

Marshall City Council, Regular Session
Tuesday, February 22, 2011

CALL TO ORDER

IN REGULAR SESSION Tuesday, February 22, 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: City Manager Tarkiewicz.

Absent: Council Member Miller.

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

INVOCATION/PLEDGE OF ALLEGIANCE

Kris Tarkiewicz of Family Bible Church 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.**

Moved Booton, supported Metzger, to excuse Council Member Traver from voting on Agenda Item 12A – Cronin Building Development Agreement. On a voice vote: **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

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

A. Approve a proclamation in support of the 2nd Annual Marshall Area Senior Health Fair on April 7, 2011;

Marshall Area Senior Health Fair - 2011

A Proclamation of Endorsement

Whereas, Calhoun County is a community that includes **25,791 citizens aged 60 and older** with more than **5,500 individuals aged 80 years and older**; and

Whereas, the older adults in the Marshall Area and surrounding communities are among our most “treasured resources,” united by historical experiences, strengthened by diversity, and interpreting events through varied perspectives and backgrounds to bring wisdom and insight to our community; and

Whereas, increasing numbers of adults are reaching retirement age and remaining strong and active for longer than ever before; and

Whereas, our community can provide that recognition and respect by improving the quality of life for older adults by:

Increasing their opportunities to remain active and engaged in community life;

Bringing forth community resources to assist our older adults, family members and caregivers with the challenges of aging and the supports to thrive,

Joining together with the City of Marshall and Oaklawn Hospital to sponsor events that contribute to healthy senior living and independence,

Now Therefore, We, the Commissioners of Calhoun County, Michigan, in partnership with the City Council of Marshall, and the Board of Oaklawn Hospital do recognize this local initiative and hereby proclaim our support for the 2nd Annual Marshall Area Senior Health Fair on April 7th, 2011.

We urge every citizen to take time now and every day to honor our older adults and the professionals, family members, and volunteers who care for many of them. Our recognition and involvement of older adults can enrich our entire community’s quality of life.

Dated this 22nd day of February, 2011

Council of the City of Marshall
Calhoun County Board of Commissioners
Oaklawn Hospital Board of Directors

By _____

- B. Approve the recommendation to enter into the Community Compost Center Agreement with the Calhoun County Road Commission and the Board of Public Works of Calhoun County and approve the proposed fees;
- C. Approve minutes of the City Council Work Session and Regular Session held on Monday, February 7, 2011;
- D. Approve city bills in the amount of \$806,953.53.

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

PRESENTATIONS AND RECOGNITIONS

None.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Public Hearing – Industrial Facilities Tax Exemption Certificate for LaserDyne Manufacturing, LLC:

Mayor Dyer opened the public hearing to hear comment of the proposed application for an Industrial Facilities Tax Exemption Certificate for LaserDyne Manufacturing, LLC.

John LaPietra of 386 Boyer Court asked if an analysis had been on the loss of property tax revenue.

Hearing no further comment the hearing was closed.

Moved Williams, supported Metzger, to approve the application for an Industrial Facilities Tax Exemption Certificate for LaserDyne Manufacturing, LLC. On a roll call vote – ayes: Mayor Dyer, Mankerian, Metzger, Traver, Williams, and Booton; nays: **MOTION CARRIED.**

CITY OF MARSHALL
RESOLUTION #2011-06

**RESOLUTION TO APPROVE APPLICATION OF
LASERDYNE MANUFACTURING, LLC
1308 S KALAMAZOO**

**INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR PERSONAL
PROPERTY COSTS**

WHEREAS, pursuant to P.A. 198 of 1974, MCL 211.551 et seq., after a duly noticed public hearing held on August 16, 2010 the Council by Resolution established Industrial Development District No. 32 as requested; and

WHEREAS, Laserdyne Manufacturing, LLC has filed an application for an Industrial Facilities Exemption Certificate with respect to personal property improvements and the acquisition and installation of new machinery and equipment within Industrial Development District 32; and

WHEREAS, in accordance with Act 334, P.A. 1993 amending Act 198, P.A. 1974, a written agreement shall be executed between the applicant and the City of Marshall allowing, under specific circumstances, the reduction and/or revocation of the certificate and recapture of the taxes abated; and

