-draft . . . to correct errors. The main mistake is that the section of FOIA cited in the CPS [MCL 15.234(3)] sets strict limits on when public bodies may charge these fees – they are *not* required. Thus, I have changed “will charge search and review fees” to “may charge” – and, as “customer information”, described the situations when the City may charge requesting citizens such fees, and what the City must do in order to justify the charges.

MCL 15.234(3) also provides one more protection for citizens against overcharging. It seemed relevant to the subject of this paragraph, so it was here that I chose to add that section’s “customer information” about the Act’s requirement that the City “utilize the most economical means available for making copies of public records.”

Paragraph #9: The rest of the introductory paragraph on fees for FOIA services has its own errors and omissions that need fixing. The chief correction is that FOIA limits the fees the City may charge to the actual costs of providing FOIA services – clearly, specifically, and in some detail [MCL 15.234(1)]. To do this properly, of course, the City has to check its costs periodically. Since this point was overlooked in the CPS and has apparently been ignored in practice, I added that as a reminder – while leaving the interval between cost calculations to Council and staff.

I also put in more “customer information” [per MCL 15.234(1)] about the right to ask for reduced fees and waivers on FOIA requests “in the public interest” – though I didn’t define “public interest” – and the right to \$20 free FOIA service per request for those who could show they were unable to afford equal access under the regular schedule of fees.

And I touched on the provisions of MCL 15.234(4), which say that FOIA’s fee rules don’t apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

Paragraph #10: The fee schedule listed in the CPS for small/simple requests remains in the new re-draft, almost exactly as it was. The only change is the mention that fees are limited to actual costs [per MCL 15.234(1)].

Paragraph #11: The fee schedule in the new re-draft for larger/more complex requests is also almost unchanged from the CPS. Again, the only change is the mention that fees are limited to actual costs [per MCL 15.234(1)].

Paragraph #12: The fee schedule for the specific items listed is likewise little changed from the CPS – but there are two exceptions this time. Once more, fees are limited to actual costs [per MCL 15.234(1)], so I changed “The City of Marshall does hereby establish” to “The City shall charge actual costs up to the following”. This re-wording also re-affirms that the City is setting these fees . . . so they’re not set by other state laws, and thus subject to the exemption mentioned above [per MCL 15.234(4)].

Paragraph #13: The paragraph in the CPS on good-faith deposits is, for once, too long – it goes beyond what FOIA permits. The topic is covered in MCL 15.234(2), so I kept the specific reference to that subsection (though “the Act” would have been enough). I cut the phrase requiring a good-faith deposit “at the time a [FOIA] request is made”; that is the most likely time, but the cost of a request may not be known immediately. (We could instead change the phrase to “before a response is sent”.) I also edited “fee for the FOIA request” to “fee authorized by the Act” – which matches the language in MCL 15.234(2) . . . and properly limits the deposit to half of *actual cost* at most [MCL 15.234(1)].

But the big change I made was to cut out the phrase “or if the person requesting the public record or series of public records owes the City of Marshall for any previous FOIA requests”. This is not allowed by MCL 15.234(2) or anything else in the Act – as I have previously cited Attorney General’s Opinion #6977 (4/1/1998) to say: “The public body is free, of course, to request payment of past due fees. However, the failure to pay a public body’s fees charged for compliance with a prior FOIA request is not a lawful basis for denying a subsequent request under the statute. . . .” If the City wanted to require people to pay old fees in full before new materials were delivered, it could cite this opinion – but not the Act.

Paragraph #14: The new re-draft replaces the CPS’s declaration of a particular effective date with a general rule that PPGs take effect the day after Council adopts them. It also addresses objections to my including “too much” law text in my re-drafts: The fact is, changes in the text of the Act, or re-interpretation of the Act (by Attorney General’s opinion or court decision), could invalidate even the CPS. So I’ve outlined a “what-if” procedure in case of amendment or re-interpretation of the Act. It would authorize the FOIA Coordinator to adjust operation of the PPG – provisionally – if any amendments or interpretations invalidated part or all of the PPG, or make something unclear. And it would require the FOIA Coordinator to report any such changes in the letter or the spirit of FOIA to City Council, and propose any needed changes.

I have cited the law (and common sense) to explain why the CPS is *unacceptably wrong as it stands* – why the changes I have proposed, whether expressed in my words or not, are *necessary*. I call on the City to make these changes . . . or else to offer – to the public, as I have – either better ideas for change or legal arguments aiming to refute specific points in my analysis and so justify not making related changes. Let’s work together toward a better FOIA policy, procedures, and guidelines for the people.

CITY OF MARSHALL
FREEDOM OF INFORMATION ACT
POLICY STATEMENT

Current Policy
Statement (CPS)

It is the policy of the City of Marshall to fully comply with the letter and the spirit of the Freedom of Information Act (hereafter referred to as FOIA or "the Act"). The City of Marshall shall appoint a FOIA Coordinator. Questions regarding the Act shall be directed to the FOIA Coordinator. The FOIA Coordinator shall contact the appropriate offices to provide information for requests addressed to the FOIA Coordinator. The FOIA Coordinator may designate other individuals to act on his/her behalf in these matters. As authorized, the City Clerk, City Manager, and City Attorney are also designated to act on behalf of the FOIA Coordinator. The City Manager and City Attorney are designated as persons responsible for approving a denial of a FOIA request. As necessary, other individuals may be delegated with these responsibilities.

The FOIA Coordinator shall keep a record of all FOIA requests and responses pursuant to the Act.

In accordance with 15.234, Section 4(3) of Public Act 442 of 1976, also known as the Freedom of Information Act (FOIA), the City of Marshall adopts the following policy statement:

Requests to inspect or receive copies of public records as defined by Public Act 442 of 1976 shall be made in writing – see City of Marshall, Request for Information, Freedom of Information Act form – and shall contain the following information: Name of requesting person(s), complete address, and telephone number.

The City will charge search and review fees. The following fees are established and shall be assessed for the services performed by City of Marshall employees relating to the processing of any FOIA request:

For documents readily available to copy and/or twenty (20) pages or less, the City may charge:

- A. Copies: \$0.25 per page.
- B. Mailing: Actual postage plus cost of envelope.

For documents requiring research, compilation, and copy time and/or greater than 20 pages, the City may charge:

- A. Copy charges: \$0.06 per page (single-sided); \$0.08 per page (double-sided).
- B. Labor: Charged at the rate of the City's lowest-paid employee capable of performing the research, compilation, and/or copying.
- C. Mailing: Actual postage plus cost of envelope.
- D. Other materials: CDs, diskettes, video recordings, etc. shall be charged at cost.

The City of Marshall does hereby establish fees for the following requests:

address labels	\$0.05 per label	Parks and Recreation	\$5.00 (black & white copy only)
property cards/records	\$2.00 per parcel (all pages)	Master Plan	
computer-generated reports/queries	\$0.02 per item listed/ per name	Certificate of Occupancy (duplicate request)	\$2.00
zoning ordinance book	\$25.00	police/fire report	\$1.00 per page
zoning map	\$5.00	photos	\$2.00 per photo
master plan map	\$5.00	faxed information	\$2.00 additional for faxing
Master Plan for Land Use map	\$25.00 (includes 11"-x-17" map)		any of the above (minimum)

The City of Marshall reserves the right to accept and process verbal requests to inspect or receive copies of public documents.

In accordance with 15.234, Section 4, Part 2 of Act 442 of 1976 the City of Marshall may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records if the fee for the FOIA request exceeds \$50.00 or if the person requesting the public record or series of public records owes the City of Marshall for any previous FOIA requests. Such good faith deposit shall not exceed 1/2 of the total fee for the request.

Effective: July 7, 2005

strikeout = in current policy, proposed to be deleted
underline = in current policy, proposed to be moved to a different place
bold/italics = not in current policy, proposed to be added

marked-up draft
8/20/05 by jalp
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City of Marshall
Freedom of Information Act
~~Policy Statement~~ *Policy, Procedures, and Guidelines*

"Working Forward"
document

It is the policy of the City of Marshall to fully comply with the letter and the spirit of the Freedom of Information Act (*Public Act 442 of 1976, as amended; MCL 15.231-15.246*; hereafter referred to as FOIA or "the Act") *by living up to the Act's public purpose of giving citizens full and complete information on the affairs of government, so they can take full part in the democratic process. Printed copies of the Act as amended up to a date stated on the printed copy, and/or access to an electronic copy of the Act which indicates the date of its latest revision/update, shall be made available to interested persons by the City during usual business hours.*

In accordance with ~~15.234, Section 4(9) of Public Act 442 of 1976, also known as the Freedom of Information Act (FOIA)~~ the Act, the City of Marshall adopts the following ~~policy statement~~ *policy, procedures, and guidelines*:

The City of Marshall shall appoint a ~~FOIA Coordinator~~ *appoints the Deputy City Clerk as the City's FOIA Coordinator.* Questions *All FOIA requests and any questions* regarding the Act *and/or the City's policy, procedures, and guidelines* shall be directed to the FOIA Coordinator. The FOIA Coordinator shall contact the appropriate offices to provide information for requests addressed to the ~~FOIA Coordinator~~ *FOIA requests*. The FOIA Coordinator may designate other individuals to act on his/her behalf in these matters. As authorized, the City Clerk, City Manager, and City Attorney are also designated to act on behalf of the FOIA Coordinator. The City Manager and City Attorney are designated as persons responsible for approving a denial of a FOIA request. As necessary, other individuals may be delegated with these responsibilities; *when that happens, the reason for the delegation of responsibility, and the limits on when and how it may be applied, shall be recorded as an assurance for the public and a safeguard of the process.*

The City shall furnish a reasonable opportunity to inspect and examine its public records, and reasonable facilities for making memoranda or abstracts from those records, during usual business hours. The City may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with other City functions. The City shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

Requests to inspect or receive copies of public records (*including certified copies*) as defined by Public Act 442 of 1976 ~~the Act~~ shall be made in writing. ~~The City of Marshall reserves the right to accept and process verbal requests to inspect or receive copies of public documents records.~~ ~~—see City of Marshall, The City has a "Request for Information" —Freedom of Information Act form available —~~ *and but any written request as defined by the Act (including e-mail, fax, or other electronic transmission) that describes the desired public records sufficiently to enable the City to find them is acceptable. A request via e-mail, fax, or other electronic transmission shall not be considered to be received by the FOIA Coordinator until one business day after the electronic transmission is made. Requests shall contain the following information: Name of requesting person(s), complete address, and telephone number. A request asking for a response by electronic transmission shall also contain the e-mail address, fax number, or other contact information required to transmit the response. A person has a right to request a subscription, valid up to six (6) months and renewable, to future issuances of public records that are created, issued, or disseminated on a regular basis.*

The FOIA Coordinator shall keep a record of all FOIA requests (including when and how they were received) and all City responses (including when and how they were transmitted) for no less than one year, pursuant to as required by the Act, and for longer if City Council directs it. This record shall be kept in formats suited to ease recovery of the public records requested, and in accordance with all other record-retention policies of and requirements on the City.

The City has five (5) business days after it receives a FOIA request to grant it in full by providing the records requested, deny it in full, grant part and deny part, or ask for up to ten (10) business days more to respond. If the City denies all or part of a FOIA request, it must explain the legal reason why the information denied is exempt from FOIA, certify that records don't exist (if that is the reason for the denial), and/or describe the part of information that is exempt (if a record contains both exempt and non-exempt material). If the City denies all or part of a FOIA request, it must explain how the requester may appeal to either the City Council or the Circuit Court to reverse the denial — and it must say that the requester has a right to receive attorney's fees and damages if the Court reverses the denial.

~~strikeout~~ = in current policy, proposed to be deleted
underline = in current policy, proposed to be moved to a different place
bold/italics = not in current policy, proposed to be added

marked-up draft
 8/20/05 by jalp
 page 2 of 2

The City will *may* charge search and review fees *when failure to charge fees would result in unreasonably high costs to the City because of the nature of the request in the particular instance. In such cases, the City will specifically identify the nature of these unreasonably high costs. In all cases, the City will use the most economical means available for making copies of public records.*

The following fees are established ~~and shall be assessed~~ for the services performed by City of Marshall employees relating to the processing of any FOIA request *made to the City, except where a fee is specified in another act or statute. Fees charged may not exceed actual mailing costs (if any) and actual incremental costs of duplication or publication. Actual costs shall be checked periodically, and documented. Fees may be waived or reduced if the City determines that a FOIA request is in the public interest because searching for or furnishing copies of the public record(s) requested can be considered as primarily benefitting the general public. If a requester submits an affidavit stating that he/she is receiving public assistance, or is unable to pay costs because of indigency, the first \$20 of any fee for each FOIA request shall be waived.*

For documents readily available to copy and/or twenty (20) pages or less, the City may charge *actual costs up to:*

- A. Copies: \$0.25 per page.
- B. Mailing: Actual postage plus cost of envelope.

For documents requiring research, compilation, and copy time and/or greater than 20 pages, the City may charge *actual costs up to:*

- A. Copy charges: \$0.06 per page (single-sided); \$0.08 per page (double-sided).
- B. Labor: Charged at the rate of the City's lowest-paid employee capable of performing the research, compilation, and/or copying.
- C. Mailing: Actual postage plus cost of envelope.
- D. Other materials: CDs, diskettes, video recordings, etc. shall be charged at cost.

The City of Marshall ~~does hereby establish~~ *shall charge actual costs up to the following* fees for the following requests:

address labels	\$0.05 per label	Parks and Recreation	\$5.00 (black & white copy
property cards/records	\$2.00 per parcel (all pages)	Master Plan	only)
computer-generated reports/queries	\$0.02 per item listed/ per name	Certificate of Occupancy (duplicate request)	\$2.00
zoning ordinance book	\$25.00	police/fire report	\$1.00 per page
zoning map	\$5.00	photos	\$2.00 per photo
master plan map	\$5.00	faxed information	\$2.00 <u>additional</u> for faxing
Master Plan for Land Use map)	\$25.00 (includes 11" x 17"		any of the above (minimum)

In accordance with ~~15-234, Section 4, Part 2 of Act 442 of 1976~~ *Subsection 2 of Section 4 of the Act (MCL 15.234(2))*, the City of Marshall may require ~~at the time a request is made a good-faith deposit from the person requesting the public record or series of public records, if the fee for the FOIA request authorized by the Act exceeds \$50.00 or if the person requesting the public record or series of public records owes the City of Marshall for any previous FOIA requests. Such good-faith deposit shall not exceed 1/2 of the total fee for the request.~~

~~Effective: July 7, 2005~~ *The City FOIA policy, procedures, and guidelines described here shall take effect the day after they are adopted by the City Council. If the Act is amended or interpreted by competent state or Federal authority in a way that invalidates or makes unclear any part of the policy, procedures, and guidelines, the FOIA Coordinator is authorized to adjust the operation of the policy, procedures, and guidelines as required to comply on a provisional basis with the letter and the spirit of the amended or interpreted Act. The FOIA Coordinator shall promptly report any such amendment or interpretation to the City Council and propose any necessary changes to the policy, procedures, and guidelines.*

City of Marshall
Freedom of Information Act
Policy, Procedures, and Guidelines

new re-draft policy, procedures, & guidelines (PPG);
result of "Working Forward"

It is the policy of the City of Marshall to fully comply with the letter and the spirit of the Freedom of Information Act (Public Act 442 of 1976, as amended; MCL 15.231-15.246; hereafter referred to as FOIA or "the Act") by living up to the Act's public purpose of giving citizens full and complete information on the affairs of government, so they can take full part in the democratic process. Printed copies of the Act as amended up to a date stated on the printed copy, and/or access to an electronic copy of the Act which indicates the date of its latest revision/update, shall be made available to interested persons by the City during usual business hours.

In accordance with the Act, the City of Marshall adopts the following policy, procedures, and guidelines:

The City of Marshall appoints the Deputy City Clerk as the City's FOIA Coordinator. All FOIA requests and any questions regarding the Act and/or the City's policy, procedures, and guidelines shall be directed to the FOIA Coordinator. The FOIA Coordinator shall contact the appropriate offices to provide information for FOIA requests. The FOIA Coordinator may designate other individuals to act on his/her behalf in these matters. As authorized, the City Clerk, City Manager, and City Attorney are also designated to act on behalf of the FOIA Coordinator. The City Manager and City Attorney are designated as persons responsible for approving a denial of a FOIA request. As necessary, other individuals may be delegated with these responsibilities; when that happens, the reason for the delegation of responsibility, and the limits on when and how it may be applied, shall be recorded as an assurance for the public and a safeguard of the process.

The City shall furnish a reasonable opportunity to inspect and examine its public records, and reasonable facilities for making memoranda or abstracts from those records, during usual business hours. The City may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with other City functions. The City shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

Requests to inspect or receive copies of public records (including certified copies) as defined by the Act shall be made in writing. The City reserves the right to accept and process verbal requests to inspect or receive copies of public records. The City has a "Request for Information" form available – but any written request as defined by the Act (including e-mail, fax, or other electronic transmission) that describes the desired public records sufficiently to enable the City to find them is acceptable. A request via e-mail, fax, or other electronic transmission shall not be considered to be received by the FOIA Coordinator until one business day after the electronic transmission is made. Requests shall contain the following information: Name of requesting person(s), complete address, and telephone number. A FOIA request asking for a response by electronic transmission shall also contain the e-mail address, fax number, or other contact information required to transmit the response. A person has a right to request a subscription, valid up to six (6) months and renewable, to future issuances of public records that are created, issued, or disseminated on a regular basis.

