

OATH OF OFFICE

Deputy Clerk Nelson administered the Oath of Office to Mayor Jim Dyer, Council Member Wayne Booton, Council Member Brent Williams, and Council Member Jody Mankerian.

CALL TO ORDER

IN REGULAR SESSION Monday, January 3, 2011 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 Dyer.

ROLL CALL

Roll was called:

Present: Council Members: Booton, Mayor Dyer, Mankerian, Metzger, Miller, Traver, and Williams.

Also Present: City Manager Tarkiewicz

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Richard Gerten of Family Bible Church gave the invocation and Mayor Dyer led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

CITY COUNCIL ORGANIZATION

A. Election of Mayor Pro-Tem:

Moved Metzger, supported Traver, to support the Mayor's recommendation for Council Member Brent Williams to serve as Mayor Pro-Tem. On a voice vote – **MOTION CARRIED.**

B. Boards and Commissions Liaison Appointments:

Mayor Dyer read his list of Liaison Appointments for 2011:

Airport Board	Council Member Miller
Ambulance Authority	Council Member Metzger
Parks/Recreation	Council Member Miller
Zoning Boards of Appeals	Council Member Booton
Planning Commission	Mayor Dyer

Local Development Finance Authority	Council Member Williams
Chamber of Commerce	Council Member Metzger
Downtown Development Authority	Council Member Traver

C. Firekeeper’s Local Revenue Sharing Board Appointment:

Moved Metzger, supported Williams, to approve the appointment of Mayor Dyer to serve on the Firekeeper’s Local Revenue Sharing Board. On a voice vote – **MOTION CARRIED.**

D. Calhoun County Consolidated Dispatch Authority Board Appointment:

Moved Metzger, supported Traver, to approve the appointment of Council Member Williams to serve on the Calhoun County Consolidated Dispatch Authority Board. On a voice vote – **MOTION CARRIED.**

INFORMATIONAL ITEMS

City Manager Tarkiewicz announced that Christmas tree pickup will begin on Monday, January 10, 2010 at 7:00 a.m.

PUBLIC COMMENT ON AGENDA ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Public Hearing – Chapter 112: Peddlers and Solicitors:

Mayor Dyer opened the public hearing to hear comment of the proposed revisions to Chapter 112: Peddlers and Solicitors of the Marshall City Code.

Brian Munger of 120 S. Grand inquired about the fees for door-to-door sales.

Hearing no further comment the hearing was closed.

Moved Williams, supported Metzger, to approve the proposed revisions to Chapter 112: Peddlers and Solicitors.

Moved Williams, supported Miller, to amend Chapter 112.06 by removing the words “Government entities” in that section. On a voice vote – **MOTION CARRIED.**

Moved Williams, supported Metzger, to approve the proposed revisions to Chapter 112: Peddlers and Solicitors. On a roll call vote – ayes: Booton, Mayor Dyer, Mankerian, Metzger, Miller, Traver, and Williams; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE #2011-01**

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

THE CITY OF MARSHALL ORDAINS:

Section 1. That Chapter title will change to:

Chapter 112: Peddlers and Solicitors

Section 1a. That section **§112.01 Purpose** of the Marshall City Code, is hereby amended to read as follows:

The purpose of this chapter shall be to protect the health, safety and welfare of the citizens of the city by regulating peddlers and solicitors.

Section 1b. 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.

PEDDLER AND SOLICITOR. 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 1c. That section **§112.03 License Required** of the Marshall City Code, is hereby amended to read as follows:

Peddlers and solicitors shall not operate within the city without first obtaining a license in compliance with the provisions of this chapter.

Section 1d. That section **§112.04 Application for License** of the Marshall City Code, is hereby amended to read as follows:

Persons required to obtain a license shall apply for it at the office of the City Clerk. Each individual peddler or 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.

Section 1e. That section **§112.06 Exemptions (A)** for the Marshall City Code, is hereby amended to read as follows:

(A) The following persons and entities 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 which qualify or could qualify as tax-exempt organizations by the United States Internal Revenue Service; 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.

