

REGULAR MEETING – December 17, 2012

The Board of Public Works and Safety of the City of Michigan City, Indiana, met in REGULAR SESSION on Monday morning, December 17, 2012 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 President, Steve Janus, who presided.

Noted present: Mayor Meer, Steve Janus and Phil Latchford (3); Absent: None (0)

President Janus stated that there is a quorum.

A QUORUM WAS NOTED PRESENT.

Also noted in attendance:

John Espar, Corporate Counsel
Russ Hatfield, Code Enforcement Officer
Donna Pappas, City Controller
Bob Zondor, Superintendent, Central Services
Lt. Jeff Loniewski, M.C.P.D. Traffic Division
Charles "Spike" Peller, City Engineer
Ben Neitzel, Superintendent, Central Maintenance
Craig Phillips, Director, Planning and Inspection Departments
Nathan Anderson, Zoning Administrator
Rick Whitlow, Assistant Director Human Rights
Andy Matanic, IT Manager, Sanitary District
Judy Pinkston, Director, Community Development
Amber Lapaich, City Attorney

Gale Neulieb, City Clerk
Kim Sliwa, Deputy City Clerk

APPROVAL OF MINUTES

Mayor Meer moved the minutes of the Regular Meeting of December 3, 2012 be approved as drafted. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

LABOR CONTRACT – Acceptance of Labor Contract for the year 2013 between the City of Michigan City and the Michigan City Firefighters Local #475

Corporate Counsel John Espar addressed the Board stating this contract is the work of several years of negotiations leading to the contract that is before the Board of Works; it's recommended by the negotiating committee; it was a joint negotiating committee of both the

Common Council and City Administration. Counsel Espar recommended the Board accept it as the Agreement of the City and Local #475 for the fiscal year 2013. Counsel Espar stated the same can be said for the next item as well.

Mayor Meer made the motion for the acceptance of the Labor Contract between the City of Michigan City and Firefighters Local #475. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

LABOR CONTRACT – Acceptance of Labor Contract for the year 2013 between the City of Michigan City and the Indiana Fraternal Order of Police Labor Council, Inc.

President Janus stated the Board has already heard from Corporate Counsel Espar on this matter; and asked for a motion.

Mayor Meer made the motion for the acceptance of the Labor Contract between the City of Michigan City and the Fraternal Order of Police. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

TRANSFER OF PROPERTY – Transfer of properties acquired with NSP funds from the City of Michigan City to the Michigan City Housing Authority – 1032 W. 9th Street and 1215 Wabash Street

Judy Pinkston, Director Community Development addressed the Board regarding the transfer of properties; stating these two (2) properties were acquired with NSP funds and were foreclosed properties; the City of Michigan City rehabbed them and wants to transfer them to the Housing Authority so they can rent them out and manage them.

President Janus asked if there was anything more that needed to be done before the Board approved the transfer.

Corporate Counsel John Espar explained the Board would need to approve the transfer and authorize the Mayor to execute the appropriate Deed.

President Janus asked if there was anyone from the public that would like to speak on the matter; hearing none, President Janus called for the motion to approve.

Vice-President Latchford made the motion to approve the transfer of the properties from the City of Michigan City to the Michigan City Housing Authority, and authorize the Mayor to execute the Deeds. The motion was seconded by Mayor Meer.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

DONATION APPROVAL AND AUTHORIZATION BY CORPORATE COUNSEL – 204 Cleveland Avenue

Corporate Counsel John Espar addressed the Board referring to the Mayor expressing interest in acquiring the property that is the former Eastport School on Michigan Boulevard as a site that the Mayor has identified as the best alternative for a potential new Michigan City Police Department. Counsel Espar further explained that the property is also being sized up for future growth as a City campus should the City want to expand upon and relocate some of the City facilities to a new site as the needs may arise. Counsel Espar informed the Board that the project hit an obstacle recently through a new law that requires the School Corporation to place any former schools on a list for a period of four (4) years before the School Corporation can dispose of property, and that list is a list of properties that is available to potential Charter Schools. Counsel Espar explained there is adjacent to that property, commonly known as 204 Cleveland Avenue that has been foreclosed by the Bank who is now the owner of that property and through channels has conveyed a willingness to convey that property to the City of Michigan City as a donation without legal expense to the City for its acquisition/cost to acquire the property. Counsel Espar stated that he has discussed this transaction with the Bank who has provided for this Board's consideration a Real Property Donation Agreement that he has reviewed and is acceptable to him. Counsel Espar asked if the Board is willing to accept the donation of this property, to authorize him to close the transaction and sign all things necessary to acquire title to that property. Counsel Espar further stated that at this moment he does not want the Board to authorize the closing of that transaction until he has had an opportunity to review the title work, so subject to Counsel's review of title, to make sure the title is clean, authorize him if the Board is inclined to accept this donation to sign all things necessary to acquire title.