The FOIA Coordinator shall keep a record of all FOIA requests (including when and how they were received) and all City responses (including when and how they were transmitted) for no less than one year, as required by the Act, and for longer if City Council directs it. This record shall be kept in formats suited to ease recovery of the public records requested, and in accordance with all other record-retention policies of and requirements on the City.

The City has five (5) business days after it receives a FOIA request to grant it in full by providing the records requested, deny it in full, grant part and deny part, or ask for up to ten (10) business days more to respond. If the City denies all or part of a FOIA request, it must explain the legal reason why the information denied is exempt from FOIA, certify that records don't exist (if that is the reason for the denial), and/or describe the part of information that is exempt (if a record contains both exempt and non-exempt material). If the City denies all or part of a FOIA request, it must explain how the requester may appeal to either the City Council or the Circuit Court to reverse the denial – and it must say that the requester has a right to receive attorney's fees and damages if the Court reverses the denial.

The City may charge search and review fees when failure to charge fees would result in unreasonably high costs to the City because of the nature of the request in the particular instance. In such cases, the City will specifically identify the nature of these unreasonably high costs. In all cases, the City will use the most economical means available for making copies of public records.

The following fees are established for the services performed by City of Marshall employees relating to the processing of any FOIA request made to the City, except where a fee is specified in another act or statute. Fees charged may not exceed actual mailing costs (if any) and actual incremental costs of duplication or publication. Actual costs shall be checked periodically, and documented. Fees may be waived or reduced if the City determines that a FOIA request is in the public interest because searching for or furnishing copies of the public record(s) requested can be considered as primarily benefitting the general public. If a requester submits an affidavit stating that he/she is receiving public assistance, or is unable to pay costs because of indigency, the first \$20 of any fee for each FOIA request shall be waived.

For documents readily available to copy and/or twenty (20) pages or less, the City may charge actual costs up to:

- A. Copies: \$0.25 per page. B. Mailing: Actual postage plus cost of envelope.

For documents requiring research, compilation, and copy time and/or greater than 20 pages, the City may charge actual costs up to:

- A. Copy charges: \$0.06 per page (single-sided); \$0.08 per page (double-sided).
 B. Labor: Charged at the rate of the City's lowest-paid employee capable of performing the research, compilation, and/or copying.
 C. Mailing: Actual postage plus cost of envelope.
 D. Other materials: CDs, diskettes, video recordings, etc. shall be charged at cost.

The City shall charge actual costs up to the following fees for the following requests:

address labels	\$0.05 per label	Parks and Recreation	\$5.00 (black & white copy only)
property cards/records	\$2.00 per parcel (all pages)	Master Plan	
computer-generated reports/queries	\$0.02 per item listed/ per name	Certificate of Occupancy (duplicate request)	\$2.00
zoning ordinance book	\$25.00	police/fire report	\$1.00 per page
zoning map	\$5.00	photos	\$2.00 per photo
master plan map	\$5.00	faxed information	\$2.00 <u>additional for faxing</u> any of the above (minimum)
Master Plan for Land Use	\$25.00 (includes 11" x 17" map)		

In accordance with Subsection 2 of Section 4 of the Act (MCL 15.234(2)), the City of Marshall may require a good-faith deposit from the person requesting the public record or series of public records, if the fee authorized by the Act exceeds \$50.00. Such good-faith deposit shall not exceed 1/2 of the total fee for the request.

The City FOIA policy, procedures, and guidelines described here shall take effect the day after they are adopted by the City Council. If the Act is amended or interpreted by competent state or Federal authority in a way that invalidates or makes unclear any part of the policy, procedures, and guidelines, the FOIA Coordinator is authorized to adjust the operation of the policy, procedures, and guidelines as required to comply on a provisional basis with the letter and the spirit of the amended or interpreted Act. The FOIA Coordinator shall promptly report any such amendment or interpretation to the City Council and propose any necessary changes to the policy, procedures, and guidelines.

CITY OF HOLLAND
FREEDOM OF INFORMATION ACT (FOIA) POLICY

This policy was established pursuant to Resolution No. 03.186, adopted by the City Council of the City of Holland (the "City") on April 2, 2003. The policy identifies procedures that City officers and employees are to follow when processing a request in accordance with Act No. 442 of the Public Acts of 1976, as amended (the "Act").

SECTION 1.

DEFINITIONS

- Act: The Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended.
- City: This includes the City of Holland and its duly constituted departments, commissions, boards, or committees. The City will be used interchangeably with public body as defined below.
- FOIA Coordinator: The individual, designated by the Holland City Council, who is responsible for accepting and processing requests for public records as outlined in this policy and the Act, and who is responsible for issuing approvals or denials of requests.
- Person: An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity, as modified by the Act. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or in any other state, or in a federal correctional facility.
- Public Body: The City of Holland and its duly constituted departments, commissions, boards or committees.
- Public Record: A writing which is prepared, owned, used in the possession of, or retained by a public body in the performance of an official function from the time it is created, as otherwise defined by the Act. Public record does not include computer software.
- Unusual Circumstances: Circumstances entailing one or a combination of the following: the need to search for, collect, or appropriately examine or review a voluminous amount of public records pursuant to a single request, or the need to collect public records from numerous locations apart from the office receiving or processing the request.

Writing: Handwriting, typewriting, printing, photostating, photographing, photocopying, and any other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. Writing shall also include email.

Written Request: A writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

Where not otherwise defined, the words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.

SECTION 2. RIGHT TO RECORDS

A person has the right to submit a written request for public record(s) from the City. If a person is disabled and is unable to make a request in writing, the FOIA Coordinator shall make special accommodations. The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record.

A person has the right to inspect a public record, unless exempted by law or court order. Original public records are not to be released from the City's offices where the public records are secured. A person may request that copies of a public record be provided subject to the payment of fees outlined in Section 4. A person shall not receive copies of a public record unless payment is made at the time of delivery or pickup. Notwithstanding, the City shall not refuse to process a written request of a public record if payment of a prior request has not been made.

A person has the right to subscribe to future issuances of regularly published public records as outlined in Section 3 for a period of six months or less, which request may be renewed.

Upon request, a person will be provided with a reasonable opportunity to examine the public records provided by the City during the usual business hours. Persons with special needs should contact the FOIA Coordinator to insure the arrangements are prepared. A person has a right to obtain a certified copy of the public record.

A person has a right to appeal the City's decision as provided in Section 9 of this policy.

SECTION 3. RIGHTS AND OBLIGATIONS OF THE PUBLIC BODY

The FOIA Coordinator shall provide reasonable facilities and opportunities for person(s) to inspect public records. To implement this Section, the FOIA Coordinator may prepare and submit to the Holland City Council for its approval rules to regulate the time and manner in

which records are reviewed, to protect the records and to prevent excessive interference with the City's normal operations, and to protect public records from loss, unauthorized alteration, mutilation, or destruction.

The City shall process all written requests for a public record. If a request has not been made in writing, the City shall have the person complete the request form (see FOIA request form, Attachment A). Notwithstanding, the City shall not deliver or make a public record available to the requesting person until payment is made. If the City delivers or makes a public record available and the requesting person has not made payment at the time, the City shall be entitled to collect from the requesting person the allowed cost of processing the request and any attorney fees and costs necessary for the collection if the person does not pay the cost within thirty (30) days of the public records being available or when they are sent by the City.

The FOIA Coordinator shall provide a certified copy of a public record if a person requests the same in writing.

Neither the City nor the FOIA Coordinator are obligated to create a new public record, or make a compilation, summary, or report information which does not already exist. This shall not apply to an already existing public record which must be separated under Section 6 of this policy. All public records shall be retained per the City's approval Retention Schedule. Neither the City nor the FOIA Coordinator is obligated to provide answers to oral or written questions. Unless a request requires that the City provide copies to the person, the City may allow for inspection of the public records.

The FOIA Coordinator shall provide copies of any public records as provided for in the Act and shall retain a copy of all written requests on file for a period of not less than one (1) year. The FOIA Coordinator will follow the provisions of Section 4 of this policy.

SECTION 4. PROVISIONS FOR COPYING PUBLIC RECORDS

The City shall adopt, by resolution, a schedule of fees for providing copies of public records. All FOIA requests submitted pursuant to the Act shall be subject to the fees and charges adopted by the City, except any fees as otherwise provided by law. Postage and handling shall also be charged as applicable and shall include the exact postage, as well as the cost for envelopes or other containers used for mailing copies of the public records requested. The City must use the most economical means available for making copies of public records.

The FOIA Coordinator may waive a fee or reduce a fee if it is determined that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

The FOIA Coordinator may only charge a fee for the cost involved with searching for, examining, reviewing a public record, and the deletion and separation of exempt from non-exempt information when it results in an unreasonably high cost to the City. In determining

what is an unreasonably high cost to the City, the FOIA Coordinator shall consider the following factors on a case-by-case basis:

- a) Volume of public record requested;
- b) Complexity of searching for, examining, reviewing a public record, and the deletion and separation of exempt from non-exempt information;
- c) The need to search for, examine, and review public records from different departments, commissions, boards, or committees for the City;
- d) The anticipated hours of labor;
- e) The available staffing for responding to the request; and
- f) Any other similar factors designated by the FOIA Coordinator.

Charges for labor costs shall be determined by using the hourly wages of the lowest paid public body employee capable of retrieving the records requested. The cost of labor includes the employee's salary, fringe benefits, and employment-related taxes.

A public record search shall be made and a copy shall be furnished without the charge for the first \$20.00 of the fee for each request to any person who submits an affidavit stating that the person is then receiving public assistance or, if not receiving public assistance, stating facts showing an inability to pay the cost because of indigence.

Where total fees and charges are reasonably anticipated to exceed Fifty Dollars (\$50.00) (see FOIA Worksheet, Attachment B), the FOIA Coordinator is further authorized to require that fifty percent of the estimated fees and charges be paid prior to the release of the public record copies.

The FOIA Coordinator shall not charge additional fees for certification of any copies. Charges for labor costs shall be determined by using the hourly wages of the lowest paid public body employee capable of retrieving the records requested. The cost of labor includes the employee's salary, fringe benefits, and employment-related taxes.

The City has limited in-house capabilities for copying photographs, audio or video tapes, microforms, maps or plans. If a person requests that copies be made of these or large documents which must be copied off-site, the FOIA Coordinator will determine and assess those costs. If an employee of the public body is required to deliver and/or pick up the public records and/or copies of public records, the labor hours spent and applicable mileage (at City rates) will also be applied to the charges of the person(s) requesting the public records.

The City may hire third parties to process or assist in the processing of a request.

Copy fees and mailing charges for future issuances of regularly published public records will be arranged through the FOIA Coordinator. A person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended (see Request for Future Issuance-Attachment C). The FOIA Coordinator must sign the request form to confirm that the public

record is one that is regularly published.

SECTION 5. PROCEDURES OF THE PUBLIC BODY IN PROCESSING A FOIA REQUEST

Unless otherwise agreed to in writing by the person making the request, the City shall respond to the request within five (5) business days after it receives the request by doing any of the following:

1. Granting the request.

If the request indicates that the person desires to inspect the public records, the FOIA Coordinator will contact the person to arrange for inspection at a reasonable time and during the usual business hours.

If the request indicates that the person wishes to have copies of a public record prepared and/or mailed and the anticipated fees and charges exceed \$50.00, the FOIA Coordinator may first mail a FOIA Worksheet to the person and request a fifty percent payment of the anticipated charges and fees.

Upon receiving the person's executed FOIA Worksheet, where required, along with any payment due, the FOIA Coordinator will respond by providing those public records.

2. Issuing a written notice denying the request. The notice of denial shall include:

- a) an explanation as to why the requested public record is exempt from disclosure in accordance with the Act, or
- b) a certificate that the requested public record does not exist under the name given by the person or another name reasonably known to the City, or
- c) an explanation or general description of information which had to be separated or deleted from the public record pursuant to Section 6 of this policy.
- d) an explanation of the person's right to appeal (which states the word "appeal") the denial to the Holland City Council and/or seek judicial review in accordance with the Act.
- e) an explanation of the person's right to reasonable attorney fees, costs, and disbursements as well as actual or compensatory, and punitive damages of \$500.00.
- f) the FOIA Coordinator shall sign the notice of denial.

3. Granting the request in part, and issuing a written notice denying the request in part. In the latter instance, the public records exempted from disclosure should be treated as in 2 above.

4. Issuing a written notice extending the time in which to respond to the request by ten (10) business days. Only one (1) written notice extending the response time is allowed.

A written request made by facsimile, electronic mail, or other electronic transmission is not deemed to have been received by the FOIA Coordinator until one (1) business day after the facsimile, electronic mail, or other electronic transmission is made.

If a person does not sufficiently describe a public record, the FOIA Coordinator shall notify the person that the request is deficient. The notice shall serve as a denial under Section 5 of this policy and the Act. The notice shall include the relevant language from Section 5. A subsequent written request is considered a new request and subject to the timelines described in this section.

SECTION 6. PROCEDURES FOR SEPARATION OF RECORDS

If a request is made for a public record that includes information which is exempt from disclosure under the Act and information which is not exempt, the FOIA Coordinator must separate the material and make the non-exempt material available for examination and/or copying. Additionally, the FOIA Coordinator is directed to generally describe the material which had to be separated, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

SECTION 7. DESIGNATION OF FOIA COORDINATOR

The City Clerk is hereby designated to be the City's FOIA Coordinator. In addition, the following officers shall be authorized to act as FOIA Coordinator designees: the Fire Department Administrative Assistant, the Fire Chief, the Police Chief, the Office Manager of Police Records, the Command Officer of the Detective Bureau, the Director of Environmental Health and Inspections, and the Finance Director of the Holland Board of Public Works (the "BPW"). The FOIA Coordinator and designees shall be responsible to accept and process requests for public records and approve denials in accordance with the Act.

SECTION 8. APPEALS

In accordance with the Act, where a person's request for a public record is denied, in whole or in part, the person may file a written appeal to the decision in accordance with the following process:

1. The written appeal must specifically state the word "appeal" and identify the reason or reasons for the reversal of the denial.

2. The person shall be advised by the FOIA Coordinator of the right to file a written appeal to the General Manager of the BPW for any requests to the BPW, and to the City Manager for any other requests.
3. The General Manager of the BPW or the City Manager shall take one of the following actions:
 - a) Reverse the disclosure denial.
 - b) Issue a written notice to requesting person affirming the disclosure denial.
 - c) Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.
 - d) Under unusual circumstances, issue a notice extending not more than ten (10) business days the period during which the General Manager of the BPW or the City Manager shall respond to the written appeal. Only one (1) written notice extending the response time is allowed.

ATTACHMENT B
FREEDOM OF INFORMATION ACT WORKSHEET

The fees and costs outlined are being provided in response to your written request for a copy of a public record as outlined in the City of Holland Freedom of Information Act Policy.

DATE THE FOIA REQUEST WAS RECEIVED: _____

PUBLIC RECORD(S) REQUESTED: _____

Unreasonably high costs to City because of _____

1. TOTAL COPYING COSTS AS ITEMIZED BELOW: \$ _____

_____ City-owned copier _____ Commercial Copier
Vendor or Facility Used: _____

Cost per copy .10 x No. of copies _____ = \$ _____

Cost per computer disc .50 x No. of disks _____ = \$ _____

Cost per name .032 x No. of labels _____ = \$ _____

Cost per blue print \$3.00 x No. of _____ = \$ _____

Additional items:

<u>Item</u>	<u>Quantity</u>	<u>Cost</u>	
			\$ _____

2. TOTAL MAILING COSTS AS ITEMIZED BELOW: \$ _____

Cost of envelopes or other mailing device: _____

Postage costs: _____

3. ESTIMATED LABOR COSTS AS ITEMIZED BELOW: \$ _____

Due to the nature of this request, a labor fee is being charged for the research, examination, review and (if applicable) the deletion and separation of exempt from nonexempt information as provided in the City of Holland FOIA Policy. This fee is being charged due to:

Estimated Labor Hours _____ x \$ _____ = \$ _____

4. TOTAL COSTS OF ITEMS 1 THROUGH 3 ABOVE
(Where Estimated Total Costs Exceed \$50.00) \$ _____

I, _____, am requesting copies under FOIA. Based on the City of Holland's approved FOIA Policy, I am submitting 50% of the estimated TOTAL COSTS as required, and confirm that the balance of the fees incurred will be paid before the public records are released to me. It is my understanding that the public record(s) I have requested shall be available, unless otherwise exempted, within five business days of the City's receipt of this confirmation.

SIGNATURE: _____

DATE: _____

ATTACHMENT C
FREEDOM OF INFORMATION ACT WORKSHEET FOR FUTURE ISSUANCES

Under Section 4 of the City of Holland's Freedom of Information Policy, a person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended. The FOIA Coordinator must sign the request form to confirm that the public record is one regularly published in order for this worksheet to be validated.

I, _____, have read and agree to the terms listed above:

Public record requested: _____

Period of request (not to exceed six months): _____

I request that the records be:

Sent to me at: _____

OR

Call to notify me that the public records are available for pickup at: _____

Phone: _____

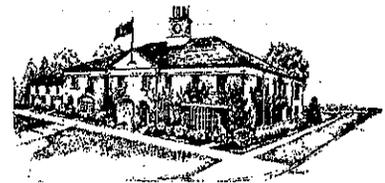
SIGNATURE: _____ DATE: _____

I confirm that the public record requested above are regularly published by the City of Holland.

