

**CALL TO ORDER**

IN REGULAR SESSION Monday, December 7, 2009 at 7:00 P.M. in the Commission Chambers of the Calhoun County Building, 315 West Green Street, Marshall, MI, the Marshall City Council was called to order by Mayor Smith.

**ROLL CALL**

Roll was called:

Present: Council Members: Doane, Dyer, Metzger, Miller, Mayor Smith, Traver and Williams.

Also Present: City Manager Tarkiewicz

Absent: None.

**INVOCATION/PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF THE AGENDA**

**Moved** Dyer, supported Miller, to move agenda item 9A-Public Hearing for Rezoning Request #RZ2009.01 for 223 N. Madison St to immediately following the Consent Agenda. On a voice vote: **MOTION CARRIED.**

**Moved** Miller, supported Dyer, to add appointments to the Planning Commission as item 12B. On a voice vote: **MOTION CARRIED.**

**PRESENTATIONS AND RECOGNITION**

None.

**INFORMATIONAL ITEMS**

None.

**PUBLIC COMMENT ON AGENDA ITEMS**

John LaPietra of 386 Boyer Court requested more information be given for agenda items 13B and 13C.

Diane Larkin, Main Street Manager, voiced her support for the DDA reappointments and the Liquor License transfer request.

**OLD BUSINESS**

None.

**REPORTS AND RECOMMENDATIONS**

A. **Schedule a Public Hearing-River District Overlay:**

**Moved** Miller, supported Metzger, to schedule a public hearing for December 21, 2009 to hear public comment regarding the River District Overlay. On a voice vote- **MOTION CARRIED.**

**B. Interlocal Agreement for Establishing the Local Revenue Sharing Board:**

**Moved** Dyer, supported Williams, to approve the Interlocal Agreement as presented and authorize the Clerk-Treasurer to sign the Agreement. On a voice vote – **MOTION CARRIED.**

**APPOINTMENTS / ELECTIONS**

**A. Downtown Development Authority Reappointments:**

**Moved** Williams, supported Metzger, to approve the reappointment of Mark Stuart, Barb Keith, and Colleen Koppenhaver to the DDA Board with terms expiring December 31, 2013. On a voice vote: **MOTION CARRIED.**

**B. Planning Commission Appointments:**

**Moved** Dyer, supported Williams, to approve the appointment of Matt Davis to the Planning Commission with a term expiring November 1, 2012. On a voice vote: **MOTION CARRIED.**

**Moved** Miller, supported Dyer, to approve the appointment of Julie Burke-Smith to the Planning Commission with a term expiring November 1, 2012. On a voice vote: **MOTION CARRIED.**

**CONSENT AGENDA**

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

- A.** Approve the resolution to transfer the Class C Liquor License from Place Next Door, Inc. to Zarzuela, LLC. pending approval of final inspection;
- B.** Received an informational report of the City Council Meeting dates for 2010;
- C.** Received an informational report of a 2010 listing of the Board and Commission positions that are scheduled to expire and the term of office;
- D.** Minutes of the Regular City Council held Monday, November 16, 2009;
- E.** Approve city bills in the amount of \$1,384,285.98.

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

**PUBLIC HEARINGS AND SUBSEQUENT COUNCIL ACTION**

**A. Rezoning Request # RZ2009.01 for 223 N. Madison St:**

Mayor Smith, Council Member Williams, and Council Member Doane read prepared statements regarding conflict of interest. (Attachment A)

Council Member Metzger disclosed that her husband did a site plan at an Oaklawn Hospital owned building in Albion.

**Moved** Dyer, supported Miller, to accept the written submissions by Council Members Williams, Doane and Mayor Smith and make that part of the official record. On a voice vote: **MOTION CARRIED.**

Natalie Huestis, Planning and Zoning Administrator, provided some background of the rezoning request.

