

REGULAR MEETING - JANUARY 5, 2004

The Board of Public Works and Safety of the City of Michigan City, Indiana, met in REGULAR SESSION on Monday morning, January 5, 2004, at the hour of 9:00 a.m., in the Council Chambers, in the City Hall Building, located at 100 East Michigan Boulevard, Michigan City, Indiana - a regular meeting room of this Board.

The meeting was called to order by Anthony Metzcus, who presided.

Noted Present: Anthony Metzcus, Mayor Charles Oberlie, and Controller John Schaefer (3).

Absent: None (0).

A QUORUM WAS NOTED PRESENT.

Also noted in attendance:

John Espar, City Attorney and Board Counsel
Jim Kintzele, Superintendent, Refuse Department
Cpl. Al Green, Traffic Division
Bill Phelps, City Engineer
John Pugh, City Planner
Jim Elwell, Superintendent, Central Services
Terry Farmer, Director, Street Department
Al Walus, General Manager, Sanitary District
Nancy Widelski, Director, Human Rights
Tom Fedder, City Clerk
Pat Larsen, Deputy City Clerk

Amanda Haverstick, News-Dispatch
Ron Miller, Radio Station WEFM

APPROVAL OF MINUTES

Mr. Schaefer moved the minutes of the Regular Meeting of December 15, 2003, and the Special Meeting of December 29, 2003, be approved as printed. The motion was seconded by Mr. Metzcus and carried as follows: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

CONTRACT FOR EXECUTION — Contract for Professional Community & Economic Development Services

Mayor Oberlie moved to accept the contract, seconded by Mr. Schaefer. The motion carried as follows: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

APPOINTMENT — Plan Commission - John Carr (term to end December 31, 2007)

Mr. Schaefer moved to reappoint Mr. Carr. Mayor Oberlie seconded the motion, which carried by the following vote: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

RESOLUTIONS

Attorney Patrick E. Donoghue explained the following Resolution. Mr. Schaefer then moved to adopt, seconded by Mayor Oberlie. The motion carried as follows: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

RESOLUTION NO. 2777

RESOLUTION OF THE MICHIGAN CITY BOARD OF PUBLIC WORKS AND SAFETY AMENDING RESOLUTION NO. 2565

RE: Conveyance of Real Estate (Zilla Square) by the Civil City of Michigan City to the Michigan City Area Schools.

WHEREAS, on May 19, 1988, the Michigan City Board of Public Works and Safety ("Board") adopted Resolution No. 2565 in order to convey certain real estate commonly known as "Zilla Square" to the Michigan City Area Schools ("Schools") pursuant to a certain Agreement Respecting Conveyance of Title to Zilla Square Playground dated April 12, 1988 between the Schools and the Michigan City Parks and Recreation Department Board; and

WHEREAS, the Board desires to amend Resolution No. 2565 to convey additional property to the Schools to allow for the necessary and appropriate expansion to the Marsh Elementary School Facility.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Amendment to Section 3(b)(1) of Resolution No. 2565. The Board does hereby amend Section 3(b)(1) of Resolution No. 2565 by deleting "(excepting the north 20 feet thereof)" and replacing such deletion with the following in lieu thereof:

"(excepting the north sixty (60) feet thereof)"
2. Except as otherwise amended herein, Resolution No. 2565 shall remain unchanged and in full force and effect.
3. The Board does hereby authorize the appropriate representatives of the Board to execute such documents and take other such action as may be necessary to complete the transfer contemplated hereby.

Introduced by: /s/ John Schaefer

Mr. Schaefer introduced the following Resolution and moved for its adoption, seconded by Mayor Oberlie. The motion carried as follows: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

RESOLUTION NO. 2778

A RESOLUTION AUTHORIZING THE SOLICITATION OF BIDS FOR THE 2004 PAVING PROGRAM FOR THE CITY OF MICHIGAN CITY, INDIANA

BE IT RESOLVED by the Board of Public Works and Safety of the City of Michigan City, Indiana, that said City solicit Bids for said **2004 PAVING PROGRAM**

**Division A - Street and Alley Paving
Division B - Pavement Traffic Markings**

in accordance with plans and specifications on file at the Office of the City Clerk, 100 East Michigan Boulevard, Michigan City, IN 46360.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause notice to be published once each week for two consecutive weeks in the News Dispatch, a daily newspaper of general circulation published in Michigan City, notifying the public that said Board will receive sealed Bids for said **2004 PAVING PROGRAM** until the hour of 9:00 a.m., local time, on the 28th day of January, 2004, at the office of the City Clerk, located in the City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana.

Introduced by: /s/ John Schaefer

CORRESPONDENCE

Letter from Indiana Department of Labor concerning Common Construction Wage Determination - 2004 Street and Alley Paving Program Project.

The letter was filed for information purposes.

GRIEVANCE DISPOSITION

Mr. Espar presented the following disposition of grievance in the case of David Kavanaugh, Municipal Coach Department:

PROCEDURAL MATTER

The above-captioned matter coming on for hearing before the Board of Public Works & Safety of the City of Michigan City, Indiana, on the 15th day of December, 2003, at 10:00 a.m. in the Common Council Chambers, City Hall Building in Michigan City, Indiana for hearing on Grievance filed by David Kavanaugh on the 3rd day of December, 2003.

The cause having proceeded to hearing with opening statements received, evidence presented and concluding remarks made, the Board now enters its findings and conclusions.

FINDINGS OF FACT

1. The Grievant, David Kavanaugh, previously tested positive for an illicit controlled substance and was referred to the Employee Assistance Program for rehabilitation which resulted in the Grievant's return to work with periodic drug testing in the ensuing 12-month period;
2. The Grievant's positive test for an illicit controlled substance within his system constituted a major workplace violation;
3. The Grievant has again tested positive for an illicit controlled substance, *albeit*, more than 12 months since the Grievant's last positive test;

4. The presence of an illicit controlled substance in the Grievant's system constitutes a major violation of workplace rules and regulation, in addition to the inherent criminal implications of such findings;
5. The Grievant previously having been afforded the rehabilitation process to address the Grievant's substance abuse issues, is not entitled to repeat participation afforded by such policy and programs to preserve his employment with the City of Michigan City for a subsequent major employment violation;
6. The continued employment of Grievant, David Kavanaugh, presents an unacceptable risk to the community.

CONCLUSION AND DECISION

The decision of Walter Gipson, Director of Municipal and Shelly Dunleavy, Director of Personnel to terminate David Kavanaugh from the employ of the City of Michigan City, be and hereby is, approved.

PRESENTED AND ENTERED into this 5th day of January, 2004.

Mayor Oberlie moved to approve the conclusion and decision as presented. Mr. Schaefer seconded the motion, which carried as follows: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

FIREWORKS CONTRACTS

Mayor Oberlie presented the contract for the fireworks for the Summer Festival and a contract for fireworks to be held at Patriot Park on July 22, 2004, for the world series to be held there. He moved to approve these contracts, seconded by Mr. Metzcus. The motion carried by the following vote: **AYES: MEMBERS Metzcus, Oberlie, and Schaefer (3). NAYS: None (0).**

Mayor Oberlie announced that we hoped to continue simulcast with WEFM and to stage the fireworks from the pier this year.

RESCHEDULED MEETING

Mr. Metzcus announced that the next regular meeting of this Board will be held on January 26, 2004, at 9:00 a.m.

The presiding officer inquired whether there was anything else to be considered by the Board at this time and, there being none, declared the meeting ADJOURNED (approximately 9:30 a.m.).

Thomas F. Fedder, City Clerk