Signature of FOIA Coordinator: _____

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City of Marshall



323 West Michigan Avenue - Marshall, MI 49068-1578 - Phone (269) 781-5183 - FAX (269) 781-3835

Marshall Town Hall ca: 1857

Administrative Report November 17, 2010 City Council Meeting

REPORT TO: Honorable Mayor and Council Members

FROM: Thomas Tarkiewicz, City Manager

SUBJECT: Conflict of Interest Policy Revisions

BACKGROUND: At the October 16th work session, the City Attorney presented revisions to the Conflict of Interest Policy. The attachments include the following:

Proposed Policy
Redline/ strikeout version
Current Policy

The City Attorney will be present at the meeting to answer any questions.

RECOMMENDATION: After discussion, it is recommended that the Council adopt the revised Conflict of Interest Policy.

FISCAL EFFECTS: None.

ALTERNATIVES: As suggested by Council

Respectfully submitted,


Thomas Tarkiewicz
City Manager



DRAFT REVISED CONFLICT OF INTEREST POLICY
October 13, 2010

Article I. DECLARATION OF PURPOSE

The City declares that elected and appointed public office and public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. It is the opinion of the Council that the people of the City are entitled to assurance that conflicts of interest of city officials and employees are eliminated to the fullest extent possible and that violations of rules of ethical conduct are investigated and handled appropriately.

Article II. DEFINITIONS

As used in this policy:

- (a) "Appointed Body of the City" means an authority, department, commission, committee, council, board, bureau, division, office, legislative body or other agency of the City of Marshall.
- (b) "Business" includes, but is not limited to, a corporation, limited liability company, partnership, sole proprietorship, firm, enterprise, franchise, unincorporated association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or other entity whether or not organized for profit.
- (c) "Business with which an individual is associated" means a Business in which any of the following applies:
 - (1) The individual is an owner, member, partner, director, officer or employee, or the individual is an independent contractor deriving more than Six Hundred (\$600) Dollars compensation during any calendar year;
 - (2) A member of the individual's immediate family is an owner, member, partner, director or officer;
 - (3) The individual or a member of the individual's immediate family is a stockholder of close corporation stock which is worth at least one thousand dollars (\$1,000) at fair market value or which represents more than a five percent equity interest; or
 - (4) The individual or a member of the individual's immediate family is a stockholder of publicly traded stock which is worth at least twenty-five thousand dollars (\$25,000) at fair market value or which represents more than ten percent equity interest, other than publicly traded stock under a trading account if the individual reports the name and address of the stockholder.

- (d) "City" means the City of Marshall, Michigan.
- (e) "Council Member" means a duly elected or appointed member of the Marshall City Council.
- (f) "Compensation" means any money, property, thing of value, or benefit conferred upon or received by any person in return for services rendered or to be rendered.
- (g) "Confidential information" means information which has been obtained in the course of one's employment with the City or in fulfilling the duties of one's office with the City, which information is not known by or available to members of the general public and which has been obtained on the basis of the promise of confidentiality or which is required to be held confidential by law or regulation or which the employee or officer has been instructed is being held confidentially.
- (h) "Decision making authority" means authorized to exercise or vested with the power to adopt laws, regulations or standards, render binding decisions, establish executive policy, execute contracts or determine questions involving substantial discretion on behalf of the City or an Appointed Body of the City.
- (i) "Employee" means an employee of the City.
- (j) "Immediate family" means a child of an individual, a spouse of an individual, or an individual claimed by that individual or individual's spouse as a dependent under the Internal Revenue Code, or the parents, parents-in-law, stepparents, stepbrothers or stepsisters of an individual.
- (k) "Loan" means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.
- (l) "Official" means an appointed official or a duly appointed member of an Appointed Body of the City.
- (m) "Substantial" means anything of significant worth and importance or of considerable value as distinguished from something of *de minimis* value or merely nominal worth.

Article III. PROHIBITIONS

- (a) No person shall offer or give to any of the following persons a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or official action or decision of an official or employee would be influenced thereby:
 - (1) An official or employee;
 - (2) A member of the immediate family of an official or employee; or
 - (3) A business with which an official or employee or an immediate family member of an official or employee is associated.

- (b) No person referred to in subsection (a) above shall accept a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or official action or decision of a Council Member, official or employee would be influenced thereby.
- (c) No Council Member, official or employee shall divulge to any unauthorized person confidential information acquired in the course of holding his/her position in advance of the time prescribed by the City, except as otherwise required by law.
- (d) No Council Member, official or employee shall make unauthorized use of his/her public position, or any confidential information received through holding such public position, to obtain financial gain for himself/herself, a member of his/her immediate family or a business with which such individual is associated. This provision shall not prevent the Council Member, official or employee from accepting his/her regular compensation as a public Council Member, official or employee.
- (e) No Council Member, official or employee shall make unauthorized use of personnel, resources, property or funds under his/her official care and control to obtain financial gain for himself/herself, a member of his/her immediate family, or a business with which he/she is associated.
- (f) No Council Member, official or employee shall act as an attorney, agent or representative of a person other than himself/herself, before the Appointed Body of which such Council Member, official or employee is a member or employee. This provision shall not prevent an officer or employee from performing his/her responsibilities as an officer or employee.
- (g) No Council Member, official or employee shall act on behalf of the City in the making of policy statements, in authorizing any action, agreement or contract, or in promising to prevent any future action, when such Council Member, official or employee has, in fact, no authority to do so.
- (h) No city Council Member, official or employee of the City shall engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the official duties of the employee's position or when that employment may tend to impair his/her independent judgment in connection with the performance of official duties.

Article IV. PARTICIPATION IN GOVERNMENTAL DECISIONS

- (a) No employee shall make or participate in making a decision in his/her capacity as an employee knowing that the decision will provide such employee, a member of the employee's immediate family, or a business with which the employee is associated, an individual financial benefit of more than a *de minimis* nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. An employee who proposes to make or participate in making a decision under this subsection, which may place him/her in an apparent conflict of interest, shall deliver a written statement to his/her supervisor with a copy to the City Manager disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, he/she is able to make or participate in making the decision fairly, objectively and in the public interest. The

supervisor, after consulting with the City Manager, shall determine whether to allow the employee to participate in the decision.

- (b) No Council Member or official shall make or participate in making a decision in his/her capacity as a Council Member or official knowing that the decision will provide such Council Member or official, a member of the Council Member's or official's immediate family, or a business with which the Council Member or official is associated, an individual financial benefit of more than a *de minimis* nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. A Council Member or official who proposes to make or participate in making a decision under this subsection, which places or may place him/her in an apparent conflict of interest, shall deliver a written statement to the Council or the Appointed Body of which such official is a member, and to the City Manager disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, he/she is able to make or participate in making the decision fairly, objectively and in the public interest.
- (c) Except as otherwise prohibited by law, a member of Council may make or participate in making a decision which may place him/her in a apparent conflict of interest if the member first delivers a statement to the Mayor disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, such member of Council is able to vote and otherwise participate fairly, objectively and in the public interest. The statement shall be entered in full in the minutes or other official record of the legislative body.
- (d) All city Appointed Bodies shall exempt officials from making, or participating in the making of a governmental decision which the official knows will provide the official, a member of the official's immediate family, or a business with which the official is associated, with a financial benefit of more than a *de minimis* nature which is distinguishable from the benefits to the person as a member of the public or as a member of a broad segment of the public.

Article V. COMPLAINTS

- (a) Any person may file a signed written complaint with the City Manager or designee alleging a violation of this policy. Upon receipt of such a complaint, the City Manager shall ensure that a proper investigation is undertaken to determine whether it is more likely than not that a violation of this policy occurred.
- (b) If the City Manager, in consultation with the City Attorney, determines that it is more likely than not that a violation occurred, the City Manager and/or City Attorney will advise the City Council of such violation, and provide recommendation or resolution of the conflict or appropriate disciplinary measures.
- (c) No person shall knowingly make a false statement in a complete submitted pursuant to this policy.
- (d) The City Manager shall give written notice, including notice of the nature of the complaint, by certified mail, return receipt requested, to the person under investigation, within twenty-one (21) days after the receipt of a written complaint against such person.

- (e) Upon receipt of notice of the complaint, the city official/employee has the opportunity to file a written explanation/response to the City Manager. The explanation/response must be delivered within ten (10) days of receipt of notice.

Article VI. INVESTIGATIVE ASSISTANCE

All Appointed Bodies shall assist the City Manager or designee and the City Attorney's office in investigating any complaints regarding possible violations of this policy and in taking appropriate action or disciplinary measures for any violations of this policy.

Article VII. DISTRIBUTION OF COPIES OF POLICY

The City Manager or designee shall provide a copy of this chapter to each official and employee of the City.

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Article I. DECLARATION OF PURPOSE

The City declares that elected *and appointed* public office and public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. It is the opinion of the Council that the people of the City are entitled to assurance that conflicts of interest of city officials and employees are eliminated to the fullest extent possible and that violations of rules of ethical conduct are investigated and handled appropriately.

Article II. DEFINITIONS

As used in this policy:

- (a) *"Appointed Body of the City"* means an authority, department, commission, committee, council, board, bureau, division, office, legislative body or other agency of the City of Marshall.
- (b) *"Business"* includes, but is not limited to, a corporation, limited liability company, partnership, sole proprietorship, firm, enterprise, franchise, unincorporated association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or other entity *whether or not* organized for profit.
- (c) *"Business with which an individual is associated"* means a *Business* in which any of the following applies:
 - (1) The individual is an owner, member, partner, director, officer or employee, or the individual is an independent contractor deriving more than Six Hundred (\$600) Dollars compensation during any calendar year;
 - (2) A member of the individual's immediate family is an owner, member, partner, director or officer;
 - (3) The individual or a member of the individual's immediate family is a stockholder of close corporation stock which is worth at least one thousand dollars (\$1,000) at fair market value or which represents more than a five percent equity interest; or
 - (4) The individual or a member of the individual's immediate family is a stockholder of publicly traded stock which is worth at least twenty-five thousand dollars (\$25,000) at fair market value or which represents more than ten percent equity interest, other than publicly traded stock under a trading account if the individual reports the name and address of the stockholder.

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(d) "City" means the City of Marshall, Michigan.

(e) "Council Member" means a duly elected or appointed member of the Marshall City Council.

(f) "Compensation" means any money, property, thing of value, or benefit conferred upon or received by any person in return for services rendered or to be rendered.

(g) "Confidential information" means information which has been obtained in the course of one's employment with the City or in fulfilling the duties of one's office with the City, which information is not known by or available to members of the general public and which has been obtained on the basis of the promise of confidentiality or which is required to be held confidential by law or regulation or which the employee or officer has been instructed is being held confidentially.

(h) "Decision making authority" means authorized to exercise or vested with the power to adopt laws, regulations or standards, render binding decisions, establish executive policy, execute contracts or determine questions involving substantial discretion on behalf of the City or an Appointed Body of the City.

(i) "Employee" means an employee of the City.

(j) "Immediate family" means a child of an individual, a spouse of an individual, or an individual claimed by that individual or individual's spouse as a dependent under the Internal Revenue Code, or the parents, parents-in-law, stepparents, stepbrothers or stepsisters of an individual.

(k) "Loan" means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

(l) "Official" means an appointed official or a duly appointed member of an Appointed Body of the City.

(m) "Substantial" means anything of significant worth and importance or of considerable value as distinguished from something of *de minimis* value or merely nominal worth.

Article III. PROHIBITIONS

(a) No person shall offer or give to any of the following persons a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or official action or decision of an official or employee would be influenced thereby:

(1) An official or employee;

(2) A member of the immediate family of an official or employee; or

(3) A business with which an official or employee or an immediate family member of an official or employee is associated.

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(b) No person referred to in subsection (a) above shall accept a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or official action or decision of a Council Member, official or employee would be influenced thereby.

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(c) No Council Member, official or employee shall divulge to any unauthorized person confidential information acquired in the course of holding his/her position in advance of the time prescribed by the City, except as otherwise required by law.

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(d) No Council Member, official or employee shall make unauthorized use of his/her public position, or any confidential information received through holding such public position, to obtain financial gain for himself/herself, a member of his/her immediate family or a business with which such individual is associated. This provision shall not prevent the Council Member, official or employee from accepting his/her regular compensation as a public Council Member, official or employee.

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(e) No Council Member, official or employee shall make unauthorized use of personnel, resources, property or funds under his/her official care and control to obtain financial gain for himself/herself, a member of his/her immediate family, or a business with which he/she is associated.

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(f) No Council Member, official or employee shall act as an attorney, agent or representative of a person other than himself/herself, before the Appointed Body of which such Council Member, official or employee is a member or employee. This provision shall not prevent an officer or employee from performing his/her responsibilities as an officer or employee.

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(g) No Council Member, official or employee shall act on behalf of the City in the making of policy statements, in authorizing any action, agreement or contract, or in promising to prevent any future action, when such Council Member, official or employee has, in fact, no authority to do so.

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(h) No city Council Member, official or employee of the City shall engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the official duties of the employee's position or when that employment may tend to impair his/her independent judgment in connection with the performance of official duties.

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Article IV. PARTICIPATION IN GOVERNMENTAL DECISIONS

(a) No employee shall make or participate in making a decision in his/her capacity as an employee knowing that the decision will provide such employee, a member of the employee's immediate family, or a business with which the employee is associated, an individual financial benefit of more than a de minimis nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. An employee who proposes to make or participate in making a decision under this subsection, which may place him/her in an apparent conflict of interest, shall deliver a written statement to his/her supervisor with a copy to the City Manager disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, he/she is able to make or participate in making the decision fairly, objectively and in the public interest. The

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<#>(h) No city official or employee shall participate as an agent or representative of the City in approving, disapproving, voting, recommending or otherwise acting upon any matter which he/she has a direct or indirect financial interest in. [22]

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supervisor, after consulting with the City Manager, shall determine whether to allow the employee to participate in the decision.

(b) No Council Member or official shall make or participate in making a decision in his/her capacity as a Council Member or official knowing that the decision will provide such Council Member or official, a member of the Council Member's or official's immediate family, or a business with which the Council Member or official is associated, an individual financial benefit of more than a de minimis nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. A Council Member or official who proposes to make or participate in making a decision under this subsection, which places or may place him/her in an apparent conflict of interest, shall deliver a written statement to the Council or the Appointed Body of which such official is a member, and to the City Manager disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, he/she is able to make or participate in making the decision fairly, objectively and in the public interest.

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(c) Except as otherwise prohibited by law, a member of Council may make or participate in making a decision which may place him/her in a apparent conflict of interest if the member first delivers a statement to the Mayor disclosing the apparent conflict of interest and explaining why, despite the apparent conflict, such member of Council is able to vote and otherwise participate fairly, objectively and in the public interest. The statement shall be entered in full in the minutes or other official record of the legislative body.

(d) All city Appointed Bodies shall exempt officials from making, or participating in the making of a governmental decision which the official knows will provide the official, a member of the official's immediate family, or a business with which the official is associated, with a financial benefit of more than a de minimis nature which is distinguishable from the benefits to the person as a member of the public or as a member of a broad segment of the public.

Article V. COMPLAINTS

(a) Any person may file a signed written complaint with the City Manager or designee alleging a violation of this policy. Upon receipt of such a complaint, the City Manager shall ensure that a proper investigation is undertaken to determine whether it is more likely than not that a violation of this policy occurred.

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(b) If the City Manager, in consultation with the City Attorney, determines that it is more likely than not that a violation occurred, the City Manager and/or City Attorney will advise the City Council of such violation, and provide recommendation or resolution of the conflict or appropriate disciplinary measures.

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(c) No person shall knowingly make a false statement in a complete submitted pursuant to this policy.

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(d) The City Manager shall give written notice, including notice of the nature of the complaint, by certified mail, return receipt requested, to the person under investigation, within twenty-one (21) days after the receipt of a written complaint against such person.

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(e) Upon receipt of notice of the complaint, the city official/employee has the opportunity to file a written explanation/response to the City Manager. The explanation/response must be delivered within ten (10) days of receipt of notice.

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Article VI. INVESTIGATIVE ASSISTANCE

All Appointed Bodies shall assist the City Manager or designee and the City Attorney's office in investigating any complaints regarding possible violations of this policy and in taking appropriate action or disciplinary measures for any violations of this policy.

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The City Manager or designee shall provide a copy of this chapter to each official and employee of the City.

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(b) Except as otherwise prohibited by law, a member of Council may make or participate in making a decision which may place him/her in a potential conflict of interest if the member first delivers a statement to the Mayor disclosing the potential conflict of interest and explaining why, despite the potential conflict, such member of Council is able to vote and otherwise participate fairly, objectively and in the public interest. The statement shall be entered in full in the minutes or other official record of the legislative body.

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(c) All city governmental units shall establish procedures to enable an official or employee to avoid or be exempt from making, or participating in the making of, a governmental decision which the official or employee knows will provide the official or employee, a member of the official's or employee's immediate family, or a business with which the official or employee is associated, with a financial benefit of more than a de minimis nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. ¶ [23]

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an authority, department, commission, committee, council, board, bureau, division, office, legislative body or other agency of

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(e) "Confidential information" means information which has been obtained in the course of one's employment with the City or in fulfilling the duties of one's office with the City, which information is not known by or available to members of the general public and which has been obtained on the basis of the promise of confidentiality or which is required to be held confidential by law or regulation or which the employee or officer has been instructed is being held confidentially.