Mayor Smith provided the procedure of the public hearing:

- The petitioner will have 20 minutes to present their request.
- No one asked for the 20 minute opposition period prior to Wednesday December 2<sup>nd</sup> at 5:00PM.
- Members of the audience will be allowed to speak for up to 3 minutes. A one minute remaining sign will be shown. The 3 minutes will be held to.
- The audience will be called to come to the podium and give their name and address "For the Record". The audience will be called in order by starting in the front row on the left and then proceed across the entire row, and then the second row will follow from my left to right. We will not go back for any second comments or after you have been offered your chance to speak.
- Close the public hearing.

Tom Neidlinger, Chairman of the Board at Oaklawn Hospital, asked the Council for positive consideration for the rezoning request at 223 N. Madison St. The board feels it is important to provide many different services to patients in our community and with that envisioned a plan to establish a cardiac and pulmonary rehabilitation center and so authorized the purchase of the property at 223 N. Madison St. This rehabilitation center will provide an outpatient service that will not need to be located at the hospital proper, but proximity to the hospital is critical during the rehabilitation period. Given the nature of the patients served there is a need for available parking nearby. The hospital recognizes the need for expanded parking which brought them to their request.

The Planning Commission's concern with the plan was the effect on the local neighborhood. At the suggestion of the Planning Commission, the hospital revised its original request and in an attempt to respond to concerns raised has compromised and modified its original plans in an effort to preserve the residential atmosphere of Prospect Street. With the variances granted by the Zoning Board of Appeals, the hospital will preserve the outward appearance of the homes at 227 N. Madison and 116 E. Prospect Street and make adaptive use of them. Dr. Neidlinger explained the only concern the hospital has is that the land at 223 N. Madison be rezoned to POSD. The hospital

realizes there are individuals in the community opposed to the request and are concerned with historic preservation, but the hospital recognized historic preservation as well and that is why they intend to move the house at 223 N. Madison instead of raise it. In summary, the hospital provides health care close to home, is a major employer of the community, and a significant contributor to the local economy; therefore, the hospital asked for a favorable outcome for their request to rezone 223 N. Madison.

Holly Harnden of 401 East Mansion Street asked the Council to invalidate the hospital requests and deny the zoning of 223 N. Madison.

Brian Mason of 320 N. Mulberry asked the Council to deny any zoning that would impact our neighborhoods and historic charm.

Ann Barzler of 128 Eastman Court asked the Council to look favorably on the hospitals request and their economic needs.

Terry McNevin of 506 W. Prospect asked the Council to protect the taxpayers and turn the hospital down.

Keith Mengel of 216 N. Division expressed concern with declining property values as the hospital continues to grow.

Brian Munger of 120 S. Grand St. feels the hospital knew what was being purchased when they bought the property and should not expect anything more.

Jerry Baremor of 902 Verona Road believes that the situation is purely a financial matter and encouraged everyone to think of the alternatives.

Susie Cowgill of 624 N. Kalamazoo urged the Council to compromise and not change the zoning.

Marilyn Burke of 224 Division asked Council to deny the request and preserve the neighborhood.

Glenda Jackson of 16053 18 Mile Road asked Council if they would like a parking lot in their front yard and to consider the request carefully.

John LaPietra of 386 Boyer Court encouraged the hospital and the city to work together and form a committee for planning.

Nancy Finegood of 107 East Grand River, Lansing, Executive Director of the Michigan Historic Preservation Network, strongly urged Marshall to preserve and protect the historic district.

Jennifer Rupp of 519 N. Madison is concerned with the historic preservation and inquired about the penalty if the conditional use variance is not followed.

Drew Walker of 205 E. Prospect feels this issue portrays our community in an unwelcoming light.

Kjell Croce of 310 W. Mansion spoke in opposition because the hospital is in the middle of a neighborhood and is growing at the neighborhoods expense.

Tim Banfield of 307 N. Division feels there is a parking problem, not a hospital problem.

Five minutes of rebuttal time will be allowed for Oaklawn Hospital.