President Janus called for a motion.

Vice-President Latchford made the motion to allow Counsel Espar to review the title work and assuming everything is good, then to authorize him to sign all necessary paperwork to accept the donation from the Bank. The motion was seconded by Mayor Meer.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

IT Department – Andy Matanic, IT Manager, Sanitary District

Andy Matanic, IT Manager, Sanitary District addressed the Board informing them that for the past year he has been working with ProITco who is a Consulting Firm for Information Technology and they have looked at the City's computer network and phone system and have done an assessment of those system. Mr. Matanic asked the Board for permission to proceed with the design phase of the computer network; explaining that this would simply allow the City to go ahead and look at what "hardware" needs to be replaced and come up with a complete cost, this would cover all the computers, servers (the infrastructure) and phone system for the entire City. Mr. Matanic explained the proposal presented today would

cover the entire design of both computer and phone systems; and the document also does cover an implementation phase, which would be phase 3. Mr. Matanic further explained that he was advised by Attorney James Meyer that he needed to come before the Board to ask for permission to go ahead with this phase 2, because this is the only quote he has for this project which is strictly a professional service; there is no purchasing of any hardware and this is strictly just Consulting at this time to help develop this plan.

Mayor Meer asked if the funds were available right now through the Sanitary District's budget.

Mr. Matanic stated the funds are available, and this would cover the whole City with the exception of the Sanitary District; they would look at all the servers and various equipment throughout all the different City locations and also look at the phone system throughout the City at all the different locations excluding the Sanitary District.

Mayor Meer made the motion to allow Mr. Matanic to go ahead with the Professional Services in this Consulting endeavor. The motion was seconded by Vice-President Latchford.

President Janus asked if the professional services would have to be bid.

Counsel Espar stated that it would not have to be put out for bid.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

AGREEMENT – ADA Transition Plan Agreement with Structurepoint

Charles "Spike" Peller, City Engineer addressed the Board regarding the Americans with Disability Act that was passed many years ago is now being enforced by the Federal Government and they are requiring that all Cities come up with a self-evaluation and transition plan. Mr. Peller explained that he has been working with American Structurepoint Inc., who has put together a "transition plan" and the City Attorney has drafted a Executive Order which basically sets out compliance with the guidelines of the Federal Government. Mr. Peller further explained that in LaPorte County they are working with the N.P.O./N.I.R.P.C. who are reviewing our "transition plan" and making sure everything is in order, this has to be done prior to the end of this year so the Federal Government does not cut off any funding the City may be eligible for. Mr. Peller stated Mr. Glen Campbell of American Structurepoint, Inc. is present to answer any questions the Board may have. Mr. Peller stated the Board would direct the Mayor to sign the Executive Order agreeing to the compliance with the ADA program.

President Janus inquired if this just covered the City owned properties.

Mr. Peller stated that was correct, covering the parks, buildings, sidewalks and intersections that came up with deficiencies. Mr. Peller explained that the Parks Department will be primarily involved with the parks, the facilities department will be involved with the buildings and he will be primarily involved with the streets and sidewalks in bringing them up to the ADA standards.

Discussion ensued regarding Mr. Peller working with City Attorney, Amber Lapaich who has drafted the Executive Order that N.I.R.P.C. requires as the minimum to comply with the ADA requirements. Mr. Peller stated the City of Michigan City is well on its way to be in compliance, but does have some work to do, with the estimate given by D.A.C. who is the organization who did the analysis between parks, buildings and sidewalks/intersections there is about \$10,000,000.00 worth of work to do. Mr. Peller stated the work on the sidewalks can be incorporated in the yearly pavement and sidewalk program, and the parks and buildings will need to come from somewhere else. Mr. Peller stated the requirement/timeframe is to set up a “transition plan”, with the hopes of being in compliance in a five (5) year period for the sidewalks/intersections and the buildings and parks may take a little longer, but still should be something that can be done in five (5) to ten (10) years; the Federal Government does not give a time limit, but they do require that some type of a program if set up and that reporting is done on a regular basis; with the “transition plan” being due by December 31, 2012.