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(h) "Loan" means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

(i) "Official or employee" means an elected or appointed official or an employee of the City or a governmental unit of the City.

(j) "Substantial" means anything of significant worth and importance or of considerable value as distinguished from something of de minimum value or merely nominal worth.

Article III: PROHIBITIONS

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(a) No person shall offer or give to any of the following persons a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or official action or decision of an official or employee would be influenced thereby:

(1) An official or employee;

(2) A member of the immediate family of an individual referred to in paragraph (a)(1) hereof; or

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(f) "Decision making authority" means authorized to exercise or vested with the power to adopt laws, regulations or standards, render binding decisions, establish executive policy, execute contracts or determine questions involving substantial discretion on behalf of the City or governmental unit of the City.

(g) "Immediate family" means a child of an individual, a spouse of an individual, or an individual claimed by that individual or individual's spouse as a dependent under the Internal Revenue Code, or the parents, parents-in-law, stepparents, stepbrothers or stepsisters of an individual.

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Article III. PROHIBITIONS

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(h) No city official or employee shall participate as an agent or representative of the City in approving, disapproving, voting, recommending or otherwise acting upon any matter which he/she has a direct or indirect financial interest without disclosing the full nature and extent of the interest. Such disclosure must be made before the time to perform his/her duty or concurrently with that performance. All

disclosures must be made to the appropriate official or supervisory personnel of the governmental unit.

(i) No city

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(c) All city governmental units shall establish procedures to enable an official or employee to avoid or be exempt from making, or participating in the making of, a governmental decision which the official or employee knows will provide the officer or employee, a member of the official's or employee's immediate family, or a business with which the official or employee is associated, with a financial benefit of more than a de minimis nature which is distinguishable from the benefits to the person as a member of the public or as a member of a broad segment of the public.

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 - (2) A member of the individual's immediate family is an owner, partner, director or officer;
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of the interest. Such disclosure must be made before the time to perform his/her duty or concurrently with that performance. All disclosures must be made to the appropriate official or supervisory personnel of the governmental unit.

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Article IV. COMPLAINTS

- (a) Any person may file a signed written complaint with the City Manager or designee alleging a violation of this policy. Upon receipt of such a complaint, the City Manager shall ensure that a proper investigation is undertaken to determine whether or not probable cause exists to believe a violation of this policy occurred.
- (b) If the City Manager, in consultation with the City Attorney, determines that there is probable cause to believe a violation occurred, the City Manager and/or City Attorney will advise the City Council of this violation, and provide recommendation or resolution of the conflict or appropriate disciplinary measures.
- (c) No person shall knowingly make a false statement in a complete submitted pursuant to this policy.
- (d) The City Manager shall give written notice, including notice of the nature of the complaint, by certified mail, return receipt requested, to the person under investigation, within twenty-one (21) days after the receipt of a written complaint against such person.
- (e) Upon receipt of notice of the complaint, the city official/employee has the opportunity to file a written explanation/response to the City Manager. The explanation/response must be filed by certified mail within ten (10) days of receipt of notice.

Article V. PARTICIPATION IN GOVERNMENTAL DECISIONS

- (a) No official or employee shall make or participate in making a decision in his/her capacity as an official or employee knowing that the decision will provide such official or employee, a member of the official's or employee's immediate family, or a business with which the official or employee is associated, an individual financial benefit of more than a de minimis nature which is distinguishable from the benefits of the person as a member of the public or as a member of a broad segment of the public. An official or employee who makes or participates in making a decision under this subsection, which places or may place him/her in a potential conflict of interest, shall deliver a written statement to the governmental unit of which such official or employee is a member or employee, and to the City Manager disclosing the potential conflict of interest and explaining why, despite the potential conflict, he/she was able to make or participate in making the decision fairly, objectively and in the public interest.

- (b) Except as otherwise prohibited by law, a member of Council may make or participate in making a decision which may place him/her in a potential conflict of interest if the member first delivers a statement to the Mayor disclosing the potential conflict of interest and explaining why, despite the potential conflict, such member of Council is able to vote and otherwise participate fairly, objectively and in the public interest. The statement shall be entered in full in the minutes or other official record of the legislative body.
- (c) All city governmental units shall establish procedures to enable an official or employee to avoid or be exempt from making, or participating in the making of, a governmental decision which the official or employee knows will provide the officer or employee, a member of the official's or employee's immediate family, or a business with which the official or employee is associated, with a financial benefit of more than a de minimis nature which is distinguishable from the benefits to the person as a member of the public or as a member of a broad segment of the public.

Article VI. INVESTIGATIVE ASSISTANCE

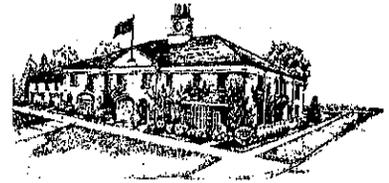
All governmental units shall assist the City Manager or designee and the City Attorney's office in investigating any complaints regarding possible violations of this policy and in taking appropriate action or disciplinary measures for any violations of this policy.

Article VII. DISTRIBUTION OF COPIES OF POLICY

The City Manager or designee shall provide a copy of this chapter to each official and employee of the City.

City of Marshall

323 West Michigan Avenue - Marshall, MI 49068-1578 - Phone (269) 781-5183 - FAX (269) 781-3835



ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

REPORT TO: Mayor Bruce Smith and City Council Members

FROM: Natalie Huestis, Director of Community Services
Tom Tarkiewicz, City Manager

SUBJECT: Proposed increased fees for licenses pertaining to Chapter 112

BACKGROUND: Corresponding to proposed changes to Chapter 112, staff also recommends that fees pertaining to the licensing of Roadside stands, temporary businesses, transient merchants, solicitors, and door-to-door salespersons be increased. The adjusted fees will provide for staff time spent in licensing approvals and other city services provided normally to the community during the time period the business is located in Marshall.

The word "consecutive" has been added to all fees in order to help define the fee process further. In other words, the intent is that for *each activity*, the applicant may apply for a license for a set amount of consecutive time. In this sense, the fee structure encourages long-range planning on behalf of the applicant and also cuts down on the amount of staff time spent in processing and monitoring the permit. The suggested fees are based on time limits:

- | | |
|---------------------------------|----------|
| o 1-10 consecutive days | \$50.00 |
| o Less than 30 consecutive days | \$120.00 |
| o Less than 60 consecutive days | \$150.00 |
| o Up to 90 consecutive days | \$200.00 |

RECOMMENDATION: Staff recommends that after hearing public comments on proposed changes and pertaining to Chapter 112 of the ordinance, staff recommends that City Council consider approval of new increased fees for the licensing of Roadside stands, temporary businesses, transient merchants, solicitors, and door-to-door salespersons.

FISCAL EFFECTS: General Fund revenues will increase dependent upon the amount of licenses issued.

ALTERNATIVES: As suggested by Council.

Respectfully submitted,


Natalie Huestis
Director of Community Services


Tom Tarkiewicz
City Manager

RESOLUTION

10-##

WHEREAS, Chapter 112, Section 112.05 of the Marshall City Code provides that a license fee for Roadside Stands, Temporary Businesses, Transient Businesses, Solicitors and Door-to-Door Salespersons licenses shall be set by Resolution of the Marshall City Council.

THEREFORE, BE IT RESOLVED that the City Council of the City of Marshall hereby adopts the following graduated fee schedule to become effective immediately:

1-10 consecutive days license	\$50.00
Less than 30 consecutive days license	\$120.00
Less than 60 consecutive days license	\$150.00
Up to 90 consecutive days license	\$200.00

Adopted and signed this _____ day of _____, 2010.

Sandra Bird, Clerk-Treasurer

City of Marshall

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Marshall Town Hall ca: 1857

ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

REPORT TO: Honorable Mayor and City Council

FROM: Keith Zienert, Powerhouse Superintendent
Carl Fedders, Public Services Director
Tom Tarkiewicz, City Manager

SUBJECT: Replacement of 2400 Volt Switchgear - Engineering

BACKGROUND: In the current budget, \$202,000 is allocated to fund the replacement of 2400 Volt Switchgear at the powerhouse. Proposals were received for the engineering portion of the replacement of the 2400-volt switchgear located in the Power Plant. The existing switchgear was installed in the early 1920's when the first section of the plant was built and diesel engines installed. This switchgear serves #1 & #3 Hydro and #2 Engine as well as emergency station power in the event of a blackout and backup electrical DC power.

The Perrin Dams Hydroelectric Feasibility Study completed in 1999 by Ayres, Lewis, Norris & May stated from a mechanical standpoint the switchgear could last several more years without major repair. This study also recognized the safety aspect of an open bus and oil breaker design with a lack of protective devices and recommended replacement for extended service through the term of our current FERC license (2035).

The Comprehensive Review and Analysis of the Hydro Electric Generation completed in 2007 recommended replacement of this switchgear due to safety, age, availability of spare parts and protection (or lack of) for the generators. With the new switchgear and the hydro automation project the hydroelectric generators will operate on a 24 hour a day timetable without an operator on duty and the study expected to see a 3.5% increase in generation output.

The Short Circuit/Device Coordination/Arc Flash/Shock Hazard Study dated May 2009 marked this switchgear as an area of extreme danger as calculated by the IEEE Standard 1584 and should not be approached with respect to the operations of switches.

The following proposals were received:

SSOE Group	Toledo, OH	\$41,000.00
GRP Engineering, Inc.	Grand Rapids, MI	\$52,300.00
Pearce Engineering Limited	Akron, OH	\$53,600.00
Spectrum Engineering Corp.	Auburn, IN	\$58,556.00

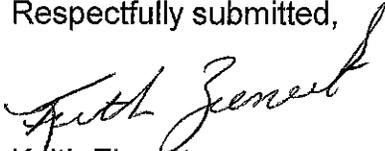


RECOMMENDATION: It is recommended the Council approve the proposal as submitted by SSOE Group for \$41,000.00.

FISCAL EFFECTS: To appropriate \$41,000.00 from the Electric Fund expenditure budget line item 582-900-970 for this project.

ALTERNATIVES: As suggested by Council.

Respectfully submitted,



Keith Zienert
Powerhouse Superintendent



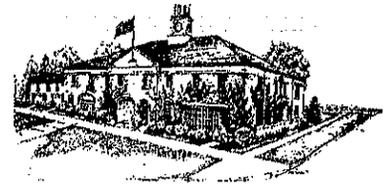
Carl Fedders
Public Services Director



Tom Tarkiewicz
City Manager

City of Marshall

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Marshall Town Hall ca: 1857

ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

REPORT TO: Honorable Mayor and Council Members

FROM: Thomas Tarkiewicz, City Manager

SUBJECT: AMP Power Supply Agreement: 2015-2020

BACKGROUND: AMP has entered into a Purchase Power Agreement (PPA) with Morgan Stanley for 100 MW of energy for a six year period (2015-2020) with a fixed price of \$62.95/MWH. AMP has offered the City a 2.5 MW block of this purchase. A recommendation letter from Michigan South Central Power Agency General Manager Glen White is attached. Also, attached is the Supplement to the Master Services Agreement with AMP and a resolution approving the Supplement. This small purchase would again diversify the City's energy portfolio in two coal fired plants, a solar project, and five hydroelectric plants. In the future the City is looking at a small amount from a natural gas fired power plant.

Since the City of Marshall is a full requirements member of the Agency, MSCPA will be the City's Agent with AMP. The Supplement to the Power Supply Agreement recognizes MSCPA as the City's agent.

RECOMMENDATION: It is recommended that the City Council by adopting the resolution authorize the Clerk Treasurer to sign the Supplement to the Power Sales Agreement with AMP for 2,500 kW of energy.

FISCAL EFFECTS: Unknown at this time.

ALTERNATIVES: As suggested by Council

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas Tarkiewicz', written over a horizontal line.

Thomas Tarkiewicz
City Manager





MICHIGAN SOUTH CENTRAL POWER AGENCY

720 HERRING ROAD · LITCHFIELD, MICHIGAN 49252

PHONE (517) 542-2346 · FAX (517) 542-3049

WEB SITE www.mscca.net

MEMO

To: MSCPA Board of Commissioners
From: Glen White
Date: November 5, 2010
Subject: AMPGS Replacement Power for 2015-2020

Attached you will find the Resolution and Supplement as approved by legal to authorize the purchase of future power supply from AMP for the period starting January 2015 through December 2020. AMP has set a subscription deadline of November 30th if you wish to participate.

As a matter of background, the Agency has, through our normal course of business, entered into a variety of purchase power agreement over the years. Currently we have contracts for 25 MW of 7 x 24 power and 10 MW of 5 x 16 purchases. For 2011, we have 15 MW 7 x 24 and 10 MW 5 x 16. For 2012 we have 15 MW 7 x 24. Starting in 2013 we have 20 MW 7 x 24 and 10 MW 5 x 16, and for 2014 we have 15 MW 7 x 24 and 5 MW 5 x 16.

Until the cancellation of the AMPGS coal plant, it was anticipated that we would start receiving energy from AMPGS in 2015. As that project has been cancelled, we will need additional energy starting in 2015. As a result of the current low prices for natural gas, AMP has successfully negotiated a 100 MW fixed price power purchase contract with Morgan Stanley for the period starting in 2015 through 2020. The 100 MW is being offered first to AMPGS participants, and if any excess is available then AMP will offer any remaining MW to other AMP members. At AMP's request, R W Beck has looked at the projected needs for each participant, and recommended the KW amounts that are listed in each of your resolutions.

The resolution also provides AMP the option to "prepay" the contract with Morgan Stanley should market conditions make this favorable. If this would happen, then there would be a reduction in costs to each participant. Also included is an option for each participant to increase the price of the replacement power in order to establish a reserve to be used to fund any sunk costs that may remain from the AMPGS project. The actual amount of any sunk costs will not be known for some time, and this decision can be made or adjusted anytime prior to 2015.

It is MSCPA's recommendation that you approve the 2015-2020 replacement power purchase in the amounts recommended by R W Beck. The fixed price of \$62.95 for the six year period starting in 2015 is an attractive price. In total, the MSCPA members will be subscribing for a total of up to 15 MW, in essence, a continuation of the 15 MW that we have already contracted for in 2014.

Please feel free to contact me if you have any questions or need additional information.

RESOLUTION APPROVING 2010-A LONG TERM AMPGS REPLACEMENT
ENERGY PURCHASE ENERGY SCHEDULE AND SUPPLEMENT THERETO
AND OTHER MATTERS

City of Marshall
County of Calhoun, State of Michigan

Minutes of a regular meeting of the City Council of the City of Marshall, County of Calhoun, State of Michigan held on the 17th day of November, 2010, at 7:00 o'clock, p.m., Eastern Standard Time.

PRESENT: Members

ABSENT: Members

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Marshall (the "City") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, the City is a member of the Michigan South Central Power Agency (the "Agency"); and

WHEREAS, the City is also a member of American Municipal Power, Inc, ("AMP") (formerly American Municipal Power-Ohio, Inc.); and

WHEREAS, the City and the Agency have agreements in place under which the Agency is to supply to the City and the City is to purchase from the Agency, all bulk power needs of the City related to its municipal electric utility system; and

WHEREAS, the City and the Agency, and the Agency's other member municipalities (the "Agency Members"), acting individually and, along with other municipalities which own and operate electric utility systems, jointly, endeavor to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to their customers; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of its members, such members, including the City, being political subdivisions that operate municipal electric utility systems in Ohio, Michigan, Pennsylvania, Virginia and West Virginia; and

WHEREAS, the Agency, each of the Agency Members and AMP have entered into a separate Master Services Agreement (each an "MSA") under which certain services may be provided, pursuant to Schedules entered into between the Agency, an Agency Member and AMP; and

WHEREAS, AMP and the City, as a participant, also entered into a power sales contract (AMP Contract No. C-7-2007-5753-R) regarding the American Municipal Power Generating Station Project ("AMPGS Project") dated as of November 1, 2007

(“AMPGS PSC”), which was terminated as a coal fired project by the AMPGS participants and the AMP Board of Trustees on November 24, 2009; and

WHEREAS, the AMPGS participants and the AMP Board of Trustees determined to investigate the replacement of the AMPGS coal project with, among other possibilities, a natural gas combined cycle project and power purchases from the softened wholesale market and to present modifications to the AMPGS PSC as well as other arrangements, to the AMPGS participants therein to reflect those changes; and

WHEREAS, as a part of those effects the AMPGS participants and the AMP Board of Trustees directed AMP to secure a 100 MW block of purchased energy for the period January 1, 2015 through December 31, 2020, on a “take and pay” basis at favorable cost, through arrangements with Morgan Stanley Capital Group, Inc. (“MSCGI”), for resale to the City and other AMPGS participants and, potentially other AMP members,

WHEREAS, in furtherance thereof AMP has negotiated an agreement (“Purchased Energy Agreement”) with MSCGI for the purchase by AMP of firm energy for resale to the City and other AMP members who are participants in the AMPGS Project or, to the extent not fully subscribed to AMPGS participants, also to other AMP members, at favorable rates, terms and conditions; and

WHEREAS, the City desires to replace a portion of the energy that would have been available from AMPGS, had it been completed as a coal fired project, from the Purchased Energy Agreement through the AMPGS Replacement Energy Schedule for

delivery to AMP at the AD Hub at \$62.95/MWh (“Basic Energy Charge”) and then resold to the City; and

