

CALL TO ORDER

IN REGULAR SESSION Monday, February 7, 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, Traver, and Williams.

Also Present: Clerk-Treasurer Bird.

Absent: Council Member Miller.

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

INVOCATION/PLEDGE OF ALLEGIANCE

Scott Loughrige of Cross Roads Church & Ministries gave the invocation and Mayor Dyer led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT ON AGENDA ITEMS

John LaPietra of 386 Boyer Court asked questions regarding the Local Advisory Council and the Emergency Services Building.

Bruce Smith of 315 Westbrook Court spoke in support of the need for an Emergency Services Building.

CONSENT AGENDA

Moved Metzger, supported Williams, to approve the consent agenda:

- A. Schedule a public hearing for Tuesday, February 22, 2011 to hear public comment on the proposed changes to Chapter 71 of the Marshall City Code for Motor Carrier Enforcement;
- B. Schedule a public hearing for Tuesday, February 22, 2011 to hear public comment on the proposed application for an Industrial Facilities Tax Exemption Certificate for LaserDyne Manufacturing, LLC;

- C. Schedule a public hearing for Tuesday, February 22, 2011 to hear public comment regarding the rezoning request for High Street, parcel #003-582-00, to change from PSP (Public/Semi-Public) to R-3 (Traditional Residential);
- D. First reading of the resolution for the High Street Lot Sale;
- E. Approve minutes of the City Council Work Session and Regular Session held on Tuesday, January 18, 2011;
- F. Approve city bills in the amount of \$1,375,384.10.

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

PRESENTATIONS AND RECOGNITIONS

Mayor Dyer announced the “2010 Above and Beyond Award” the City of Marshall received from the Chamber of Commerce.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Public Hearing – Chapter 152: Sign Ordinance:

Mayor Dyer opened the public hearing to hear comment of the proposed text changes to Chapter 152: Sign Ordinance of the Marshall City Code.

John LaPietra of 386 Boyer Court asked questions regarding the district descriptions and political signs.

Dave Stevenson of 313 S. Grand Street spoke regarding the regulation of signs and the work the planning commission put into the ordinance.

Hearing no further comment the hearing was closed.

Moved Mankerian, supported Traver, to approve the changes to Chapter 152: Sign Ordinance. On a roll call vote – ayes: Mayor Dyer, Metzger, Traver; nays: Mankerian, Williams, and Booton. **MOTION DEFEATED.**

MOTION Booton, supported Williams, to refer Chapter 152: Sign Ordinance back to the Planning Commission for consideration of variables in brightness/illumination, rate of display change, and the allowable districts. On a roll call vote – ayes: Mankerian, Metzger, Traver, Williams, Booton, and Mayor Dyer; nays: none. **MOTION CARRIED.**

B. Public Hearing – Chapter 154: Flood Prevention and Protection:

Mayor Dyer opened the public hearing to hear comment of the proposed text changes to Chapter 154: Flood Prevention and Protection.

John LaPietra of 386 Boyer Court asked a questions regarding the flood plain map.

Hearing no further comment the hearing was closed.

Moved Williams, supported Mankerian, to approve the changes to Chapter 154: Flood Prevention and Protection of the Marshall City Code. On a roll call vote – ayes: Metzger, Traver, Williams, Booton, Mayor Dyer, and Booton; nays: none.
MOTION CARRIED.

**CITY OF MARSHALL
ORDINANCE #2011-04**

AN ORDINANCE TO AMEND CITY OF MARSHALL CODE, CHAPTER 154:
FLOOD PREVENTION AND PROTECTION.

THE CITY OF MARSHALL ORDAINS:

Section 1. That **Chapter 154: Flood Prevention and Protection** of the Marshall City Code, is hereby amended and will read as follows:

Chapter 154: Flood Prevention and Protection

General Provisions

- 154.01 Definitions
- 154.02 Agency designation
- 154.03 Code appendix enforced

Permit Requirements

- 154.15 Required
- 154.16 Application; fee
- 154.17 Review of application
- 154.18 Approvals

Standards

- 154.30 Flood-safe building sites

- 154.31 Subdivision proposals
- 154.32 Water supply systems
- 154.33 Sewer systems
- 154.34 Flood elevation data
- 154.35 Level of structures
- 154.36 Flood insurance rates
- 154.37 Alteration of watercourse
- 154.38 Flood carrying capacity
- 154.39 Mobile homes
- 154.40 Designation of regulated flood prone hazard areas

GENERAL PROVISIONS

§ 154.01 DEFINITIONS.

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

BASE FLOOD. The flood leaving a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a **HABITABLE FLOOR**.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes, but it is not limited to the definition of **MOBILE HOME**, as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 C.F.R. § 3282.7(a)).

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

STRUCTURE. For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE. A grant of relief by a community from the terms of a flood plain management regulation.

(Prior Code, § 11-1)

§ 154.01 AGENCY DESIGNATION.

Pursuant to the provisions of the state construction code, in accordance with section 8b (6) of Act 230, of the public Acts of 1972, as amended, the office of the Building Inspector of the City of Marshall is hereby designated as the enforcing agency to discharge the responsibility of the City of Marshall under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Marshall assumes the responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance§ 154.02 CODE APPENDIX ENFORCED.

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of Public Acts of 1972, as amended, Michigan Building code, and appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Marshall.