President Janus asked if there was anyone from the public who would like to speak on this matter; there was no response and President Janus called for a motion.

Mayor Meer made the motion to approve the ADA Transition Plan Agreement with American Structurepoint, Inc. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

CLAIMS AND PAYROLL

Mayor Meer moved that the claims set forth in the Register of Claims (in possession of the City Controller) and appearing in the Register be severally allowed and ordered paid and proper warrants for payment thereof hereby ordered issued in the stated amounts to person(s) and/or firm(s) as set forth, and payrolls approved. The motion was seconded by Vice-President Latchford. President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

The Board signed: Payroll items in Register of Claims for informational purposes (which Register is in the possession of the City Controller) as follows:

Page	Date	Amount
1 of 9	12/14/2012	\$597,422.54
1 of 9	12/14/2012	\$402,066.41

Allowance of claims as set forth in the Register of Claims as follows:

Page	Date	Amount
1 of 6	12/14/2012	\$1,593,628.92

UNFINISHED BUSINESS

PENDING ITEM – 1101 Ohio Street

Russ Hatfield, Code Enforcement Officer addressed the Board regarding the property at 1101 Ohio Street, stating he is awaiting a response from the “notices” that were issued.

PENDING ITEM – Structure Fire at Case Street and Michigan Boulevard

Russ Hatfield, Code Enforcement Officer addressed the Board regarding the property at Case Street and Michigan Boulevard, stating “notices” have been issued on that and he is awaiting correspondence from the Attorney, Mr. Thorne on that.

PENDING ITEM – 414 Dahlia Street

Russ Hatfield, Code Enforcement Officer addressed the Board regarding the property at 414 Dahlia Street, stating the Board has already given him authorization to demolish the property through City channels. Mr. Hatfield explained that Mr. Brown did come in and he was issued a thirty (30) day Demolition permit, and that he did speak with him again last week; Mr. Brown informed him that he is going to be unable to finish the project, which he did start demolishing the structures and now it’s just a pile so the City is going to have to continue on with the demolition.

PENDING ITEM – Northern Indiana Education Foundation, corner Franklin & 4th Streets

Corporate Counsel John Espar addressed the Board stating he has provided to the Northern Indiana Education Foundation a form of license agreement to allow NIEF to make improvements to the City’s planters at the corner of 4th and Franklin Streets, and that their Board has approved the agreement and authorized their president to sign-off on the agreement and he now presents it to this Board for their approval, which will close out this item.

PENDING ITEM – Right-of-Way Acquisition for improvements to the Roeske and Springland Avenue intersection

Corporate Counsel John Espar informed the Board that he has closed the transaction to acquire right-of-way from the property owners at the southwest corner to allow the City Engineer to move forward with the improvements at that intersection, which will close out this item as it relates to the acquisition of property.

Mayor Meer addressed the City Engineer, Mr. Charles “Spike” Peller asking if the improvements to the intersection will be executed in the spring. Mr. Peller replied that was correct.

PENDING ITEM – Ice Cream Parlor near Franklin Street Bridge

President Janus asked if there was any update on the Ice Cream Parlor near the Franklin Street Bridge.

Craig Phillips, Director, Planning and Inspection Departments informed the Board that he met with Corporate Counsel John Espar, Inspector Tom Przybylinski and Code Enforcement Officer Russ Hatfield and Mr. Ziola, the owner of the property to basically talk about the status of the property, and set some deadlines. Mr. Phillips further informed the Board that there were some issues with the issuance of the permits for that project at the State level as well as locally; and that the State has been notified; that he has also talked to the State in terms of corrections and terms of any issues that involved the City. Mr. Phillips further stated that Mr. Ziola has agreed to apply for the necessary State design release as required for any construction of commercial properties in the City by no later than December 31, 2012, which is necessary to do anything with the property in terms of any requirements that would be held by the State. Mr. Phillips explained that the parties involved have agreed to reconvene a meeting with Mr. Ziola to set some benchmarks and goals for progress on that property, on Friday, January 25, 2013. Mr. Phillips stated that the property has now been closed off so the public cannot gain access to the property; and a Stop Work has been placed on the property given the issue with the permits.

Vice-President Latchford addressed Mr. Phillips regarding questions about the structural integrity of the building.