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

(A) Upon receipt of an application for a peddler's or solicitor's 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 City Clerk shall proceed to issue a license.

(B) The City Clerk shall keep a full record in his or her office of all licenses issued and shall submit a copy of the record to the Chief of Police. Within three 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 therefor. The person whose license has been denied shall have the right to file an appeal to the City Council within seven days of the denial.

Section 1g. 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 this chapter shall expire within ten, thirty, sixty or ninety days of issuance. No peddler or solicitor may be issued a license for more than ninety days in a twelve month period.

Section 1h. That section **§112.09 Revocation of License; Appeal (C)** of the Marshall City Code, is hereby amended to read as follows:

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

Section 1i. That section **§112.10 Display of License** of the Marshall City Code, is hereby amended to read as follows:

Any peddler or solicitor 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. Peddlers and solicitors shall produce their license upon demand by any person.

Section 1j. That section **§112.11 Hours of Business** 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 1k. That section **§112.12 Location** of the Marshall City Code, is hereby deleted.

Section 1l. That former section **§112.13 Sales from a Vehicle** change to section **§112.12 Sales from a Vehicle**

Section 1m. That section **§112.12 Sales from a Vehicle (G)** of the Marshall City Code, is hereby amended to read as follows:

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

Section 1n. That former section **§112.14 Restrictions on Operations of Solicitors, Roadside Stands and Temporary Businesses** change to section **§112.13 Restrictions on Operations of Peddlers and Solicitors**

Section 1o. That former section **§112.15 Enforcement** change to section **§112.14 Enforcement**

Section 1p. That former section **§112.16 Relationship to Other Ordinances** change to section **§112.15 Relationship to Other Ordinances**

Section 2. This Ordinance [or a summary thereof as permitted by MCL 125.3401 shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

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

Adopted and signed this 3rd day of January, 2011.

James L Dyer, 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 January 3, 2011, 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

B. Public Hearing – Chapter 120: Temporary Businesses:

Mayor Dyer opened the public hearing to hear comment on the creation of Chapter 120: Temporary Businesses of the Marshall City Code.

Hearing no comment, the hearing was closed.

After discussion, Council referred ordinance to Planning Commission for their review.

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Freedom of Information Act Policy:

Moved Miller, supported Williams, to adopt the proposed Freedom of Information Act Policy as presented.

Moved Williams, supported Miller, with a friendly amendment to add at the bottom of page 3, "The Council will review the policy no less than every 3 years from the date of adoption."

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

City of Marshall – Freedom of Information Act Policy Statement Adopted January 3, 2011

The Freedom of Information Act (Public Act 442 of 1976, as amended; MCL §§ 15.231-15.246; hereafter FOIA or "the Act") makes it the state's public policy that all persons (except those who are incarcerated) – in order to be able to participate fully in the democratic process – are entitled to full and complete information about government affairs and the official acts of public officials and public employees. The City of Marshall will meet or exceed the requirements of the Act – and will try to provide requesters with copies of or access to public records in a courteous, rapid, and economical manner.

The Deputy City Clerk shall be the City's FOIA Coordinator. The FOIA Coordinator shall keep a record of all written requests for public records made to the City or its employees or officials, whether or not such requests expressly include the term "FOIA" or similar language, and all responses to those requests. Any City employee or official who receives a written inquiry related to FOIA shall forward it to the FOIA Coordinator. Any employee or official who receives a written request for public records shall document the request, and any response the employee or official makes to the requester, to the FOIA Coordinator.

The FOIA Coordinator shall work with the appropriate City offices to gather information and respond to requests for public records. The City Clerk and City Attorney may also act on behalf of the FOIA Coordinator as needed.

The FOIA Coordinator determines and decides, on behalf of the City, whether a request for public records may be denied under the Act. When the FOIA Coordinator is not available in a timely manner, this responsibility and authority may be delegated to other individuals; the delegation shall be documented, and no person involved in denying a request shall be involved in deciding an appeal of that denial. Any denial of a request shall be provided to the requester in

writing, and shall include the information about the right to an appeal to the City Manager, who is designated to consider appeals.