WHEREAS, before acting on said application, the City of Marshall held a hearing on February 22, 2011 in the Council Chambers of Town Hall, located at 323 West Michigan Avenue, Marshall, Michigan, at 7:00 p.m. at which hearing the applicant, public, Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the facility upgrades, did not begin earlier than six (6) months before January 19, 2011, the date of acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, the acquisition of the upgrades is calculated to and will, at the time of issuance of the certificate, have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Marshall; and

WHEREAS, the granting of said certificate shall not have the effect of substantially impeding the operation of the City of Marshall, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Marshall; and

WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Marshall, after granting this certificate, will exceed 5% of an amount equal to the sum of the SEV of the local unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marshall that:

1. The City Council find and determine that the granting of the Industrial

Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974, shall not have the effect of substantially impeding the operation of the City of Marshall, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Marshall.

2. The application of Laserdyne Manufacturing LLC, for an Industrial Facilities Exemption Certificate, with respect to real and personal property improvements described as purchase and install new production equipment to be acquired and installed within the Industrial Development District No. 32 is hereby approved to the extent of the equipment that has been received after August 16, 2010.
3. That and IFEC Letter of Agreement, attached, be signed and submitted by Laserdyne Manufacturing LLC to the City of Marshall.
4. The Industrial Facilities Exemption Certificate, when issued, shall be and remain in force and effect for a period of twelve (12) years under the rules and regulations of Act 198 of Public Acts of 1974, as amended, for the new equipment from the date of approval by the State Tax Commission.

AYES: Booton, Mayor Dyer, Mankerian, Metzger, Traver, and Williams.

NAYS: None.

Sandra Bird, Clerk-Treasurer

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Council of the City of Marshall, County of Calhoun, Michigan at a regular meeting held on February 22, 2011.

Sandra Bird, Clerk-Treasurer

B. Public Hearing – High Street Lot Rezoning:

Mayor Dyer opened the public hearing to hear comment regarding the rezoning request for High Street, parcel #003-582-00, to change from PSP (Public/Semi-Public) to R-3 (Traditional Residential) .

John LaPietra of 386 Boyer Court asked for verification of the address of the High Street Lot.

Hearing no further comment the hearing was closed.

Moved Williams, supported Metzger, to approve the recommendation of the Planning Commission to rezone the High Street Lot. On a roll call vote – ayes: Mankerian, Metzger, Traver, Williams, Booton, and Mayor Dyer; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE NO. 2011-06**

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF MARSHALL SO AS TO CHANGE THE ZONING OF A CERTAIN PARCEL OF REAL PROPERTY COMMONLY KNOWN AS PARCEL #003-528-00 FROM PUBLIC/SEMI-PUBLIC (PSP) TO TRADITIONAL RESIDENTIAL DISTRICT (R-3).

THE CITY OF MARSHALL, MICHIGAN ORDAINS:

Section 1. Pursuant to the authority granted in Sections 156.021 and 156.030 of the Marshall City Code, the Zoning Map of the City of Marshall is hereby amended so as to change the zoning district for the below described property from Public/Semi-Public (PSP) to Traditional Residential (R-3).

Property Description

MARSHALL CITY COOK & KILLAMS ADDITION LOT 40

Common Address

Parcel 003-528-00. Property not addressed.

Section 2. This Ordinance or a summary thereof shall be published in the *Marshall Advisor Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices, within ten (10) days after its adoption. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signature of the Mayor and

the City Clerk.

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

Adopted and signed this 22nd day of February, 2011.

Jim Dyer, MAYOR

Sandra Bird, CLERK-TREASURER

C. Public Hearing – Motor Carrier Enforcement:

Mayor Dyer opened the public hearing to hear comment of the proposed changes to Chapter 71 of the Marshall City Code for Motor Carrier Enforcement.

Eva Hunter of 732 East Michigan Avenue spoke in support of the new ordinance

John LaPietra of 386 Boyer Court asked if State Police will still be able to enforce this ordinance in our jurisdiction.

Hearing no further comment the hearing was closed.