Mr. Phillips stated the structural integrity of the building is not an issue; it was more of an issue of safety matters associated with the building that the State identified early on in the process as well as the need to close the building up; there are some issues with the overhangs and decks that are on the building that need to be addressed by the State, as well as the building being open to the public and there is a basement to the property that could be accessed and those were the big issues that were associated with the safety of the property.

Discussion ensued regarding the project being completed in a reasonable amount of time. Mr. Phillips informed the Board that this project was originally granted permits in 2004, nothing happened with the property until 2007 when permits were reissued.

PENDING ITEMS – Bike Racks for Downtown area

Mr. Phillips informed the Board that the bike racks will be in storage for the winter and that he has identified a list of four (4) companies in town that he will send out requests for quotes to get quotes for installation.

PENDING ITEMS – 6th and Spring Streets

President Janus asked if the traffic situation at the intersection of 6th and Spring Streets was still being monitored; Mayor Meer replied that the Traffic Division would continue to monitor the intersection, and that this can be removed from the list.

PENDING ITEMS – Two-way traffic on E. 9th Street

President Janus asked if the traffic situation at E. 9th Street would still be monitored by the M.C.P.D. Traffic Division; Mayor Meer replied that the Traffic Division would continue to monitor the area; and that this can be removed from the list.

PENDING ITEM – 609 and 611 Colfax Avenue – parking

Charles “Spike” Peller, City Engineer addressed the Board regarding the parking situation on Colfax Avenue, stating he has looked at the property, and the problem seems to be that Mr. Cupples, who resides at 609 Colfax Avenue is preventing tenants from parking in front of his residence. Mr. Peller stated that a solution might be if there is a short retaining wall in front of Mr. Cupples home to remove part of it and then he can have a driveway to park in right next to his house; and then Mr. Lewis can set parking blocks outside of Mr. Cupples property so that anyone that parks along there would not be encroaching on Mr. Cupples private property. Mr. Peller stated that Mr. Cupples could get a “curb cut” permit from the Planning Department for the installation of a private driveway. Mr. Peller further stated that he did not believe the City needed to do an extensive boundary survey of the area.

Mayor Meer addressed Mr. Peller regarding the issue on Colfax Avenue between the two (2) property owners and the parking problem; further explaining that parking south of the property lines is public parking.

Vice-President Latchford stated there does seem to be enough room between the parking blocks and the street to park a mid-size vehicle.

President Janus asked if there was anyone from the Public who would like to speak on the matter.

Larry Lewis, 611 Colfax Avenue addressed the Board regarding the parking along Colfax Avenue in front of his property; stating the parking block solution that Mr. Peller explained seems to be a reasonable solution as it would delineate the private property from City property. Mr. Lewis further stated that he is willing to pay for the parking blocks and installation; asking that the installation be supervised by the City.

Ray Cupples, 609 Colfax Avenue addressed the Board regarding the parking along Colfax Avenue in front of his property and the parking along Colfax Avenue to the East. Mr. Cupples stated that he did not want to lose his patio to install a private drive.

Further discussion ensued regarding the City’s right-of-way being public parking for anyone to utilize.

Mr. Peller further explained his recommendation regarding removing the short retaining wall to allow for a private driveway for the property owned by Mr. Cupples of 609 Colfax Avenue to provide Mr. Cupples a legal spot to park where no one else can park.

President Janus stated the situation will continue to be monitored.

Corporate Counsel Espar recommended that the Board authorize the City Engineer in coordination with Mr. Lewis, who has agreed to finance the cost of the parking blocks, to empower him to do it if that is determined to be the best approach; and that the Board really does not need to continue to monitor the situation at this point.

Vice-President Latchford made the motion to follow the recommendation of Corporate Counsel and allow Mr. Lewis to purchase the parking blocks with installation to be supervised by the City. The motion was seconded by Mayor Meer.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

PENDING ITEMS – Dilapidated Properties

President Janus asked if the list of dilapidated properties the Mayor wanted monitored be put on the Pending Items list.

Mayor Meer informed the Board that he had emailed a list to Russ Hatfield, Code Enforcement Officer; and that there has been some discussion with Mr. Craig Phillips, Director Planning and Inspection Departments, in regards to having a top ten (10) list of dilapidated properties and a list of five (5) industrial sites to get the demolition process started for 2013. The Mayor also listed Dwyer Products building, the Chrysler dealership on Michigan Boulevard as properties that need to be addressed; as well as residential properties that need to be addressed.