PERMIT REQUIREMENTS

§ 154.15 REQUIRED.

(A) No person shall erect, construct, enlarge, alter, repair, improve, move or, demolish any building or structure without first obtaining a separate permit for each building or structure from the building inspector.

(B) No man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the building inspector for each change.

(C) No mobile home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the Building Inspector.

(Prior Code, § 11-16)

§ 154.16 APPLICATION; FEE.

To obtain a permit under this chapter, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the Building Inspector with a fee as presently established or as hereafter adopted by resolution before the issuance of a permit will be considered.

(Prior Code, § 11-17)

§ 154.17 REVIEW OF APPLICATION.

The Building Inspector is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development. After reviewing the application, the Building Inspector shall require any additional measures which are necessary to meet the minimum requirements of this chapter.

(Prior Code, § 11-18)

§ 154.18 APPROVALS.

The Building Inspector shall review proposed development to assure that all necessary permits have been received from those governmental agencies from

which approval is required by federal or state law, including § 464 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(Prior Code, § 11-19)

STANDARDS

§ 154.30 FLOOD-SAFE BUILDING SITES.

(A) The Applicant shall provide a survey from a licensed professional showing the flood plain limits with the location of the all proposed structure(s) (i.e house, sheds, garages etc.) for review by the Building Inspector shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(B) If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:

- (1) Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Be constructed with materials and utility equipment resistant to flood damage; and
- (3) Be constructed by methods and practices that minimize flood damage.

(Prior Code, § 11-31)

§ 154.31 SUBDIVISION PROPOSALS.

(A) The Building Inspector shall review subdivision proposals and other proposed new development to determine whether the proposals will be reasonably safe from flooding.

(B) If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
- (2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards.

(Prior Code, § 11-32)

§ 154.32 WATER SUPPLY SYSTEMS.

The Building Inspector shall require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(Prior Code, § 11-33)

§ 154.33 SEWER SYSTEMS.

The Building Inspector shall require within flood-prone areas:

(A) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

(B) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(Prior Code, § 11-34)

§ 154.34 FLOOD ELEVATION DATA.

The Building Inspector shall require that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, include within the proposals base flood elevation data.

(Prior Code, § 11-35)

§ 154.35 LEVEL OF STRUCTURES.

The Building Inspector shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, until the other data has been provided by the Administrator, as criteria for requiring that:

(A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and

(B) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level.

(Prior Code, § 11-36)

§ 154.36 FLOOD INSURANCE RATES.

For the purpose of the determination of applicable flood insurance risk premium rates within zone A on a community's FHBM, the Building Inspector shall:

(A) Obtain, or require the applicant to furnish, the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement;

(B) Obtain, or require the applicant to furnish, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed; and

(C) Maintain a record of all such information.

(Prior Code, § 11-37)

§ 154.37 ALTERATION OF WATERCOURSE.

The Building Inspector shall notify, in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of the notifications to the federal insurance administration.

(Prior Code, § 11-38)

§ 154.38 FLOOD CARRYING CAPACITY.

The Building Inspector shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Prior Code, § 11-39)

§ 154.39 MOBILE HOMES.

(A) The Building Inspector shall require that all mobile homes to be placed within zone A on the community's flood hazard boundary map shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors.

(B) Specific requirements shall be that:

(1) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;

(2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home be similarly anchored.

(Prior Code, § 11-40)

§ 154.40 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Calhoun County, Michigan and dated 4/4/2011 and the Flood Insurance Rate Maps (FIRM) panel numbers 26025C; 0236C; 0238C; 0239C; 0241C; 0243C; 0380C and 0385C dated 4/4/2011 are adopted by reference for the purposes of administration of the Michigan Building Code, and declared to be part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Prior Code, § 11-41)

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 _____, 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 February 7, 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

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Proposed Emergency Services Building:

No Council Action was taken.

B. Byways Grant Construction Bids:

Moved Williams, supported Metzger, to approve staff's recommendation to accept the following three low bids and authorize the City Clerk to execute three contracts for work at the Honolulu House, GAR Hall and Capitol Hill School:

1. Grand River Builders, Inc. for \$102,850 for General Construction
2. D. C. Byers Co./Grand Rapids, Inc. for \$98,614 for Masonry Restoration
3. Exactitude, LLC. for \$54,731.68 for Ornate Fence, subject to a height variance being granted by the Zoning Board of Appeals

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

C. Second Quarter Investment Portfolio:

Moved Booton, supported Metzger, to accept and place on file the Second Quarter Investment Portfolio for the City of Marshall. On a voice vote – **MOTION CARRIED.**

D. Second Quarter Financial Reports:

Moved Williams, supported Mankerian, to accept and place on file the Second Quarter Financial Reports for the City of Marshall. On a voice vote – **MOTION CARRIED.**

APPOINTMENTS / ELECTIONS

A. Local Advisory Council Appointment:

Moved Williams, supported Metzger, to approve the appointment of Carl Gibson to the Local Advisory Council for Marshall Dial-A-Ride. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

John LaPietra of 386 Boyer Court spoke encouraged Council to find ways to support local businesses.

COUNCIL AND MANAGER COMMUNICATIONS

None.

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

James L. Dyer, Mayor

Sandra Bird, Clerk-Treasurer