

CALL TO ORDER

IN REGULAR SESSION Wednesday, November 17, 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, and Williams.

Also Present: City Manager Tarkiewicz

Absent: Council Member Traver.

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

INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Smith led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Dyer, to approve the agenda with the addition of the MSCPA agency invoice in the amount of \$764,662.94 and item 6C - Pratt Park Extension. On a voice vote: **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITION

A. Carl Fedders, Director of Public Services, announced the various awards the City received from AMP.

B. Director of Public Services Fedders and Director of Community Services Huestis introduced their New Employees to the City Council.

C. Trae Allman of Allman Development requested an extension from the Council on the Pratt Park Development Agreement for the framing in of 1148 Woodruff.

Council consensus is for Mr. Allman to work with City Attorney Beardslee and provide him with necessary documentation to support the new deadline and have an administrative report for consideration at the next meeting.

INFORMATIONAL ITEMS

City Manager Tarkiewicz announced the final round of leaf pick up will begin on Monday, November 22, 2010.

PUBLIC COMMENT ON AGENDA ITEMS

John LaPietra of 386 Boyer Court summarized his suggestions for changes to the Freedom of Information Act Policy.

Tracy Trudell of 1212 Comstock Drive expressed her concerns with the project at Pratt Park.

Dave Stevenson of 313 S. Grand Street expressed his concerns/issues with the Peddlers permits.

Doug Jackson of 311 E. Mansion Street pointed out some concerns pertaining to the Chapter 112 ordinance.

Brian Mason of 320 N. Mulberry Street expressed concerns with the proposed Peddlers ordinance and how it would affect his carriage business.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Revisions to Chapter 112: Peddlers, Solicitors and Temporary Businesses:

Mayor Smith opened the public hearing to hear comment on the revisions to Chapter 112 of the Marshall City Code.

John LaPietra of 386 Boyer Court commented on the reference to 501(c)(3) status.

Hearing no further comment the hearing was closed.

After discussion, council referred back to staff for more clarification regarding the charitable organization status and to separate the Temporary Business and the Peddlers/Solicitors into two separate ordinances.

B. 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:

Mayor Smith opened the public hearing to hear comment on the proposed additions and amendments to Chapter 130, Chapter 131, Chapter 132, and Chapter 134 of the Marshall City Code.

John LaPietra of 386 Boyer Court asked for a brief overview of the changes to the proposed ordinances.

Attorney Sullivan and Attorney Brundage provided background of the proposed ordinances.

Hearing no further comment the hearing was closed.

Moved Miller, supported Metzger, to approve the adoption of Ordinance 130.05 URINATION AND DEFECATION IN PUBLIC PLACES and the revisions to Ordinances 131.04 OBSTRUCTING AN OFFICER, 131.07 PROVIDING FALSE INFORMATION TO OFFICER, and 132.02 HARASSING COMMUNICATIONS. On a roll call vote – ayes: Dyer, Mankerian, Metzger, Miller, Mayor Smith, and Williams; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE #2010-07**

**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 DEFECATION 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 DEFECATION 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 #2010-08**

**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.

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**CITY OF MARSHALL
ORDINANCE #2010-09**

**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.

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Sandra Bird, CLERK-TREASURER

C. Proposed Ordinance 70.030 Viewing, Creating or Sending Text Messages or Photographs:

Mayor Smith opened the public hearing to hear comment on Proposed Addition to Chapter 70 of the Marshall City Code.

Attorney Sullivan provided some background regarding Ordinance 70.030.

John LaPietra of 386 Boyer Court asked a question regarding hands free telephone devices and texting from parking lots.

Hearing no further comment the hearing was closed.

Moved Dyer, supported Metzger, to adopt Proposed Ordinance 70.030, General Provisions of the Marshall City Code. On a roll call vote – ayes: Mankerian, Metzger, and Mayor Smith; nays: Miller, Williams, and Dyer. **MOTION DEFEATED.**

D. Proposed Ordinance 73.19.1 Parking limited between 3:00 a.m. and 6:00 a.m.:

Mayor Smith opened the public hearing to hear comment on the proposed additions to Chapter 73: Parking Regulations of the Marshall City Code.

David Miltenberger of 140 W. Michigan Avenue expressed his concerns with the ordinance and the overnight parking downtown.

Paul Herman of 135, 139, and 141 West Michigan Avenue feels Marshall needs growth and this ordinance will not promote that.

John LaPietra of 386 Boyer Court inquired of the need for the ordinance.

Hearing no further comment the hearing was closed.

Moved Williams, supported Dyer, to approve Ordinance 73.19.1, Parking Regulations of the Marshall City Code. On a roll call vote – ayes: Metzger, Miller, Mayor Smith, Williams and Dyer; nays: Mankerian. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE #2010-06**

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

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Sandra Bird, CLERK-TREASURER

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Freedom of Information Act Policy Revisions:

Moved Dyer, supported Williams, to table item 11A Freedom of Information Act Policy Revisions. On a voice vote – **MOTION CARRIED.**

Council consensus was to form a subcommittee consisting of Attorney Beardslee, Councilmember Williams, and John LaPietra to work on the policy further.

B. Conflict of Interest Policy Revisions:

Moved Dyer, supported Williams to table item 11B Conflict of Interest Policy Revisions and schedule a public hearing for next council meeting on December 6, 2010. On a roll call vote – ayes: Miller, Mayor Smith, Williams, Dyer, Mankerian, and Metzger, nays: none. **MOTION CARRIED.**

Moved Dyer, supported Williams, to extend the council meeting beyond 10:00 p.m. On a voice vote – **MOTION CARRIED.**

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

Businesses:

Moved Dyer, supported Miller, to table item 11C Proposed Fees for Chapter 112. On a voice vote – **MOTION CARRIED.**

D. Replacement of 2400 Volt Switchgear:

Moved Dyer, supported Williams, to approve the proposal from SSOE Group in the amount of \$41,000 for the replacement of a 2400 Volt Switchgear at the Powerhouse. On a roll call vote – ayes: Mayor Smith, Williams, Dyer, Mankerian, Metzger, and Miller; nays: none. **MOTION CARRIED.**

E. AMP Power Supply Agreement: 2015-2020:

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

F. Firekeepers Local Revenue Sharing Board Disbursement:

Moved Metzger, supported Williams, to approve the disbursement for the 2009 Firekeepers Casino Local Revenue Sharing allocation.

Moved Dyer, supported Miller, to table the motion to approve the disbursement. On a voice vote – **MOTION CARRIED**

APPOINTMENTS / ELECTIONS

None.

CONSENT AGENDA

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

- A. To not authorize the Flexible E Benefit Program increase for retirees due to budget constraints;
- B. Approve minutes of the City Council Regular Session held on Monday, November 1, 2010;
- C. Approve city bills in the amount of \$1,029,260.79.

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

PUBLIC COMMENT ON NON-AGENDA ITEMS

Main Street Manager Diane Larkin announced information regarding the “Window Wonderland” event taking place with the Downtown merchants.

Marshall City Council, Regular Session
Wednesday, November 17, 2010

John LaPietra of 386 Boyer Court is please to offer his help with working on the update to the FOIA policy.

Doug Jackson of 311 E. Mansion Street encouraged to place fluorescent bulbs in council chambers and to place agenda separate from the entire packet on the website for viewing.

COUNCIL AND MANAGER COMMUNICATIONS

None.

ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Bruce R. Smith, Mayor

Sandra Bird, Clerk-Treasurer