Mr. Hatfield addressed the Board stating several of the properties were on the list, and are already in process and those will be in front of the Board as need be; and also some of the others that are in good shape but are vacant will now fall under the New Vacant Housing Registration Ordinance that takes effect January 1, 2013; which will hopefully start to alleviating some of the vacant properties.

Mayor Meer addressed the Board informing them there will be an additional Code Enforcement Officer hired to help with the new ordinance.

PUBLIC COMMENTS

President Janus asked if there was anyone from the public who would like to speak at this time.

Nathan Anderson, Zoning Administrator addressed the Board regarding something that came up with the Old Lighthouse Museum Coastal Grant from the City Attorney; requesting permission to get a title search for the Old Lighthouse Museum which is needed for the City Attorney to execute a Title Opinion Affidavit to confirm that the Title is clear. Mr. Anderson

further explained that this is a requirement of the Coastal Grant Application to reconstruct the Lantern Room.

Mayor Meer made the motion to approve the request. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

President Janus asked if there was anyone else from the public who would like to speak at this time.

Craig Phillips, Director Planning and Inspection Departments addressed the Board regarding the City acquiring the property previously known as Waste Incorporated, which is just east of the Casino that was a former superfund site. Mr. Phillips explained that the City has the opportunity to seek some grants for that property and a title search and boundary survey are part of the paperwork that is necessary in order to submit for the grant; this grant is through the U.S. Fish and Wildlife Services, and there will be another one coming up in 2013 that they would like to pursue also. Mr. Phillips requested permission to get a boundary survey, ALTA (American Land Title Association) survey and a title search for that property. Mr. Phillips further explained there is a secondary need that's come up for that regarding a billboard that appears to be on the property that needs to be verified as to whether it's on the City's property or not, and to verify if there is some type of agreement for the billboard if it is indeed on City property.

Mayor Meer made the motion to approve the request for all title search necessary for the property Waste Inc. The motion was seconded by Vice-President Latchford.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

President Janus asked if there was anyone else from the public who would like to speak at this time.

Charles "Spike" Peller, City Engineer addressed the Board regarding a request from Corporate Counsel John Espar to review some Phase I Environmental Site Assessments and make a recommendation. Mr. Peller explained there were two (2) that were presented, one from Environmental Incorporated and the other from Americo. Mr. Peller stated the request was for a Phase I assessment and Americo gave a quote of \$1,400.00; Environmental Site Assessments has changed the scope of work and they have included a modified Phase II assessment, which right now is not necessary. Mr. Peller made the recommendation that the contract be given to Americo for \$1,400.00.

Corporate Counsel John Espar addressed the Board stating this is an Environmental Study for the property located at 2912 E. Michigan Boulevard, referred to as the Palowske property, which the Board has previously authorized Corporation Counsel to move forward in a transaction to acquire ownership; the City Council has passed a Resolution approving the acquisition of that property; the Environmental Study is due diligence on behalf of the City to

identify any environmental liabilities that may exist there. Counsel Espar also made the recommendation for the Board to authorize the Phase I Environmental by Americo.

Vice-President Latchford made the recommendation to accept Mr. Peller recommendation to accept the Americo bid of \$1,400.00 for the Phase I Environmental for the Palowske property. The motion was seconded by Mayor Meer.

President Janus called for comments or questions from the public. There being none, the motion carried as follows: **AYES: MEMBERS Meer, Janus and Latchford (3). NAYS: None (0). Motion carries.**

President Janus asked if there was anyone else from the public who would like to speak at this time.

Corporate Counsel John Espar addressed the Board regarding a previously authorized Consulting Services by Mr. Stuart Sirota of the TND Planning Group for work with the NICTD project; Mr. Sirota has signed the Contract Addendum under the E-Verify compliance requirements, which was presented to the Board for its execution.

President Janus called for any other Public Comments; there were none, and called for Board Comments.

BOARD COMMENTS

President Janus expressed to all a Merry Christmas and a Happy New Year.

ADJOURNMENT

The presiding officer inquired whether there was anything else to be considered by the Board at this time and, there being none, asked for a motion to ADJOURN the meeting at approximately 09:52 a.m. Mayor Meer made the motion to Adjourn. The motion was seconded by Vice-President Latchford.

Gale A. Neulieb, City Clerk