WHEREAS, AMP and MSCGI have included provisions in the Purchased Energy Agreement that contemplate that AMP and MSCGI may negotiate and agree to amendments thereto for AMP, to prepay MSCGI, in a discounted lump sum (the “Prepayment”), all or a portion of the remaining Contract Price for energy to be purchased under the Purchased Energy Agreement; and

WHEREAS, AMP intends to issue bonds (“Bonds”) to finance the Prepayment if and when the Prepayment is negotiated and executed; and

WHEREAS, any such Prepayment will permit AMP to sell to the City firm energy, derived from the amended Purchased Energy Agreement at a price less than the Basic Energy Charge (the “Discounted Energy Charge”) to the City; and

WHEREAS, AMP has advised the City, and the City acknowledges, that there can be no assurance that circumstances will permit, or that AMP and MSCGI can agree on the terms of, any such Prepayment, such that the City is entering into this Energy Schedule based on the contract price and the other terms contained in the AMPGS Replacement Energy Schedule (hereinafter defined) and not on the prospect that AMP may be able to sell firm energy at a lower Discounted Energy Charge; and

WHEREAS, the City previously determined that it could beneficially utilize a portion of such energy and executed the AMPGS PSC with AMP for a share of the power

and energy from AMPGS and therefore desires to enter into a Power Schedule to the MSA (the "AMPGS Replacement Energy Schedule"); and

WHEREAS, the City desires to obtain the benefit of the Discounted Energy Charge and consents to the issuance of bonds by AMP on its behalf to effect the Prepayment; and

WHEREAS, the AMPGS Replacement Energy Schedule allows the City the option to establish a reserve, through AMP, to be applied to any liability it may have, under the AMPGS PSC; and

WHEREAS, it is necessary for the Agency to be a party to the AMPGS Replacement Energy Schedule through the execution and delivery of a Supplement thereto substantially in the form on file with the City Clerk (the "Supplement", and together with the AMPGS Replacement Energy Schedule, the "Contract"); and

WHEREAS, the MSA and the Contract provide that, so long as the City and the Agency maintain their contractual agreements under which the Agency must supply and the City must purchase from the Agency all of the City's bulk power needs, and until the Agency and the City file a notice of termination of agency with AMP, the Agency shall act as agent for the City under the Contract, and exercise and perform all rights, duties and obligations of the City thereunder, including but not limited to, the right to receive power and energy, and the obligation to pay all Service Fees, Rates and Charges and other amounts owing by the City thereunder; provided, that in the event the Agency fails to pay on behalf of the City any amounts owing under the Contract, the City shall

nevertheless be liable therefor; and

WHEREAS, the MSA and the Contract provide that any amount payable by the City thereunder shall be payable solely from the revenues of the City's municipal electric utility system as an operating expense; and

WHEREAS, in order to assure the Agency and its bondholders that there will be sufficient payments from the Agency Members to offset the costs of the Agency under the Contract, it may be necessary for the City to agree to enter into an Additional Power Purchase Agreement (the "Additional Agreement") substantially in the form of the Additional Power Purchase Agreement, (the "2002 Agreement") dated December 16, 2002 between the City and the Agency, providing that in the event the City terminates its agreement to purchase all its bulk power needs from the Agency until all outstanding bonds of the Agency are paid or defeased, the City shall nevertheless remain responsible for paying its share of the costs incurred by the Agency under the Contract, at least until all bonds of the Agency are paid in full or defeased; and

WHEREAS, the proposed form of the AMPGS Replacement Energy Schedule, as supplemented by the Supplement has been reviewed by this Council and this Council has been advised on the same, and the form of the 2002 Agreement has been previously reviewed by this Council and this Council has been advised on the same; and

WHEREAS, it is necessary and desirable to act upon the AMPGS Replacement Energy Schedule, the Supplement, and the Additional Agreement:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The AMPGS Replacement Energy Schedule and the Supplement, drafts of which are on file with the City Clerk, are hereby approved, and the Clerk-Treasurer is authorized and directed, upon request of the City Manager (the "Manager") to execute on behalf of the City a final form of the AMPGS Replacement Energy Schedule and the Supplement, substantially in the form approved by this resolution with such completions and changes therein as may be necessary and approved by the City Attorney and the Manager.

2. The City, and the Agency, as agent for the City, are hereby authorized through the execution and delivery of the Contract, to (i) acquire under the Contract a Contract Amount of up to 2,500 kW on a "take and pay" basis, [and the Municipality elects to fund \$1.00/MWh under Section 10(I) of said Schedule,] and take such other actions as are necessary or desirable in connection therewith, and (ii) make any determinations and approvals required thereunder, if any, as the Agency and the Manager shall deem necessary and advisable.

3. The Additional Agreement, in substantially the form of the 2002 Agreement, a copy of which is on file with the City Clerk, is hereby approved, and, if advised by the Agency that such action is necessary or appropriate, the Clerk-Treasurer are authorized and directed to execute on behalf of the City a final form of the Additional Agreement substantially in the form approved by this resolution with such completions and changes therein as may be necessary and approved by the City Attorney and the

Manager.

4. As provided in the form of the Contract and the MSA, the City appoints the Agency as its agent for all purposes under the Contract, unless and until the City and the Agency file a termination of agency with AMP as provided in the Supplement.

5. If any section, subsection, paragraph, clause or provision or any part thereof of this resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this resolution shall be unaffected by such adjudication and all the remaining provisions of this resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

7. This resolution shall take effect at the earliest date allowed by law.

AYES: Members

NAYS: Members

RESOLUTION DECLARED ADOPTED.

Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on November 17, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Clerk

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SUPPLEMENT
Among
AMERICAN MUNICIPAL POWER, INC.
And
THE CITY OF MARSHALL MICHIGAN
And Its Agent,
MICHIGAN SOUTH CENTRAL POWER AGENCY
To
2010-A LONG TERM AMPGS REPLACEMENT ENERGY SCHEDULE
To
MASTER SERVICES AGREEMENT
AMP CONTRACT NO.

Dated as of _____, 2010

THIS SUPPLEMENT TO 2010-A LONG TERM AMPGS REPLACEMENT ENERGY PURCHASE ENERGY (the "Supplement"), dated as of _____, 2010 relates to the 2010-A LONG TERM AMPGS REPLACEMENT ENERGY PURCHASE ENERGY SCHEDULE (the "Schedule" and together with this Supplement, the "Contract") and is made and entered into among American Municipal Power, Inc. ("AMP") an Ohio corporation not for profit, on the one hand, and the City of Marshall, Michigan (the "Participant") and the Michigan South Central Power Agency ("MSCPA"), a public body politic and corporate organized and existing under Act 448, Public Acts of Michigan, 1976, as amended, as agent for the Participant, on the other hand.

WITNESSETH:

WHEREAS, MSCPA, Participant and AMP (formerly American Municipal Power-Ohio, Inc.) have entered into a Master Services Agreement (AMP Contract No. C-12-2005-4629 (hereinafter, "MSA") under which certain services may be provided, pursuant to Schedules entered into between MSCPA, Participant and AMP; and

WHEREAS, AMP and the Participant are entering into the Schedule relating to the sale by AMP and the purchase by the Participant of power and energy available as described in the Schedule; and

WHEREAS, the Participant is a member of MSCPA and coordinates with, and receives all of its power supply needs from, MSCPA; and

WHEREAS, the Participant and the other PSC Participants that are members of MSCPA, being the Cities of Coldwater and Hillsdale and the Villages of Clinton and Union City, each of which is a political subdivision of the State of Michigan (the "MSCPA Municipalities"), have established and entered into contracts with MSCPA to allow the MSCPA Municipalities to manage risks and to more economically arrange for the purchase and transmission of reliable power supply; and

WHEREAS, it is necessary for MSCPA to be a party to the Schedule through the execution and delivery of this Supplement:

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and among the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms. As used herein all capitalized terms not defined herein shall have the meanings ascribed thereto in the MSA and the Schedule.

SECTION 2. MSCPA as Agent for the Participant. This Supplement, and a similar Supplement with the other MSCPA Municipalities, shall be entered into by AMP, each respective MSCPA Municipality and MSCPA, as agent for the MSCPA Municipalities. The Participant hereby appoints, for the duration of the term of the Contract, MSCPA as its agent for purposes of exercising and performing all of its rights, duties and obligations thereunder. In

furtherance of the same, MSCPA shall exercise and perform all rights, duties and obligations of the Participant under the Contract, including but not limited to, the right to receive power and energy, the right to designate Points of Delivery and Secondary Points of Delivery, the right to direct AMP with respect to sales of power and energy on behalf of the Participant, and the obligation to pay all Service Fees, Rates and Charges and other amounts owing thereunder by the Participant. The Contract is not intended to supersede the provisions of the contractual arrangements between the Participant and MSCPA with respect to the obligation of MSCPA to provide, and of the Participant to purchase from MSCPA, all of the Participant's bulk power needs. In the event AMP fails to receive any payment when due from MSCPA under the Contract, AMP shall immediately notify MSCPA and the Participant of such failure, and shall immediately send an invoice to Participant showing its share of any payment which AMP has failed to receive, and Participant shall promptly pay, but only from the sources and with the priority specified in the Section 11.10 of the MSA, such share of the unpaid amounts; provided, however, that neither failure of AMP to send, nor of Participant or of MSCPA to receive, such notice or invoice shall relieve Participant of its obligation to make any payments required under the Schedule.

Notwithstanding anything in the preceding paragraph, (i) no amendment to the Contract shall be effective without the authorized signature of each of the Participant and MSCPA, and (ii) in the event that each of MSCPA and the Participant execute and deliver to AMP a Notice of Termination of Agency terminating the agency relationship established hereunder between MSCPA and the Participant, thereafter the Participant shall exercise and perform, for and on its own behalf, all of its rights, duties and obligations under the Schedule, and MSCPA shall be released from any duties and obligations thereunder.

SECTION 3. Source of Payments by MSCPA. The payment obligations of MSCPA under the Contract are in accordance with the provisions of Section 11.10 of the MSA, and MSCPA's obligations are payable solely from those revenues of its system established for the provision of power and energy to the MSCPA Municipalities, which revenues are paid to MSCPA by the Participant and the other MSCPA Municipality therefor; provided, however, that until the outstanding bonds of MSCPA are paid or defeased in full, the obligations of MSCPA under the Contract are subject to the provisions of MSCPA's Power Supply System Revenue Bond Resolution, adopted August 23, 1979, as amended and supplemented to the date hereof (the "Bond Resolution"). For purposes of the Bond Resolution, the payment obligations of MSCPA shall constitute Operating and Maintenance Costs of MSCPA. In the event that any time MSCPA is prohibited from paying to AMP any amounts owing by MSCPA to AMP under the Contract as a result of any provision of the Bond Resolution, MSCPA's agency on behalf of the Participant under the Contract shall immediately be suspended, and MSCPA shall return any moneys previously paid to MSCPA by the Participant hereunder which have not been paid to AMP, for payment by the Participant to AMP. The suspension of the agency of MSCPA shall be continued until each of AMP, the Participant and MSCPA agree that all disabilities of payment by MSCPA to AMP under the Bond Resolution have been resolved.

IN WITNESS WHEREOF, the parties hereto have caused this Supplement to Power Sales Contract to be executed by their proper officers respectively, being thereunto duly authorized, and their respective corporate seals, if any, to be hereto affixed.

AMERICAN MUNICIPAL POWER, INC.

[Seal]

By _____
Marc S. Gerken, P.E.
President/CEO

Approved as to form:

John W. Bentine
General Counsel

CITY OF MARSHALL, MICHIGAN

[Seal]

By _____
Sandra Bird
Clerk-Treasurer

MICHIGAN SOUTH CENTRAL POWER AGENCY

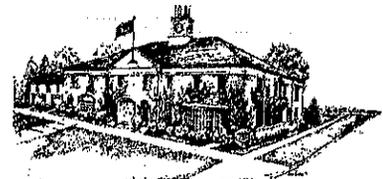
By: _____
Glen White
Title: General Manager

Approved as to form:
Miller, Canfield, Paddock and Stone, P.L.C., General Counsel

By: _____
Jerry T. Rupley

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City of Marshall



Marshall Town Hall ca: 1857

323 West Michigan Avenue - Marshall, MI 49068-1578 - Phone (269) 781-5183 - FAX (269) 781-3835

ADMINISTRATIVE REPORT November 17, 2010 - CITY COUNCIL MEETING

REPORT TO: Honorable Mayor and Council Members
FROM: Thomas Tarkiewicz, City Manager
SUBJECT: Firekeepers Local Revenue Sharing Board Disbursement

BACKGROUND: At the October 16th work session, the Council discussed the funding received from the Firekeepers Casino Local Revenue Sharing Board. The 2009 allocation to the City was \$26,724.41. \$1,250.00 was a reimbursement for a preliminary study. The remaining \$25,474.41 is available for allocation.

The Council suggested the following allocations:

Downtown tree replacement project	\$10,000.00
Brooks Fountain capital fund	\$ 5,000.00
Streets reconstruction	\$10,474.41

RECOMMENDATION: After Council discussion, the Council should formally direct staff to disburse the 2009 Firekeepers Casino local revenue sharing allocation.

FISCAL EFFECTS: To amend the budget to increase funding for the Firekeepers Casino LRSB \$26,724.41 contribution and appropriate the Special Projects Fund-Firekeepers LSRB expenditure line item 792-000-945.45 to disburse the funds to the following:

DDA Fund	298-000-675.00	\$10,000.00
Special Projects Fund-Fountain	792-000-675.11	5,000.00
MVH Local Streets Fund	203-000-675.00	10,474.41
General Fund	101-000-671.00	<u>1,250.00</u>
Total		\$26,724.41

ALTERNATIVES: As suggested by Council

Respectfully submitted,

Thomas Tarkiewicz
City Manager



HISTORIC
LANDMARK
DISTRICT

City of Marshall

323 West Michigan Avenue • Marshall, MI 49068-1578 • Phone (269) 781-5183 • FAX (269) 781-3835



Marshall Town Hall ca. 1857

ADMINISTRATIVE REPORT November 17, 2010 - City Council Meeting

REPORT TO: Honorable Mayor Smith and City Council
FROM: Tom Tarkiewicz, City Manager
SUBJECT: Benefit Program E - Pension Increase for Current Retirees

BACKGROUND: On September 3, 1991 the Marshall City Council adopted the Benefit Program E through the Municipal Employees' Retirement System (MERS) for City retirees. This program allows for consideration of an increase in retiree pension on an annual basis for those persons who have been retired at least one full year. That is, anyone who retired in 2010 does not receive an increase at this time.

City records demonstrate that a retiree pension increase was considered in 1966, 1967, 1968, 1975, 1981, 1984, 1987, 1991, 1994-2004, 2006-2010. The traditional increase is 2% annually. However, there are other options available and Council approved a flat \$16.50/month increase for 2007, a flat \$12.00/month increase for 2008, and a flat \$10.00/month increase for 2009 and 2010.

The impact to the City's retirement system has been calculated by Gabriel, Roeder & Smith Company for all persons retired on or before December 31, 2009. MERS will only authorize the increase if each fund is at least 80% funded. The Division 1 Group (non-union and Teamsters) has become underfunded as of this year, and the City would need to pay in full, \$53,703. Attached are several documents from MERS on their liability determination.

RECOMMENDATION: It is recommended due to cost and the constraints of the Fund budgets, that the Council not authorize the Flexible E Benefit Program increase.

FISCAL EFFECTS: None.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tom Tarkiewicz', written over a white background.

Tom Tarkiewicz
City Manager



August 27, 2010

Ms. Tracy Hall
City of Marshall
323 West Michigan Avenue
Marshall, MI 49068

Dear Ms. Hall,

Your municipality's valuation is enclosed, showing you the costs and rates for the benefit programs you requested. These results should not be combined or modified with any other benefits not included in the original request. If you are considering a different benefit structure not included in this valuation, it is important that you contact MERS in writing as soon as possible. MERS actuary, Gabriel, Roeder, Smith, & Company (GRS), will then determine the required contribution to support any changes to your municipality's benefit plan.

The MERS fiscal responsibility provision (MERS Plan Document, Section 43C(1)) recently amended the Benefit E adoption. If the supplemental valuation results for Benefit E reflects a decrease of the funded level of the division(s) below the minimum funded level of 80% (as of 07/01/2009 per Section 43C of MERS Plan Document), your municipality must pay for the total increase in actuarial liability for the new Benefit E. If the division(s) remains above the 80% funded with Benefit E level, you may amortize the increase in liability.

The proposed Cost Of Living Adjustment must have an effective date of January 1, 2011 and would only apply to retirees who have been on pension payroll for at least one year as of January 1, 2011.

We have included the MERS Uniform Resolution for Adopting Benefit Program "E", which must be submitted to MERS along with approved Board Minutes, Collective Bargaining Agreement (if applicable) or Letter of Agreement (if applicable) before October 15, 2010 in order to be effective for calendar year 2011.