Rob Covert, 535 Thompkins Drive, Coldwater, CEO of Oaklawn Hospital, encouraged the city to lead the process for a future committee to encourage working together and feels no new information was brought forth, but would like to clarify some points for the record:

- 50% of the block is nonresidential and already has businesses.
- Master Plan is supposed to look at community welfare and not a fixed document.
- Tax Revenue-the hospital is the largest taxpayer in the downtown. Hospital pays over \$150,000/year in taxes for hospital owned properties.
- Driving down property values – hard to tell the effect structures have on home sales and property values, but houses are being sold and people continue to buy.
- National Historic Landmark District – the speaker said the hospital has destroyed or removed 10 properties and that is just not true.
- People on Division Street have said the hospital is interested in their properties and that is just not true.
- The question regarding How long the 2 homes on Prospect would be allowed to remain?– the conditions placed on those houses by the Zoning Board of Appeals does not require them to leave the houses and they could tear them down at anytime. They understand the community would like them there as a buffer and that is the intent, but he cannot speak for forever.

At 8:45 p.m. the Mayor asked for a 10 minute break.

The meeting was called to order again at 8:55 p.m.

Keith Mengel of 216 N. Division responded to Mr. Covert's closing remarks.

The public hearing was closed at 8:58 p.m.

**Moved** Dyer, supported Williams, to rezone the parcel located at 223 N. Madison from R-3 Traditional Residential to POSD Professional Office Service District.

The Mayor and Council Member Williams read letters sent to Dena Sanford of the National Park Service. (Attachment B)

Consensus was reached by the Council to discuss the ten Rezoning Criteria set forth in §156.030(H) of the City of Marshall Zoning Ordinance. For each criterion, the Mayor will read and then summarize the Planning Commission's position and the applicant's position. The ten criteria discussed are as follows:

1. The proposed zoning district is more appropriate than any other zoning district, or more appropriate than adding the desired use as a special land use in the existing zoning district.
2. The property cannot be reasonably used as zoned.
3. The proposed zone change is supported by and consistent with the goals, policies and future land use map of the adopted city master plan. If conditions have changed since the plan was adopted, as determined by the Planning Commission, the consistency with recent development trends in the area shall be considered.
4. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values, and is consistent with the needs of the community.
5. All potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, hydrological and other environmental features.
6. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the city.
7. The rezoning would constitute and create an isolated and unplanned district contrary to the city master plan which may grant a special privilege to one landowner not available to others.
8. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the schedule of regulations.
9. There was a mistake in the original zoning classification or a change of conditions in the area supporting the proposed rezoning.
10. Adequate sites are neither properly zones nor available elsewhere to accommodate the proposed uses permitted in the requested rezoning district.

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

During the discussion of the Rezoning Criteria, each individual council member provided concerns and/or comments. The verbatim discussion of the criteria is included on the recorded proceedings of this meeting and took place from 9:00-10:50 p.m. (Exhibit A)

At 10:50 p.m. the Mayor asked for a 10 minute break.

The meeting was called to order again at 11:00 p.m.

Council Member Traver stated for the record that his company is contracted by Oaklawn Hospital to perform marketing and advertising services, but he does not see that as a conflict of interest.

The Mayor read a letter from Keith Kehlbeck, a Trustee of the Marshall Historical Society. (Attachment C)

Prior to the vote, each Member of the Council was allowed time to explain their position and provide an explanation as to how they intend to vote on the rezoning issue. The complete context of these statements is available on the recorded proceeding of this meeting (Exhibit A) to be kept on file in the City Clerk's office.

The motion was restated by the Clerk - **Moved** Dyer, supported Williams, to rezone the parcel located at 223 N. Madison from R-3 Traditional Residential to POSD Professional Office Service District. On a roll call vote – ayes: Dyer, Metzger, Miller, Mayor Smith, Traver, Williams, and Doane; nays: none. **MOTION CARRIED.**

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

John LaPietra of 386 Boyer Court announced an upcoming meeting at the Middle School for bond proposal discussions.

**COUNCIL AND MANAGER COMMUNICATIONS**

None

**ADJOURNMENT**

The meeting was adjourned at 11:57 p.m.

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Bruce R. Smith, Mayor

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Sandra Bird, Clerk-Treasurer