Moved Traver, supported Mankerian, to approve the proposed changes to Chapter 71 of the Marshall City Code for Motor Carrier Enforcement. On a roll call vote – ayes: Metzger, Traver, Williams, Booton, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL
ORDINANCE 2011- 05**

**AN ORDINANCE TO AMEND CHAPTER 71, OF THE MARSHALL CODE,
ENTITLED “MOTOR CARRIER SAFETY ACT”**

Chapter 71 of the Marshall Code is hereby amended to read as follows:

I. Section 71.090 would be added to Chapter 71.

§71.090 MOTOR CARRIER SAFETY ACT

A. Adoption of Code: The Motor Carrier Safety Act of 1963 (Act no. 181 of the Public Acts of 1963, as amended; MCL 480.11 et seq.), as amended from time to time, and the rules promulgated thereunder, is adopted by reference as herein modified for the purposes of protecting the public. The Motor Carrier Safety Act of 1963, together with the provisions of this ordinance, shall be known and may be cited as the Motor Carrier Safety Act of the City of Marshall. Complete copies of the Act are available at the office of the city clerk for inspection by and distribution to the public.

B. References in Code: References in the Motor Carrier Safety Act of 1963 to "local authorities" shall mean the City of Marshall.

C. Penalty: The penalties provided by the Motor Carrier Safety Act of 1963 are adopted by reference; provided, however, the City may not enforce any provision of the Motor Carrier Safety Act of 1963 for which the maximum period of imprisonment is greater than 93 days, or the maximum fine is greater than \$500, or both.

II. Section 71.080 would be amended as follows, with the current language in this section being eliminated.

§71.080 VEHICLE SIZE, WEIGHT AND LOAD

A. Maximum Loads: It shall be unlawful for any person to operate any vehicle, trailer or semi-trailer, or any combination thereof, or to permit the operation of any such vehicle, trailer or semi-trailer, or combination thereof, when the wheel and axle load of any such vehicle or unit of a combination of vehicles, with or without a load, exceeds the schedule of weights allowed by the laws of the state, as set forth in the Michigan Vehicle Code (MCL 257.722, MSA 9.2422).

B. Width, Height and Length: It shall be unlawful for any person to operate any vehicle, trailer or semi-trailer, or any combination thereof, or to permit the operation of any such vehicle, trailer or semi-trailer, or combination thereof, when the maximum width, height or length of such vehicle or combination thereof, or unit of a combination of vehicles, and of the load thereon or therein shall exceed the limits fixed by provisions of the Michigan Vehicle Code (MCL 257.717, 257.719, MSA 9.2417, 9.2419), unless a special permit is issued as provided in MCL 257.725, MSA 9.2425.

C. Applicability: This article shall be operative upon all public streets and highways within the city.

D. Stopping Vehicles: The chief of police or his agents, when engaged in the enforcement of this article, or any police officer of the city,

may at any time require a vehicle to stop and submit to a weighing of the same by means of either portable or stationary scales either at the location of such stopping or at regularly designated weigh stations of the city for purposes of permitting the officer to ascertain whether the vehicle or part thereof is loaded in conformity with the provisions of the laws of the state and the provisions of this article.

E. Weigh Stations: The chief of police shall be authorized to establish weigh stations, which stations may be located at such places as may, from time to time, be designated by the chief of police and which, when and where so designated, are declared to be public weigh stations for the city.

F. Unloading Access: If it shall be determined upon such weighing that any vehicle or unit of a combination of vehicles is loaded in violation of the terms of this article, it shall be the duty of the driver thereof to forthwith remove so much of such load as will be necessary to reduce the gross weight of such vehicle to limits permitted under this article. Any material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator. If it shall be necessary to store such materials within any portion of a public street or highway, the same shall be stored for not to exceed eight hours, and shall within such period be completely removed from such location by such owner or operator. If such materials are not so removed, the same shall be removed at the expense of the city. Any charges of such removal shall be paid by the owner or operator of such vehicle or the owner of such materials; and the city shall have a lien upon such materials in its possession until such charges are fully paid.

G. Temporary Permits: The city is authorized to temporarily permit the maximum limits set forth in this article to be exceeded. Such exceeding limits of weight shall be authorized only in cases of emergency or upon showing of good cause, and only when the condition of the streets or highways over which such loads are to be carried is such that the same will not be damaged thereby.