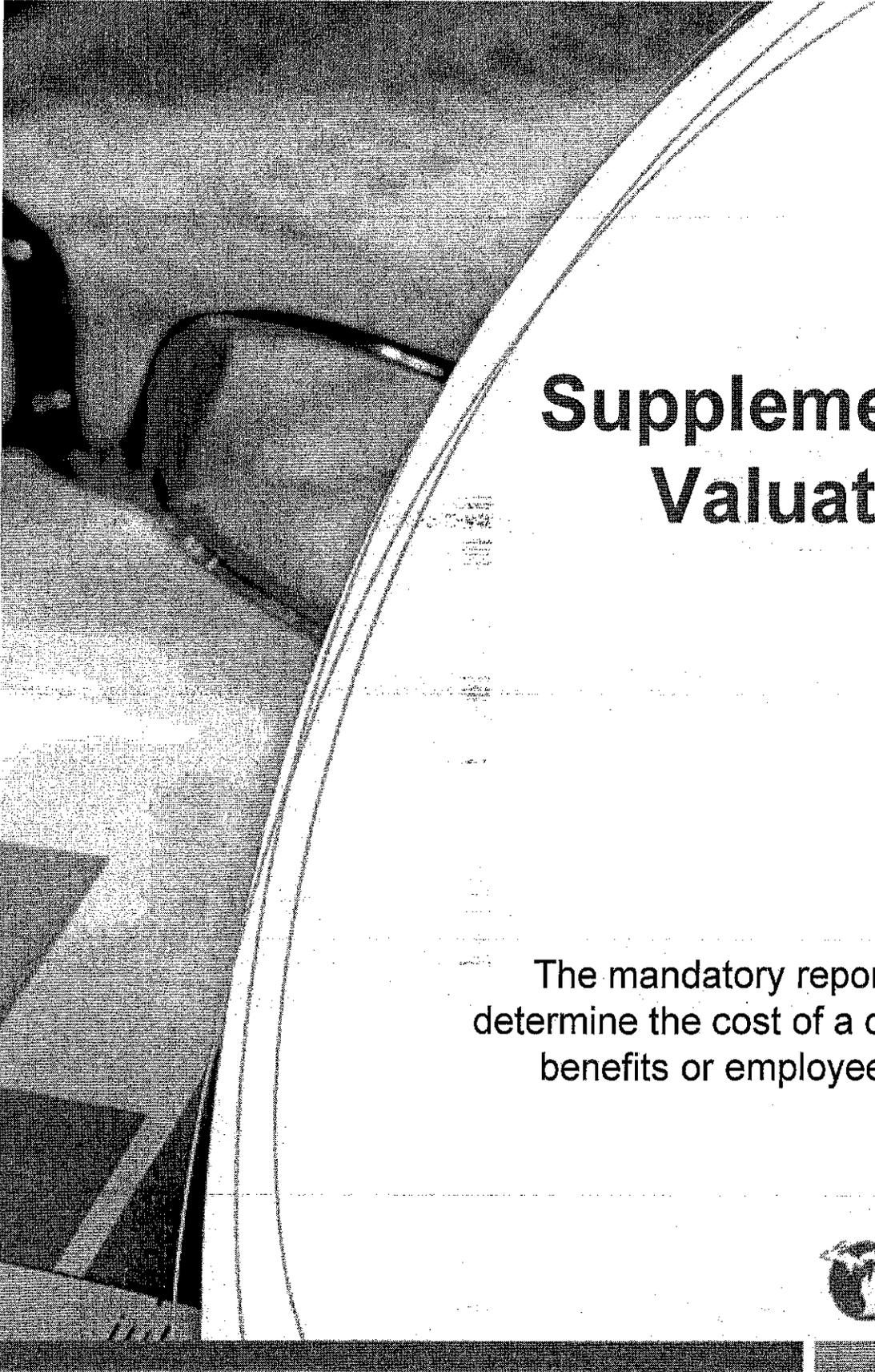
Please feel free to contact a member of your MERS Regional team with any questions or concerns regarding this valuation.

Sincerely,



Karima LaJoie
Benefit Plan Coordinator

Enclosure



Supplemental Valuations

The mandatory report used to
determine the cost of a change in
benefits or employee census.



MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

1134 Municipal Way, Lansing, MI 48917 | 800.767.6377

www.mersofmich.com

Requesting a Supplemental Valuation

Who can request a Supplemental Valuation?

- Both the requesting division and municipality must meet the Fiscal Responsibility Policy (see next page) in order to request a valuation. A valuation may be requested by either the employer or employee representative, including union representative. The requestor receives the completed valuation and the transaction is confidential.

How long does it take to prepare?

- They are completed approximately within 21 days.

How long are they valid?

- They are valid for 12 months from completion.

Can MERS give a “ballpark” guess of the costs?

- No. All divisions and municipalities have different demographics and benefit structures, therefore the costs are different for each.

Will the valuation give me individual costs for multiple benefit changes requested?

- No. You need to request each benefit as you wish to see it. For example if you want to see the individual costs as well as the combined costs for a increased multiplier of 2.25% (B3) and a early retirement option of age 55 with 25 years of service, you must submit 3 requests:
 - Request the 2.25% multiplier increase, which will reflect only the increased cost of this benefit
 - Request the early retirement option , which will reflect only the increased cost of this benefit
 - Request the two proposed benefits together which will reflect the combined increased cost

How to Request

Groups must meet Fiscal Responsibility Policy (see next page) before the valuation can be processed

Submit:

- 1) Signed Request Form (form 13A)
- 2) Check for the actuarial services, [please click here to view the fee structure](#).
- 3) Employee census data, used when updating divisions, adding new hires, or updating wages, Employee Census (form 17)

For assistance please contact a member of your Regional Team



Fiscal Responsibility Policy

With the input of member comments, on July 15, 2009 the Retirement Board approved amendments to Plan Sections 43C and 2C(3)(b). The goal of the policy is to help provide financially sustainable benefits to both the municipality and the member. This policy ensures that all divisions progress towards 100% funding over a reasonable time frame.

Per MERS Fiscal Responsibility Policy:

- MERS requires a minimum funding level of 80% for both the division and overall municipality to request a supplemental valuation
- Proposed changes which put division below 80% funded will not be allowed for adoption
- Requires that municipality be current on contribution payments prior to allowing a supplemental valuation request or adoption
- Requires review with the local decision makers and MERS representative for detailed explanation of valuation prior to benefit increase adoptions



Sample City (1234) – Division 1
Results page – Based on the 12/31/2009 Actuarial Valuation

	Current Benefits	Proposed Benefits	Difference
1. Benefits			
a) Benefit Formula	B-3 – 80% Max	B-4 – 80% Max	B-4 – 80% Max
b) Normal Retirement Age	60	60	
c) Vesting Provision	V-10	V-10	
d) F50 Ret Condition	-	-	①
e) F55 Ret Condition	F55(15)	F55(15)	
f) F(N) Ret Condition	-	-	
g) Rule of X	-	-	
h) FAC Period	FAC-5	FAC-5	
i) RS50 Percent	-	-	
j) DROP+	-	-	
k) D-2	-	-	
l) Benefit E	2.0% (1/1/1990)	2.0% (1/1/1990)	
m) Benefit E-1	2.5% (1/1/1992)	2.5% (1/1/1992)	
n) Benefit E-2	2.5% (1/1/1992)	2.5% (1/1/1992)	
o) Load for Sick Leave in FAC	-	-	
p) Member Contribution Rate	0.00%	0.00%	
2. Member Counts			
a) Active	7	7	0
b) Retired	3	3	0
c) Vested Former Members	4	4	0
d) Total	14	14	0
3. Annual Payroll	\$362,637	\$362,637	\$0
4. Actuarial Value of Assets	\$1,363,051	\$1,363,051	\$0
5. Actuarial Accrued Liability			
a) Active	\$692,161	\$754,701	\$62,540
b) Retired	680,815	680,815	0
c) Vested Former Members	113,088	113,088	0
d) Pending Refunds	0	0	0
e) Total	\$1,486,064	\$185,553	\$62,540
6. Unfunded Accrued Liability (UAL) (5c -4)	\$123,013	\$185,553	\$62,540
7. Division Percent Funded (4 / 5e)	91.7%	88.0%	(3.7%)
8. Cost as a Percentage of Payroll			
a) Employer Normal Cost	11.32%	12.40%	1.08%
b) Amort. of UAL (over 28 years)	1.67	2.73	1.06%
c) Total Long Term Employer Contribution (8a + 8b)	12.99	15.13	2.14*
d) Overfunding Credit	0.00	0.00	
e) Total Regular Employer Contribution % (8c + 8d)	12.99%	15.13%	
f) Total Regular Employer Contribution \$ (8e x 3)	\$47,112	\$54,864	\$7,752

Key Areas

- ① Benefit change requested
- ② Percent funded after the benefit change (must be at least 80% in order to adopt benefit)
- ③ Total employer cost as a percentage of payroll with the benefit change
- ④ Equivalent employee contribution (notice the long-term/current member differences)
- ⑤ Estimated yearly dollar amount increase

The preceding Important Comments pages and concluding Impact of Adopting Benefits page are incorporated by reference herein.

* Each 1% increase in member contributions decreases the computed employer contribution by 0.90%. If member contributions are increased to cover the long-term employer cost of the proposed benefits, the member rate would have to be increased 2.38% (2.14% / 0.90%) in addition to any change in the member contribution rate shown above. This increased rate would apply to all current members and future new members, and it is assumed that the number of active members in this division remains constant in the future. If the cost is to be covered by only current members, the member rate would have to be increased by 2.82%, instead of 2.38%. If the member rate is increased significantly, members may choose to retire earlier than assumed, and the required employer contributions may be affected.



MERS of Michigan

MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

1134 Municipal Way
Lansing, MI 48917

800.767.6377

517.703.9030

Fax: 517.703.9704

www.mersofmich.com

This presentation contains a summary description of MERS benefits, policies or procedures. MERS has made every effort to ensure that the information provided is accurate and up to date. Where the publication conflicts with the relevant Plan Document, the Plan Document controls.



August 23, 2010

Ms. Anne Wagner
Chief Executive Officer
Municipal Employees' Retirement System of Michigan
1134 Municipal Way
Lansing, Michigan 48917

Subject: Supplemental Valuation for City of Marshall (1306), Division(s) 01, 05, 20, 22

Dear Anne:

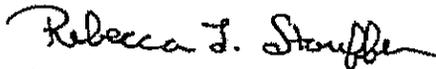
Attached are the results of a supplemental valuation prepared for City of Marshall in order to determine the contributions necessary to support the following Benefit Program under the Municipal Employees' Retirement System of Michigan, in accordance with Act. No. 427 of the Public Acts of 1984, as amended, and the MERS plan document as revised:

<u>Division</u>	<u>Change in Benefit</u>
Disp/General (01)	Flexible E (\$10 per month)
Fire Divsn (05)	Flexible E (\$10 per month)
Patrol Ofcra (20)	Flexible E (\$10 per month)
Sgts, Dir, and Dep (22)	Flexible E (\$10 per month)

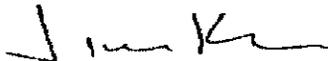
This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

Please see the **Important Comments and the Comments on the Investment Markets**, immediately following this cover letter, for important information which is essential to understanding the results presented in this report. In addition, please review the Impact of Adopting the Benefits page(s) following the Employer Computed Contributions page(s).

Sincerely,



Rebecca Stouffer
Senior Analyst



W. James Koss, ASA
Actuary

MERS Supplemental Valuations - Important Comments

1. As amended, effective July 1, 2009, Section 43C of the MERS Plan Document includes the following requirements, which are not modifiable (subsection (5)):
 - a) At the time a supplemental actuarial valuation is requested, and at the time a new benefit provision is adopted, the employer must be current in the payment of all required employer and member contributions (subsection (1)).
 - b) Both the requesting division and the participating municipality or court must be not less than 80% funded on an actuarial basis as of the last December 31 valuation date, based on the actual benefit provisions in effect when the supplemental valuation is requested or completed. The governing body may make a cash contribution, or transfer employer assets from a different division, or both, in order to meet the 80% requirement. If the requirement is not met, MERS and its actuary will not complete the requested supplemental valuation (subsection (2)).
 - c) The proposed benefit provisions may not be adopted if the results of the supplemental valuation disclose there would be a funded percentage less than 80% on an actuarial basis (using the same valuation date as in requirement (b.)) for either the division or the entire municipality or court. The governing body may make a cash contribution, or transfer employer assets from a different division, or both, in order to meet the 80% requirement (subsection (3)).
 - d) The 80% funded percentage requirements "shall not preclude a participating municipality or court whose actuarial funded level is below the required funded level from requesting a valuation, where the purpose of the valuation is to reduce actuarial liabilities by the proposed change in the existing benefit program," and shall not preclude adoption of the change where the valuation results indicate the change reduces such liabilities (last sentence of subsections (2) and (3)).
2. The reader of this report should keep in mind that actuarial calculations are by their nature imprecise, as they are mathematical estimates based on current data and assumptions of future events (which may or may not materialize).
3. Actuarial calculations can and do vary from one valuation year to the next, sometimes significantly if the group valued is very small (less than 30 lives). As a result, the cost impact of a benefit change may fluctuate over time, as the demographics of the group changes.
4. The calculations in this report were prepared based on December 31, 2009 demographic and financial information unless noted elsewhere in the report.
5. The valuation date is December 31, 2009.
6. The valuation methods and Retirement Board-approved assumptions are consistent with those used in the December 31, 2009 Annual Actuarial Valuation, unless noted elsewhere in the report.
7. In the event that more than one plan change is being considered, the user of this report should remember that the results of separate actuarial valuations cannot be added together. The total can be considerably greater than the sum of the parts due to the interaction of various plan provisions with each other and with the assumptions used.
8. Retirement benefits and employer contributions are based on a percentage of members' gross pays, including base pay, overtime pay, longevity pay, and several other miscellaneous items. If total gross payroll exceeds the reported salaries, the dollar contribution amounts shown in this report should be increased proportionately. The above percentages of payroll will not be affected, however.

MERS Supplemental Valuations - Important Comments

9. For divisions that are closed to new hires, with the new hires being covered by the MERS DC Plan, by any non-MERS DB or DC plan or by no plan, the Retirement Board has directed that the amortization period for positive unfunded liabilities is decreased annually by 2 years until the period reaches 5 years (Amended Amortization Policy for Closed Divisions Within Open Municipalities).
10. The results in this report were based on information provided to the actuary by the municipality and MERS. The actuary is unaware of any additional information that would impact these results. If the information in the "Request for Supplemental Valuation" is incorrect or incomplete, the actuary does not assume responsibility for the accuracy of that information, and the requester (or reader) of this valuation report may not rely on the results and should advise MERS promptly.
11. The results in this report do not show the potential impact that the adoption of the revised benefits may have on other post-employment benefits (such as retiree health care insurance) or ancillary benefits (such as life insurance).
12. If the user of this report is not sure how to interpret certain results in the report or how to read the report, they should contact the MERS Office of Marketing and Employer Services (800) 767-6377 or MERS' actuary before relying on the results in this report.

City of Marshall (1306)

Comments on the Investment Markets

The dramatic price declines across the world financial markets in 2008 led to volatility unlike any experienced in decades. 2009 was more stable (and MERS earned a healthy 17+% investment return) but the volatility continues. The crisis has been focused on the financial sector. While the U.S. government and business leaders are doing all they can to address the issues, it may be difficult in the short term to meet the investment assumption of 8% annual return.

The actuarial value of assets (funding value), used to determine both your funded status and your required employer contribution, is based on a 10-year smoothed value of assets. Only a portion (two-tenths, for 2008 and 2009) of the 2008 investment market losses were recognized in this actuarial valuation report. This reduces the volatility of the valuation results, which affects your required employer contribution and actuarial funded percentage.

As of December 31, 2009 the actuarial value of assets is 125% of market value (down from 139% in 2008). This means that meeting the actuarial assumption in the next few years will require average annual market returns that substantially exceed the 8% investment return assumption.

If the December 31, 2009 valuation results were based on market value on that date instead of 10-year smoothed funding value: i) the funded percent of your entire municipality would be 69% (instead of 86%); and ii) your total employer contribution requirement for the fiscal year starting July 1, 2011 would be \$671,808 (instead of \$393,792). If the investment markets do not fully make up for the 2008 losses, employer contribution requirements can be expected to rise. MERS continues to do everything it can to make sure that if this proves to be the case, the increases are incremental as opposed to steep.

Remember that only two-tenths of the 2008 market losses are reflected in this actuarial valuation report. As was true for past market downturns, MERS expects the markets to continue to rebound. By the time the 2008 market losses would be fully recognized (over the following 8 years), future market gains are expected to partly or fully offset 2008 market losses. This smoothing method is a powerful tool for reducing the volatility of your required employer contributions. However, if the financial markets do not rebound, the result would be gradual increases in your employer contribution requirement over the next 8 years (as described above). These increases would be in addition to the contributions for Current Benefits or for Proposed Benefits shown in this report.

Comment on Actuarial Calculations - The projections of your future employer contributions in this report are based on the current actuarial assumptions used in the December 31, 2009 actuarial valuation. As always, your required employer contribution rate changes every year, in response to demographic changes, financial experience, benefit provision changes, etc, within your specific plan. The results of future actuarial valuations will differ from the projections, sometimes materially.