City staff shall provide reasonable opportunities and facilities for persons to inspect or examine public records and take notes or extracts from those records. The City shall take reasonable precautions to protect public records from loss, alteration, mutilation, or destruction – and to prevent excessive and unreasonable interference with the public business of the City. The City reserves the right to ask requesters to put their requests in writing (on paper or electronically) as required by the Act. City staff shall make a standard request form available to the public. The form shall cover a requester's name, complete address, telephone number, and e-mail or other needed contact information if the request asks for or allows an electronic response.

It is the policy of the City that a waiver of fees for providing public records in the following circumstances is in the public interest, because the City considers that searching for, printing, or furnishing copies of such public records without calculating and charging the costs for doing so primarily benefits the general public:

- * When the requester will accept an electronic version of a public record sent by e-mail, the City will charge no fee for providing the requested public record.
- * When the requester will not or cannot accept an electronic version of a public record sent by e-mail, the City will charge no fee for copying the first ten (10) pages of public records provided to that requester per calendar week.

Also, if a requester submits with the request an affidavit either

- * saying that the requester is receiving public assistance; or
- * stating facts showing the requester is indigent and so cannot pay any permitted costs the Act would permit the City to charge, the City shall waive the first \$20.00 of the fee calculated for that request.

The City shall not charge for the cost of search, examination, review, or deletion/separation of exempt from nonexempt information as provided in Section 14 of the Act unless:

- * failure to charge a fee would result in unreasonably high costs to the City because of the nature of the particular request; and
- * the City specifically identifies the nature of these unreasonably high

costs.

Public records that are readily available, whether in electronic or paper format, are presumed not to impose unreasonably high search, examination, review, or deletion/separation costs on the City.

If all or part of a request for public records is not covered by the exceptions or allowances above, the City will charge requesters the actual cost rates and factors for research, compilation, copying, and separation of exempt from non-exempt material as appropriate. These rates and factors are shown, along with costs or charges for disclosure of particular types of public records or information specifically covered by other laws than FOIA, in a schedule attached to this policy statement as Appendix A. The City will review cost rates, factors, and statutory charges periodically.

If the projected fee for a FOIA request is calculated to exceed \$50.00, then the City may require the requester, at the time the request is made, to pay a good-faith deposit of up to half (½) of the total fee for the request.

Interested persons may find additional resources related to the Freedom of Information Act at the Michigan Attorney General's website:

<http://www.michigan.gov/ag/>

-or-

http://www.michigan.gov/ag/0,1607,7-164-17337_18160-51242--,00.html

The Policy and Appendix A will be reviewed no later than December 31, 2013.

B. Michigan Medical Marijuana Act Moratorium:

Moved Williams, supported Metzger, to adopt the Ordinance to extend the Michigan Medical Marijuana Act Moratorium until July 3, 2011. On a roll call vote – ayes: Mankerian, Metzger, Miller, Traver, Williams, Booton, and Mayor Dyer; nays: none. **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN
RESOLUTION #2011-01

WHEREAS, the sale or dispensation of medical marijuana was not envisioned when the current Zoning Ordinance was adopted on September 18, 2006 and is not regulated in any way; and,

WHEREAS, allowing the sale or dispensation of medical marijuana prior to the

amendment of the Zoning Ordinance would be contrary to the goals of the 2008 Master Plan for Land Use; and,

WHEREAS, the City desires to ascertain the best and safest path to compliance with the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law; MCL 333.26423(d) in order to protect the public health, safety, and welfare; and,

WHEREAS, the City Council determines that it is desirable to forbid the sale or dispensation of medical marijuana until an amendment to the Zoning Ordinance (Chapter 156 of the City Code) becomes effective and a permitting process is established; and,

RESOLVED that the following ordinance – to impose a moratorium on the issuance of permits or licenses for the sale or dispensation of medical marijuana for a period of six (6) months from the effective date of this ordinance, or until the effective date of the adoption of proper text amendments to the Zoning Ordinance (Chapter 156 of the City Code) and any necessary licensing requirements, whichever occurs first – is hereby adopted.