H. Exempt Vehicles: The provisions of this article shall not apply to fire apparatus or to a vehicle operated under the terms of a special permit issued as provided in this article.

III. The following would be added to the current penalty provisions in Section 71.999.

§71.999 PENALTY

C. Any driver or owner of a vehicle who shall knowingly fail to stop at any weigh station, or who shall knowingly fail to submit to a weighing of his

vehicle, upon conviction thereof, shall be guilty of a misdemeanor punishable by up to 93 days in jail and/or a fine of up to \$500.00.

D. Unless specifically declared to be a civil infraction, it is a misdemeanor for a person to drive or move, or for the owner to cause or permit to be driven or moved, on a street or highway a vehicle or vehicles of a size or weight exceeding the limitations stated in, or otherwise in violation of, the following provisions of the Michigan Motor Vehicle Code, Act 300 of 1949, as amended: MCL 257.716 through MCL 257.726b, which provisions are hereby adopted by reference, including, but not limited to, all provisions relating to fines and costs imposed thereunder for weight and all other violations; provided, however, that the penalty for a violation of the criminal provisions of this article shall not exceed a fine of \$500.00, or imprisonment for 93 days, or both.

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.

This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 22nd day of February, 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 22, 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. Cronin Building Development Agreement:

Moved Williams, supported Metzger, to authorize the Clerk-Treasurer to sign the Option Agreement, Property Lease & Development Agreement, and the Amendment for Lease Improvement and Purchase of Real Estate with Cronin Redevelopment, LLC for the redevelopment of the Cronin Building. On a roll call vote – ayes: Traver, Williams, Booton, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

B. Byways Grant – Heritage Marketing and Promotion Contract:

Moved Metzger, supported Mankerian, to retain Morris Arvoy as the Heritage Marketing and Promotion consultant for \$20,000 and authorize the City Clerk to execute an agreement for services. On a roll call vote – ayes: Williams, Booton, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

C. High Street Lot Sale:

Second Reading of the resolution for the High Street Lot Sale took place and no council action was taken.

D. Revisions to City Council Rules of Procedure:

Moved Williams, supported Booton, to adopt the changes to the City Council Rules of Procedure. On a voice vote – **MOTION CARRIED.**

E. Police Vehicle Purchase:

Moved Booton, supported Williams, to authorize the purchase of a 2011 Ford Crown Victoria from Boshears Ford in the amount of \$20,728.00. On a roll call vote – ayes: Booton, Mayor Dyer, Mankerian, Metzger, Traver, and Williams; nays: none. **MOTION CARRIED.**

APPOINTMENTS / ELECTIONS

None.

Marshall City Council, Regular Session
Tuesday, February 22, 2011

PUBLIC COMMENT ON NON-AGENDA ITEMS

Brian Mason of 320 N. Mulberry informed Council of the relocation of his business downtown and his need for parking spaces.

Kay Mead, owner of Serendipity, spoke of the benefits of having Marshall Carriage Company on Main Street.

Carl Field of 1000 East Michigan Avenue spoke in favor of Marshall Carriage Company.

Allison Miko of 832 East Michigan Avenue works as a Ghost Tour Guide for Marshall Carriage Company and spoke in favor of the business.

Sam Jones of Battle Creek also works as a Ghost Tour Guide for Marshall Carriage Company and spoke in favor of the business.

John LaPietra of 386 Boyer Court spoke regarding tax incentives and the effect on Marshall's economy.

Katie Dow of 16499 Division Drive spoke regarding ways to get the younger generation involved with Marshall.

COUNCIL AND MANAGER COMMUNICATIONS

None.

CLOSED SESSION

Moved Traver, supported Metzger, to convene into Closed Session under the Michigan Open Meetings Act to discuss attorney-client privilege information and collective bargaining. On a roll call vote – ayes: Mayor Dyer, Mankerian, Metzger, Traver, Williams, and Booton; nays: none. **MOTION CARRIED.**

Moved to Closed Session at 8:58 p.m.

Returned to open session at 9:45 p.m.

ADJOURNMENT

The meeting was adjourned at 9:55 p.m.

James L. Dyer, Mayor

Sandra Bird, Clerk-Treasurer