City of Marshall (1306) - Disp/General (Division 01)
Employer Computed Contributions -- Based on 12/31/2009 Actuarial Valuation

	Current Benefits	Proposed Benefits	Difference
1. Benefits			
a) Benefit Formula	B-4 - 80% Max	B-4 - 80% Max	
b) Normal Retirement Age	60	60	
c) Vesting Provision	V-10	V-10	
d) F50 Ret Condition	-	-	
e) F55 Ret Condition	F55(25)	F55(25)	
f) F(N) Ret Condition	-	-	
g) Rule of X	-	-	
h) FAC Period	FAC-5	FAC-5	
i) RS50 Percent	-	-	
j) DROP+	-	-	
k) D-2	-	-	
l) Benefit E	\$10 (2/1/2010)	\$10 (2/1/2011)	\$10 (2/1/2011)
m) Benefit E-1	-	-	
n) Benefit E-2	-	-	
o) Load for Sick Leave in FAC	-	-	
p) Member Contribution Rate	7.70%	7.70%	
2. Member Counts			
a) Active	62	62	0
b) Retired	57	57	0
c) Vested Former Members	8	8	0
d) Total	<u>127</u>	<u>127</u>	<u>0</u>
3. Annual Payroll	\$2,889,207	\$2,889,207	\$0
4. Actuarial Value of Assets	\$13,887,537	\$13,887,537	\$0
5. Actuarial Accrued Liability			
a) Active	\$6,957,185	\$6,957,185	\$0
b) Retired	10,128,602	10,182,305	53,703
c) Vested Former Members	336,325	336,325	0
d) Pending Refunds	56,339	56,339	0
e) Total	<u>\$17,478,451</u>	<u>\$17,532,154</u>	<u>\$53,703</u>
6. Unfunded-Accrued Liability (UAL) (5e - 4)	\$3,590,914	\$3,644,617	\$53,703
7. Division Percent Funded (4 / 5e)	79.5%	79.2%	(0.3%)
8. Cost as a Percentage of Payroll			
a) Employer Normal Cost	4.53%	4.53%	0.00%
b) Amort. of UAL (over 28 years)	6.69	6.79	0.10
c) Total Long Term Employer Contribution (8a + 8b)	<u>11.22</u>	<u>11.32</u>	<u>0.10</u>
d) Overfunding Credit	0.00	0.00	
e) Total Regular Employer Contribution % (8c + 8d)	<u>11.22%</u>	<u>11.32%</u>	
f) Total Regular Employer Contribution \$ (8e x 3)	\$324,168	\$327,060	\$2,892

The preceding Important Comments pages, Comments on the Investment Markets page, and concluding Impact of Adopting Benefits page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

City of Marshall (1306) - Disp/General (Division 01)
Impact of Adopting the Benefits

Results reported on the previous page show how the December 31, 2009 annual actuarial report would have been affected by a change in benefit provisions or member contributions. There are many ways to view the change in costs.

Measurements from the Annual Valuation Report	
1. Actuarial Accrued Liability	
a) Current Benefits	\$17,478,451
b) Proposed Benefits	17,532,154
c) Difference	\$53,703
2. Division Percent Funded	
a) Current Benefits	79.5%
b) Proposed Benefits	79.2%
c) Difference	(0.3%)
3. Long Term Employer Contribution as a % of Payroll of Current and Future Active Members:	
a) Current Benefits	11.22%
b) Proposed Benefits	11.32%
c) Difference	0.10%

The preceding Important Comments pages and Comments on the Investment Markets page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

City of Marshall (1306) - Fire Divsn (Division 05)
Employer Computed Contributions -- Based on 12/31/2009 Actuarial Valuation

	Current Benefits	Proposed Benefits	Difference
1. Benefits			
a) Benefit Formula	3.00% - 80% Max	3.00% - 80% Max	
b) Normal Retirement Age	60	60	
c) Vesting Provision	V-10	V-10	
d) F50 Ret Condition	F50(25)	F50(25)	
e) F55 Ret Condition	-	-	
f) F(N) Ret Condition	-	-	
g) Rule of X	-	-	
h) FAC Period	FAC-3	FAC-3	
i) RS50 Percent	-	-	
j) DROP+	-	-	
k) D-2	-	-	
l) Benefit E	\$10 (2/1/2010)	\$10 (2/1/2011)	\$10 (2/1/2011)
m) Benefit E-1	-	-	
n) Benefit E-2	-	-	
o) Load for Sick Leave in FAC	-	-	
p) Member Contribution Rate	10.39%	10.39%	
2. Member Counts			
a) Active	8	8	0
b) Retired	11	11	0
c) Vested Former Members	0	0	0
d) Total	<u>19</u>	<u>19</u>	<u>0</u>
3. Annual Payroll	\$453,247	\$453,247	\$0
4. Actuarial Value of Assets	\$4,726,083	\$4,726,083	\$0
5. Actuarial Accrued Liability			
a) Active	\$1,500,262	\$1,500,262	\$0
b) Retired	3,620,511	3,632,124	11,613
c) Vested Former Members	0	0	0
d) Pending Refunds	0	0	0
e) Total	<u>\$5,120,773</u>	<u>\$5,132,386</u>	<u>\$11,613</u>
6. Unfunded Accrued Liability (UAL) (5e - 4)	\$394,690	\$406,303	\$11,613
7. Division Percent Funded (4 / 5e)	92.3%	92.1%	(0.2%)
8. Cost as a Percentage of Payroll			
a) Employer Normal Cost	5.08%	5.08%	0.00%
b) Amort. of UAL (over 28 years)	4.70	4.84	0.14
c) Total Long Term Employer Contribution (8a + 8b)	<u>9.78</u>	<u>9.92</u>	<u>0.14</u>
d) Overfunding Credit	0.00	0.00	
e) Total Regular Employer Contribution % (8c + 8d)	<u>9.78%</u>	<u>9.92%</u>	
f) Total Regular Employer Contribution \$ (8e x 3)	\$44,340	\$44,976	\$636

The preceding Important Comments pages, Comments on the Investment Markets page, and concluding Impact of Adopting Benefits page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

City of Marshall (1306) - Fire Divsn (Division 05)
Impact of Adopting the Benefits

Results reported on the previous page show how the December 31, 2009 annual actuarial report would have been affected by a change in benefit provisions or member contributions. There are many ways to view the change in costs.

Measurements from the Annual Valuation Report	
1. Actuarial Accrued Liability	
a) Current Benefits	\$5,120,773
b) Proposed Benefits	5,132,386
c) Difference	\$11,613
2. Division Percent Funded	
a) Current Benefits	92.3%
b) Proposed Benefits	92.1%
c) Difference	(0.2%)
3. Long Term Employer Contribution as a % of Payroll of Current and Future Active Members	
a) Current Benefits	9.78%
b) Proposed Benefits	9.92%
c) Difference	0.14%

The preceding Important Comments pages and Comments on the Investment Markets page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

City of Marshall (1306) - Patrol Ofers (Division 20)
Employer Computed Contributions -- Based on 12/31/2009 Actuarial Valuation

	Current Benefits	Proposed Benefits	Difference
1. Benefits			
a) Benefit Formula	3.00% - 80% Max	3.00% - 80% Max	
b) Normal Retirement Age	60	60	
c) Vesting Provision	V-10	V-10	
d) F50 Ret Condition	F50(25)	F50(25)	
e) F55 Ret Condition	-	-	
f) F(N) Ret Condition	-	-	
g) Rule of X	-	-	
h) FAC Period	FAC-3	FAC-3	
i) RS50 Percent	-	-	
j) DROP+	-	-	
k) D-2	-	-	
l) Benefit E	\$10 (2/1/2010)	\$10 (2/1/2011)	\$10 (2/1/2011)
m) Benefit E-1	-	-	
n) Benefit E-2	-	-	
o) Load for Sick Leave in FAC	-	-	
p) Member Contribution Rate	8.79%	8.79%	
2. Member Counts			
a) Active	8	8	0
b) Retired	6	6	0
c) Vested Former Members	2	2	0
d) Total	<u>16</u>	<u>16</u>	<u>0</u>
3. Annual Payroll	\$453,115	\$453,115	\$0
4. Actuarial Value of Assets	\$2,482,356	\$2,482,356	\$0
5. Actuarial Accrued Liability			
a) Active	\$753,889	\$753,889	\$0
b) Retired	1,515,610	1,520,866	5,256
c) Vested Former Members	88,571	88,571	0
d) Pending Refunds	4,411	4,411	0
e) Total	<u>\$2,362,481</u>	<u>\$2,367,737</u>	<u>\$5,256</u>
6. Unfunded Accrued Liability (UAL) (5e - 4)	(\$119,875)	(\$114,619)	\$5,256
7. Division Percent Funded (4 / 5e)	105.1%	104.8%	(0.3%)
8. Cost as a Percentage of Payroll			
a) Employer Normal Cost	6.59%	6.59%	0.00%
b) Amort. of UAL (over 28 years) @	(1.11)	(1.04)	0.07
c) Total Long Term Employer Contribution (8a + 8b)	<u>5.48</u>	<u>5.55</u>	<u>0.07</u>
d) Overfunding Credit	(1.27)	(1.20)	
e) Total Regular Employer Contribution % (8c + 8d)	<u>4.21%</u>	<u>4.35%</u>	
f) Total Regular Employer Contribution \$ (8e x 3)	\$19,068	\$19,704	\$636

The preceding Important Comments pages, Comments on the Investment Markets page, and concluding Impact of Adopting Benefits page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

@ For divisions with assets in excess of liabilities, the UAL is amortized over 10 years.

City of Marshall (1306) - Patrol Ofcrs (Division 20)
Impact of Adopting the Benefits

Results reported on the previous page show how the December 31, 2009 annual actuarial report would have been affected by a change in benefit provisions or member contributions. There are many ways to view the change in costs.

Measurements from the Annual Valuation Report	
1. Actuarial Accrued Liability	
a) Current Benefits	\$2,362,481
b) Proposed Benefits	2,367,737
c) Difference	\$5,256
2. Division Percent Funded	
a) Current Benefits	105.1%
b) Proposed Benefits	104.8%
c) Difference	(0.3%)
3. Long Term Employer Contribution as a % of Payroll of Current and Future Active Members	
a) Current Benefits	5.48%
b) Proposed Benefits	5.55%
c) Difference	0.07%

The preceding Important Comments pages and Comments on the Investment Markets page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

City of Marshall (1306) - Sgts, Dir & Dep (Division 22)
Employer Computed Contributions -- Based on 12/31/2009 Actuarial Valuation

	Current Benefits	Proposed Benefits	Difference
1. Benefits			
a) Benefit Formula	3.00% - 80% Max	3.00% - 80% Max	
b) Normal Retirement Age	60	60	
c) Vesting Provision	V-10	V-10	
d) F50 Ret Condition	F50(25)	F50(25)	
e) F55 Ret Condition	-	-	
f) F(N) Ret Condition	-	-	
g) Rule of X	-	-	
h) FAC Period	FAC-3	FAC-3	
i) RS50 Percent	-	-	
j) DROP+	-	-	
k) D-2	-	-	
l) Benefit E	\$10 (2/1/2010)	\$10 (2/1/2011)	\$10 (2/1/2011)
m) Benefit E-1	-	-	
n) Benefit E-2	-	-	
o) Load for Sick Leave in FAC	-	-	
p) Member Contribution Rate	12.24%	12.24%	
2. Member Counts			
a) Active	5	5	0
b) Retired	2	2	0
c) Vested Former Members	1	1	0
d) Total	<u>8</u>	<u>8</u>	<u>0</u>
3. Annual Payroll	\$321,063	\$321,063	\$0
4. Actuarial Value of Assets	\$1,747,331	\$1,747,331	\$0
5. Actuarial Accrued Liability			
a) Active	\$626,056	\$626,056	\$0
b) Retired	871,443	873,702	2,259
c) Vested Former Members	175,825	175,825	0
d) Pending Refunds	0	0	0
e) Total	<u>\$1,673,324</u>	<u>\$1,675,583</u>	<u>\$2,259</u>
6. Unfunded Accrued Liability (UAL) (5e - 4)	(\$74,007)	(\$71,748)	\$2,259
7. Division Percent Funded (4 / 5e)	104.4%	104.3%	(0.1%)
8. Cost as a Percentage of Payroll			
a) Employer Normal Cost	4.66%	4.66%	0.00%
b) Amort. of UAL (over 28 years) @	(1.27)	(1.23)	0.04
c) Total Long Term Employer Contribution (8a + 8b)	<u>3.39</u>	<u>3.43</u>	<u>0.04</u>
d) Overfunding Credit	(1.45)	(1.40)	
e) Total Regular Employer Contribution % (8c + 8d)	1.94%	2.03%	
f) Total Regular Employer Contribution \$ (8e x 3)	\$6,216	\$6,504	\$288

The preceding Important Comments pages, Comments on the Investment Markets page, and concluding Impact of Adopting Benefits page are incorporated by reference herein.

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@ For divisions with assets in excess of liabilities, the UAL is amortized over 10 years.

City of Marshall (1306) - Sgts, Dir & Dep (Division 22)
Impact of Adopting the Benefits

Results reported on the previous page show how the December 31, 2009 annual actuarial report would have been affected by a change in benefit provisions or member contributions. There are many ways to view the change in costs.

Measurements from the Annual Valuation Report	
1. Actuarial Accrued Liability	
a) Current Benefits	\$1,673,324
b) Proposed Benefits	1,675,583
c) Difference	\$2,259
2. Division Percent Funded	
a) Current Benefits	104.4%
b) Proposed Benefits	104.3%
c) Difference	(0.1%)
3. Long Term Employer Contribution as a % of Payroll of Current and Future Active Members	
a) Current Benefits	3.39%
b) Proposed Benefits	3.43%
c) Difference	0.04%

The preceding Important Comments pages and Comments on the Investment Markets page are incorporated by reference herein.

This report may be provided to other interested parties only in its entirety and only with the prior permission of MERS and the municipality.

UNIFORM RESOLUTION FOR ADOPTING BENEFIT PROGRAM "E" INCREASE TO BE EFFECTIVE ON ADJUSTMENT DATE JANUARY 1, 2011



Must be filed with MERS by October 15, 2010, to be effective for Calendar 2011

Note: Numbers 1 and 2 must be completed.

1. As authorized by Section 20 of the MERS Plan Document as revised the _____ adopts for the following (circle **only** A or B):

Participating Municipality _____ Municipality No. _____

A. All retirees and beneficiaries.

or

B. Retirees and beneficiaries in Divisions: _____
Specify Division Number(s)

2. The increase will be (Traditional E or Flexible E—choose either A **or** B):

A. **Traditional E** (For all who retired on or before December 31, 2010, as computed in the actuary's cost analysis.)

Two percent (2%) of the retirement allowance payable immediately prior to the adjustment date, for each complete calendar year since the last adjustment date for which Benefit E was adopted, or effective date of retirement allowance, whichever is shorter.

or

B. **Flexible E** (Complete the following.)

1) Type of increase _____ % or flat dollar amount per month \$ _____.

2) Increase applies in the following manner:

(a) Only those retired on or before _____, 20__.

(b) Number of years for adjustment _____.

I CERTIFY that this Resolution was adopted by the _____
Governing Body

at its meeting held on _____, 20__.

Dated: _____
Signature of Authorized Official

IMPORTANT COMMENT: For adoptions with an effective date of January 1, 2011, MERS will allow a municipality regardless of funding level to request the system actuary to complete an actuarial valuation to determine the cost of the one-time adjustment, for a modest fee established by the Retirement Board. Should the division or your municipality be under 80% funded before or after the valuation results, adoption of the adjustment will be allowed only upon the employer's payment to MERS of an amount equal to 100% of the related increase in actuarial accrued liability (Plan section 43C(1)(a)). Where a municipality and affected division is 80% or more funded, then the regular valuation and adoption requirements in section 43C(2) and (3) apply.

Requests for the Benefit E cost of living adjustment must be submitted to MERS, by July 30, 2010 and adoption documentation along with full payment of the amount of increased actuarial accrued liability must be received by October 15, 2010, for the January 1, 2011 adjustment.

Please contact a member of your MERS Regional Team to answer any questions or for additional details. MERS may be reached at 800-767-6377.

CALL TO ORDER

IN REGULAR SESSION Monday, November 1, 2010 at 7:00 P.M. in Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Smith.

ROLL CALL

Roll was called:

Present: Council Members: Dyer, Mankerian, Metzger, Miller, Mayor Smith, Traver (arrived at 7:04 p.m.), and Williams.

Also Present: City Manager Tarkiewicz

Absent: None.

Moved Miller, supported Williams, to excuse Council Member Traver. On a voice vote: **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Richard Gerten of Family Bible Church gave the Invocation and Mayor Smith led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Williams, to approve the agenda. On a voice vote: **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

Chief Schwartz introduced Adam Ottjepka as the newly promoted Sergeant for the Marshall Police Department.

INFORMATIONAL ITEMS

A. Clerk-Treasurer Bird presented the First Quarter Financial Report for the City of Marshall.

Moved Williams, supported Metzger, to receive and place on file the First Quarter Financial Report. On a voice vote: **MOTION CARRIED.**

B. Clerk-Treasurer Bird presented the First Quarter Investment Portfolio Report for the City of Marshall.

Moved Miller, supported Williams, to receive and place on file the First Quarter Investment Portfolio Report. On a voice vote: **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

- A. City Manager recommended canceling the Monday, November 15, 2010 7:00pm Regular Council Meeting due to lack of quorum and rescheduling the meeting to Wednesday, November 17, 7:00pm.