The proposed ordinance reads as follows:

AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF
PERMITS OR LICENSES FOR THE SALE OR DISPENSATION OF MEDICAL
MARIJUANA WITHIN THE CITY OF MARSHALL.
ORDINANCE NO. 2011 – 02

THE CITY OF MARSHALL ORDAINS:

Section 1. Findings. The City Council has determined that:

1. The provisions within Chapter 156 of Title XV of the City Code of the City of Marshall were adopted on September 18, 2006 and that these zoning regulations have not kept pace with recent statewide legislation.
2. It is within the rights of the City to establish reasonable regulations to control the sale and dispensation of medical marijuana in order to protect the public health, safety, and welfare.
3. A moratorium should be imposed upon the issuance of any and all permits or licenses for the sale or dispensation of medical marijuana for six (6) months or until an amendment of the Zoning Ordinance and other applicable codes, whichever occurs first.

Section 2. That there be and hereby is imposed for a period of six (6) months from the effective date of this ordinance a moratorium upon the issuance of any and all permits or licenses for the sale or dispensation of medical marijuana within the City of Marshall.

Section 3. The moratorium imposed by this ordinance shall expire the earlier of six (6) months from its effective date or the effective date of an amendment to the Zoning Ordinance – Chapter 156 of the City Code and/or other applicable codes as deemed necessary.

Carried by a roll call vote:

Yeas: Booton, Mayor Dyer, Mankerian, Metzger, Miller, Traver, and Williams.

Nays: None.

Dated: January 3, 2011

James L. Dyer, Mayor

I, James L. Dyer, being duly sworn as the Mayor for the city of Marshall, hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council, city of Marshall, county of Calhoun, state of Michigan, at a regular meeting held on January 3, 2011 and that said meeting was conducted in accordance with the Open Meeting Act and that the minutes of said meeting were kept and will be or have been made available to the public.

James L. Dyer, Mayor

C. Strategic Planning Proposal:

Moved Miller, supported Williams, to accept the Strategic Planning proposal from Dr. Lewis Bender and establish two Work Sessions for March 4, 2011 from 5:00 – 9:00 p.m. and March 5, 2011 from 8:00 a.m. – 2:00 p.m. at the Public Services Building. On a roll call vote – ayes: Metzger, Miller, Traver, Williams, Booton, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

APPOINTMENTS / ELECTIONS

None.

CONSENT AGENDA

Moved Booton, supported Williams, to pull item Purchase of a Used 1995 GMC Panel Truck from the Consent agenda to be voted on individually. On a voice vote – **MOTION CARRIED.**

Moved Williams, supported Metzger, to approve the request to purchase a Used

1995 GMC Panel Truck from Michiana Truck Center of South Bend, Indiana in the amount of \$4,900 and approve an additional \$5,100 in expenditures to retrofit the vehicle for city use. On a roll call vote – ayes: Miller, Traver, Williams, Mayor Dyer, Mankerian, and Metzger; nays: Booton. **MOTION CARRIED.**

Moved Williams, supported Metzger, to approve the consent agenda with the removal of item Proposed License Fees for Chapter 120: Temporary Businesses:

- A. Proposed License Fees for Chapter 112: Peddlers and Solicitors as permitted in §112.05: Fees Required.
- B. Scheduled a public hearing for Tuesday, January 18, 2011 at 7:00 p.m. to hear public comment regarding the proposed July 1, 2011 through June 30, 2017 Capital Improvement Program;
- C. Approve minutes of the City Council Work Session and Regular Session held on Monday, December 20, 2010;
- D. Approve city bills in the amount of \$106,695.33.

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

PUBLIC COMMENT ON AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

None.

ADJOURNMENT

The meeting was adjourned at 8:16 p.m.

James L. Dyer, Mayor

Sandra Bird, Clerk-Treasurer