Moved Metzger, supported Dyer, to cancel the Monday, November 15, 2010 Regular Council Meeting and reschedule to Wednesday, November 17, 2010, 7:00pm. On a voice vote - **MOTION CARRIED.**

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

- A. **Purchase/Installation of Carpet for Marshall House:**

Moved Miller, supported Metzger, to approve the purchase and installation of new carpeting for the common areas at Marshall House Apartments from Sherwin Williams for the cost of \$28,919.84. On a roll call vote – ayes: Mankerian, Metzger, Miller, Mayor Smith, Traver, Williams and Dyer; nays: none. **MOTION CARRIED.**

APPOINTMENTS / ELECTIONS

- A. **Brooks Nature Area Advisory Board Appointment:**

Moved Williams, supported Miller, to approve the appointment of Randy Eshuis to the Brooks Nature Area Advisory Board with a term expiring August 15, 2011. On a voice vote - **MOTION CARRIED.**

CONSENT AGENDA

Moved Williams, supported Dyer, to approve the consent agenda as presented:

- A. To schedule public hearing for Monday, November 17, 2010 to hear public comment on the proposed addition to Chapter 112: *Peddlers, Solicitors and Temporary Businesses* of the Marshall City Code;
- B. To schedule public hearing for Monday, November 17, 2010 to hear public comment on the proposed additions and amendments to Chapter 130, Chapter 131, Chapter 132 and Chapter 134 of the Marshall City Code;
- C. To schedule public hearing for Monday, November 17, 2010 to hear

- public comment on the proposed addition to Chapter 70: *General Provisions* of the Marshall City Code;
- D. To schedule public hearing for Monday, November 17, 2010 to hear public comment on the proposed additions to Chapter 73: *Parking Regulations* of the Marshall City Code;
 - E. Approve minutes of the City Council Regular Session held on Monday, October 18, 2010;
 - F. Approve city bills in the amount of \$601,415.18.

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

PUBLIC COMMENT ON NON-AGENDA ITEMS

David Revore encouraged residents to vote, discussed Marshall House recognition plaque and thanked Council members.

COUNCIL AND MANAGER COMMUNICATIONS

Miller and Dyer recognized Chief Schwartz for his recent appearance at last weekend's community event and presentation at service club.

ADJOURNMENT

The meeting was adjourned at 7:55 p.m.

Bruce R. Smith, Mayor

Sandra Bird, Clerk-Treasurer

VENDOR APPROVAL SUMMARY REPORT

Date: 11/11/2010

Time: 9:19am

Page: 1

CITY OF MARSHALL

Vendor Name	Vendor Number	Description	Check Amount	Hand Check Amount
ACTRON INTEGRATED SECURITY SYS	7881	QUARTERLY MONITORING FEE	300.00	0.00
ADRIAN COMMUNICATIONS	21083	CHANGE TRUCKS FOR RADIO	227.00	0.00
AIRGAS GREAT LAKES	4982	CYLINDER RENTAL	75.05	0.00
AIS CONSTRUCTION EQUIP CORP	4885	#508 & #509 REPAIRS	300.96	0.00
ALERT EMERGENCY EQUIPMENT	217874	INSTLL SCREEN, STROBE TUBES	392.00	0.00
APEX SOFTWARE	3767	MAINTENANCE RENEWAL	430.00	0.00
ARISTO CHEM, INC	7059	CAR WASH	141.90	0.00
ARROW UNIFORM	6839	CUST #010198-03	597.42	0.00
AUTO VALUE MARSHALL	21340	HM-4 BRAKE ROTOR PADS	730.79	0.00
B S & A SOFTWARE	7143	BLDG DEPT SYSTEM	3,450.00	0.00
BATTLE CREEK LANDSCAPE SERVICE	6501	DEACTIVATE SPRINKLER	110.00	0.00
BEARDSLEE LAW OFFICES	3471	ZONING	4,257.00	0.00
BOSHEARS FORD SALES INC	7117	REPAIR OF 1998 FORD TAURUS	1,659.17	0.00
CARLETON EQUIPMENT COMPANY	7189	CANCEL #1-16658 (POWERPLAN)	0.00	0.00
CHAMPION.CHARTER SALES & SVC	7211	STREET LIGHT	3,636.00	0.00
CITY OF JACKSON	300296	FALL 2010 - MCOLES LED	420.84	0.00
CLASSIC DRY CLEANING&TAILORING	5975	CLEANING & LAUNDRY	414.00	0.00
COURTNEY & ASSOCIATES	7259	MONTHLY RETAINER-OCTOBER	250.00	0.00
CRIME PREVENTION ASSOCIATION	300323	MEMBERSHIP- A.GROENEVELD	30.00	0.00
CRT, INC	6541	COMPUTER HARDWARE	360.00	0.00
CRYSTAL FLASH ENERGY	6176	DIESEL	699.51	0.00
D & D MAINTENANCE SUPPLY	7271	JANITORIAL SUPPLIES	783.60	0.00
DADOW POWER EQUIPMENT	7277	OIL	47.28	0.00
DARLING ACE HARDWARE	7281	BATTERIES	130.90	0.00
DETROIT SALT COMPANY	6653	SALT	30,607.63	0.00
DUECO INC	7317	SERVICE - HI-RANGER	384.60	0.00
EJUSTICE SOLUTIONS LLC	300114	RECORDS MANAGEMENT - DEC	1,000.00	0.00
ELLIS IRRIGATION	6960	Diamond #3 & #4 Irrigation at	16,250.00	0.00
GARAGE DOORS UNLIMITED	300432	SERVICE CALL	100.95	0.00
GEORGE INSTRUMENT CO	8939	FUEL LEVEL CONTROL PROJ	648.02	0.00
GORDON FOOD SERVICE INC	8734	HAUNTED TRAIL PARTY	96.02	0.00
GRAINGER	3644	RUBBER BOOTS	18.33	0.00
GREAT LAKES ENERGY	2161	TRAINING - LUCAS TICE	875.00	0.00
GRIFFIN PEST SOLUTIONS	6272	323 W MICHIGAN	31.00	0.00
HALT FIRE	6246	FENDER CROWN	336.25	0.00
HEERMANS MARSHALL HARDWARE	7446	PAINT FOR CITY HALL URNS	33.69	0.00
HUB INTERNATIONAL MIDWEST	4472	AIRPORT LIABILITY RENEWAL	49,102.00	0.00
HUNTER PRELL COMPANY	7460	BACK FLOW - SERVICE	97.00	0.00
IRON INC	3132	HARDWARE & SOFTWARE	773.75	0.00
J & K PLUMBING SUPPLY	3351	FUEL TANK LEVEL CONTROL	2.92	0.00
JDE EQUIPMENT COMPANY	300308	REPAIR LOADER	621.03	0.00
JIMMY'S JOHNS	4235	COMPOST	83.00	0.00
JOHN D BRUNDAGE &	6437	OCTOBER SERVICES	2,580.00	0.00
JS BUXTON	8962	START DOWN 143"	1,134.28	0.00
K-MART	7501	OCTOBER CHARGES	236.48	0.00
KELLOGG'S REPAIR GARAGE	5969	PUMP FOR SPRAYER	201.95	0.00
L.E.O.R.T.C.	300111	CRIME PREVENTION--A.PHILPOTT	60.00	0.00
LAKELAND ASPHALT CORPORATION	7526	BITUMINOUS AGGREGATES	515.80	0.00
LEWEY'S SHOE REPAIR	7538	CHAD HAZEL'S WORK BOOTS	195.00	0.00
MARSHALL AREA CHAMBER	7556	SHOPPING BROCHURES	968.54	0.00
MARSHALL LUMBERTOWN	7569	HYDRAULIC CEMENT	17.49	0.00
MARSHALL WELDING & FABRICATION	7590	#323 REPAIR CRACKS IN SUPPORT	97.50	0.00
NEL'S ALLSPORT	719	HAUNTED TRAIL T'S	70.00	0.00
MICHIGAN ASSOCIATION OF	7617	SUPERVISOR TESTS	245.00	0.00
MIDAMERICAN TECHNOLOGY INC	300455	REPAIR METROTECH	186.00	0.00
MRWA	4513	MEMBERSHIP DUES	500.00	0.00
MSC INDUSTRIAL SUPPLY CO	6831	FIRST AID KIT FOR TRUCK	1,251.65	0.00
NYE UNIFORM COMPANY	7733	PANTS	194.50	0.00
PEERLESS MIDWEST INC	6571	PUMP TESTING & SERVICE	750.00	0.00
POWER LINE SUPPLY	7821	50:5 CT	3,827.24	0.00
QUALITY ENGRAVING SERVICE	7800	PLAQUES AND UPS CHARGES	339.23	0.00
RADIO COMMUNICATIONS	7810	SERVICE - MVR WOM'T BOOT	303.75	0.00
RS TECHNICAL SERVICE INC	9149	CHLORINATOR REPAIR PARTS	213.62	0.00
SAFETY-KLEEN	7849	PARTS WASHER	184.77	0.00
SCHULERS RESTAURANT	7857	JAPANESE SISTER CITY BANQUET	1,152.99	0.00
SCHWEITZER ENGINEERING LAB	8584	DEDUCT SALES TAX	1,500.00	0.00
STANDARD PRINTING & OFFICE	7903	DELIVERY	785.81	0.00

VENDOR APPROVAL SUMMARY REPORT

Date: 11/11/2010

Time: 9:19am

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CITY OF MARSHALL

Vendor Name	Vendor Number	Description	Check Amount	Hand Check Amount
STATE OF MICHIGAN	300116	WATER SUPPLY ANNUAL FEE	2,320.58	0.00
Y.S.I.O.A.L.A.Y.A.	300456	METAL SIGNS	360.00	0.00
Grand Total:			140,696.79	0.00

VENDOR APPROVAL SUMMARY REPORT

Date: 10/29/2010

Time: 11:00am

Page: 1

CITY OF MARSHALL

Vendor Name	Vendor Number	Description	Check Amount	Hand Check Amount
AMERICAN WATER WORKS ASSOC	7049	AARON AMBLER MEMBERSHIP	135.00	0.00
BROADSTRIPE	3293	ACCT #198-040788	2,205.26	0.00
CARLETON EQUIPMENT COMPANY	7189	CANCEL #1-16658 (POWERPLAN)	0.00	0.00
JANETTE CODAY	300439	DEPOSIT REFUND	297.00	0.00
COMMERCIAL OFFICE PRODUCTS	9769	INK CARTRIDGES	1,869.43	0.00
CONSUMERS ENERGY	8560	1000 4039 4866	2,471.76	0.00
CORNERSTONE INSPECTION SRVCS	300392	PLUMBING/MECH INSPECTOR PAY	50.00	0.00
JAMES R DEVENEY	300006	MECHANICAL INSPECTOR PAY	40.00	0.00
TIM EGGLESTON	3734	EXPENSE REIMBURSEMENT	25.91	0.00
ALEC EGNATUK	9593	EXPENSE REIMBURSEMENT	51.80	0.00
FEDEX	8197	ACCT #2470-0609-5	26.89	0.00
FIRST AMERICAN TITLE	9085	REFUND OVERPAYMENT	41.86	0.00
DARYL GANO	8148	ELECTRICAL INSPECTOR PAY	662.25	0.00
ROY GOFORTH	300441	REFUND DEPOSIT	2.00	0.00
GRIFFIN PEST SOLUTIONS	6272	900 S MARSHALL	84.00	0.00
JOHN GROSS	300013	PLUMBING/MECH INSPECTOR PAY	735.00	0.00
TIFFANI KING	300445	REFUND DEPOSIT	8.01	0.00
JOSH LANKERD	2321	EXPENSE REIMBURSEMENT	481.09	0.00
DIANE LARKIN	9373	SCARECROWS FOR CHILDREN EXP	48.00	0.00
MARSHALL COMMUNITY CU	7558	4315 - ARTUSO	654.91	0.00
S JANE MAYO	300440	DEPOSIT REFUND	24.84	0.00
MEDLER ELECTRIC COMPANY	7604	CHRISTMAS LIGHTS	258.57	0.00
MICHIGAN DOWNTOWN ASSOC	300093	MONROE MDA CONF--D LARKIN	35.00	0.00
MICHIGAN ELITE LACROSSE	217821	LACROSSE INSTRUCTORS	203.80	0.00
STUART NAPIER	300442	INCREASE FOR PETTY CASH	100.00	0.00
PITNEY BOWES	7770	SUPPLIES	242.22	0.00
SEARS HOLDING CORPORATION	300444	MTT ADJUSTMENT (2010)	16,802.36	0.00
SPARTAN STORES	9656	SALES TAX DEDUCTED	219.94	0.00
SPRINT	9628	ACCT224843832	378.75	0.00
STATE OF MICHIGAN - MDOT	4521	AIRPORT LICENSE FEE	50.00	0.00
VANGUARD FIRE AND SECURITY	300446	PERMIT FEE REFUND	90.00	0.00
Grand Total:			28,295.65	0.00

Prescription Reimbursements 130.30

Total Cash Disbursements \$28,425.95

VENDOR APPROVAL SUMMARY REPORT

Date: 11/05/2010

Time: 10:03am

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CITY OF MARSHALL

Vendor Name	Vendor Number	Description	Check Amount	Hand Check Amount
BARB AARON	7003	ELECTION INSPECTOR PAY	200.00	0.00
AD-VISOR & CHRONICLE	7557	ACCT #06100458-000	816.32	0.00
ANGELA BASS	300452	DEPOSIT REFUND	45.36	0.00
BATTLE CREEK UNLIMITED, INC.	4558	NOVEMBER	13,750.00	0.00
BROADSTRIPE	3293	ACCT #198-177805	32.97	0.00
CALHOUN COUNTY TREASURER	7177	TRAILER FEES - OCTOBER	4,953.98	0.00
CALHOUN INTERMEDIATE	7178	LDFA CORRECTION - TRIBAL MFG	57.43	0.00
CARLETON EQUIPMENT COMPANY	7189	CANCEL #1-16658 (POWERPLAN)	0.00	0.00
CHERRY VALLEY LODGE	300453	LODGING FOR TRAINING	265.74	0.00
CITGO	3724	FLEET #132271610	9,143.72	0.00
ANITA CLARK	6737	ELECTION INSPECTOR PAY	160.00	0.00
COMMERCIAL OFFICE PRODUCTS	9769	CLEANER	359.32	0.00
CORNERSTONE INSPECTION SRVCS	300392	INSPECTOR PAY	40.00	0.00
SUSAN DAY	4466	ELECTION INSPECTOR PAY	144.00	0.00
DEAN TRAILWAYS OF MICHIGAN	2343	GRAND RAPIDS ART MUSEUM	723.00	0.00
CODY DRUMM	25123	SCHOOL LUNCH	9.47	0.00
JUDITH EDSALL	4464	ELECTION INSPECTOR PAY	160.00	0.00
TRACY HALL	6028	BAKED GOODS FOR TRAINING	13.00	0.00
DEVIN HARRISON	300447	DEPOSIT REFUND	38.73	0.00
HORIBA JOBIN YVON INC	21024	INVESTIGATIVE MATERIALS	453.55	0.00
KELLOGG COMMUNITY COLLEGE	7507	LDFA CORRECTION - TRIBAL MFG	2,838.56	0.00
MARY LAFOUNTAIN	4237	ELECTION INSPECTOR PAY	160.00	0.00
DIANE LARKIN	9373	MILEAGE REIMBURSEMENT	109.00	0.00
JEFFREY LAUTERBACH	300454	DEPOSIT REFUND	59.35	0.00
ROBERTA MACHATA	8278	ELECTION INSPECTOR PAY	144.00	0.00
MARSHALL DISTRICT LIBRARY	8065	LDFA CORRECTION - TRIBAL MFG	1,278.16	0.00
MARSHALL FIREFIGHTER AMBULANCE	7561	LDFA CORRECTION - TRIBAL MFG	380.03	0.00
MARSHALL PUBLIC SCHOOLS	7574	FY-11 Data Processing-Professi	1,000.00	0.00
MEDLER ELECTRIC COMPANY	7604	1000 W MH LAMPS	2,925.57	0.00
MICHIGAN MUNICIPAL LEAGUE	4494	J.MANKERIAN, W.BOOTON	50.00	0.00
NAPA OF MARSHALL	2939	IMPACT SOCKET	13.42	0.00
DARLENE NEIDLINGER	4240	ELECTION INSPECTOR PAY	180.00	0.00
NONPROFIT ALLIANCE	3932	MEMBERSHIP	65.00	0.00
JERRY NYE	300448	EXPENSE REIMBURSEMENT	6.00	0.00
OUTDOOR LIVING INC	5188	RETAINER FOR TREE PROPOSAL	500.00	0.00
PHILPOTT, ANTHONY	300241	EXPENSE REIMBURSEMENT	67.79	0.00
PAULINE REDDICK	2109	ELECTION INSPECTOR PAY	160.00	0.00
REPUBLIC SERVICES #249	2096	ACCT #3-0249-1022021	516.26	0.00
ROBERT WEAVER	300450	DEPOSIT REFUND	43.20	0.00
DARLYNE SIZEMORE	21470	ELECTION INSPECTOR PAY	144.00	0.00
STATE OF MICHIGAN	4872	38-6004708, OCT 2010, SALES TAX	30,954.39	0.00
TENNECO AUTOMOTIVE	844	ENERGY OPTIMIZATION	21,796.75	0.00
CAROL THRALL	4461	ELECTION INSPECTOR PAY	160.00	0.00
LUCAS TICE	300431	SCHOOL LUNCH	10.79	0.00
DEB WALBECK	6071	ELECTION INSPECTOR PAY	144.00	0.00
RICHARD WALBECK	6032	ELECTION INSPECTOR PAY	160.00	0.00
SYDNEY WEEKS	300449	DEPOSIT REFUND	19.55	0.00
SARAH WILLIAMS	300451	DEPOSIT REFUND	73.70	0.00
SHIRLEY WORKS	6971	ELECTION INSPECTOR PAY	144.00	0.00
Grand Total:			95,470.11	0.00

Prescription Reimbursement 5.00

Total Cash Disbursements \$95,475.11