

REGULAR MEETING - DECEMBER 16, 2003

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday Evening, December 16, 2003, at the hour of 7:30 p.m., local time, in the Common Council Chambers, located in the lower level of the City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana.

The meeting was called to order at 7:30 p.m. by Council President Virginia Martin, who presided.

The Pledge of Allegiance to the Flag and a short period of silent prayer were observed.

Roll call was authorized and the following were noted present and/or absent:

PRESENT: COUNCIL MEMBERS Evelyn D. Baker; Carolyn Harmon; Charles Lungren; Virginia R. Martin; Willie Milsap; Paul A. Przybylinski; Denzil D. Wilson and JoEileen Winski (8)

ABSENT: COUNCIL MEMBER Joseph LaRocco (1)

A QUORUM WAS NOTED PRESENT.

APPROVAL of MINUTES

President Martin inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of December 2, 2003, and, there being no objections, declared the minutes approved as printed.

REPORTS of STANDING, SPECIAL, or SELECT COMMITTEES

There were no reports.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

There were no reports.

PETITIONS

There were no petitions.

COMMUNICATIONS

There were no communications.

RESOLUTIONS

Councilman Przybylinski requested suspension of the 96-hour rule to allow the consideration of the following four Resolutions. There were no objections.

The Clerk read in its entirety,

RESOLUTION NO. 4211

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA HONORING COUNCILMAN AND FORMER MAYOR JOSEPH LAROCCO

WHEREAS, it is the stated Mission of the City of Michigan City "to unite with every citizen and work towards the shared goal of providing efficient, quality public service"; and

WHEREAS, Councilman Joseph ("Joe") LaRocco has served as a Member of the Michigan City Common Council since 1996; and

WHEREAS, Councilman Joe LaRocco has always performed his duties with the utmost dedication, caring little about personal recognition, but caring a great deal about what was best for our beloved City and its Citizens; and

WHEREAS Councilman Joe LaRocco has become a friend to all who worked with him in the City because of his friendly nature, kind encouragement, positive outlook and optimistic attitude; and

WHEREAS, Councilman Joe LaRocco has conducted himself with professionalism and dedication to the City; and

WHEREAS, Councilman Joe LaRocco always showed respect for fellow Council Members and others for their views and opinions, not always agreeing but never being disagreeable, always listening, and continually seeking harmony and cooperation by working together for the best interest of the City; and

WHEREAS, we want to thank Councilman Joe LaRocco not only for his dedication while on the City Council but also for his devotion and vision as the Mayor of Michigan City; and

WHEREAS, Councilman Joseph LaRocco will be missed by all.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Michigan City that the City hereby recognizes, commends and thanks Councilman Joseph LaRocco for his dedicated service to the Community, City Council and service as Mayor. We wish him well for the future.

INTRODUCED BY: */s/Paul Przybylinski and
All members of the Council*

Councilman Przybylinski moved to adopt the Resolution, seconded by Councilmen Wilson and Lungren.

Councilmen Przybylinski and Lungren spoke, commending Mr. LaRocco for his service.

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Harmon, Lungren, Martin, Milsap, Przybylinski, Wilson, Winski, and Baker (8). NAYS: None (0).**

The Clerk read in its entirety,

RESOLUTION NO. 4212

**A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF MICHIGAN CITY, INDIANA
HONORING COUNCILMAN DENZIL WILSON**

WHEREAS, it is the stated Mission of the City of Michigan City "to unite with every citizen and work towards the shared goal of providing efficient, quality public service"; and

WHEREAS, Councilman Denzil Wilson has served as a Member of the Michigan City Common Council since 1992; and

WHEREAS, Councilman Denzil Wilson has always performed his duties with the utmost dedication, caring little about personal recognition, but caring a great deal about what was best for our beloved City and its Citizens; and

WHEREAS Councilman Denzil Wilson has become a friend to all who worked with him in both the Community and the City Council because of his friendly nature, words of encouragement and positive outlook. Councilman Denzil Wilson has conducted himself with professionalism and dedication to the City; and

WHEREAS, Councilman Denzil Wilson showed respect for fellow City Council Members and others for their views and opinions, not always agreeing but never being disagreeable, always listening, and continually seeking harmony and cooperation by working together for the best interest of the City; and

WHEREAS, we want to thank Councilman Denzil Wilson for his dedication while on the City Council. Councilman Denzil Wilson will be missed by all.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Michigan City that the City hereby recognizes, commends and thanks Councilman Denzil Wilson for his dedicated service to the Community and the City Council.

INTRODUCED BY: */s/ Paul Przybylinski and
All Members of the Council*

Councilman Przybylinski moved to adopt the Resolution, seconded by Councilwoman Winski.

Councilman Przybylinski spoke to the Resolution.

The motion carried and the Resolution was adopted as follows: **AYES: COUNCIL MEMBERS Lungren, Martin, Milsap, Przybylinski, Winski, Baker, and Harmon (7). NAYS: None (0). ABSTAINING: COUNCIL MEMBER Wilson (1).**

The Clerk read in its entirety,

RESOLUTION NO. 4213

**A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF MICHIGAN CITY, INDIANA
HONORING COUNCILWOMAN CAROLYN HARMON**

WHEREAS, it is the stated Mission of the City of Michigan City "to unite with every citizen and work towards the shared goal of providing efficient, quality public service", and

WHEREAS, Councilwoman Carolyn Harmon has served as a Member of the Michigan City Common Council since 1999; and

WHEREAS, Councilwoman Carolyn Harmon has always performed her duties with the utmost dedication, caring little about personal recognition, but caring a great deal about what was best for our beloved City and its Citizens; and

WHEREAS Councilwoman Carolyn Harmon has become a friend to all who worked with her in both the Community and the City Council because of her friendly nature, words of encouragement and positive outlook. Councilwoman Carolyn Harmon has conducted herself with professionalism and dedication to the City; and

WHEREAS, Councilwoman Carolyn Harmon showed respect for fellow City Council Members and others for their views and opinions, not always agreeing but never being disagreeable, always listening, and continually seeking harmony and cooperation by working together for the best interest of the City; and

WHEREAS, we want to thank Councilwoman Carolyn Harmon for her dedication while on the City Council. Councilwoman Carolyn Harmon will be missed by all.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Michigan City that the City hereby recognizes, commends and thanks Councilwoman Carolyn Harmon for her dedicated service to the Community and the City Council.

INTRODUCED BY: */s/ Paul Przybylinski and
All Members of the Council*

Councilman Przybylinski moved to adopt the Resolution, seconded by Councilman Milsap.

Council Members Przybylinski and Baker spoke in support of the Resolution.

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Martin, Milsap, Przybylinski, Wilson, Winski, Baker, Harmon, and Lungren (8). NAYS: None (0).**

The Clerk also read in its entirety,

RESOLUTION NO. 4214

**A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF MICHIGAN CITY, INDIANA
HONORING COUNCILWOMAN JOIE WINSKI**

WHEREAS, it is the stated Mission of the City of Michigan City "to unite with every citizen and work towards the shared goal of providing efficient, quality public service"; and

WHEREAS, Councilwoman Joie Winski has served as a Member of the Michigan City Common Council since 1996; and

WHEREAS, Councilwoman Joie Winski has always performed her duties with the utmost dedication, caring little about personal recognition, but caring a great deal about what was best for our beloved City and its Citizens; and

WHEREAS Councilwoman Joie Winski has become a friend to all who worked with her in both the Community and the City Council because of her friendly nature, words of encouragement and positive outlook. Councilwoman Joie Winski has conducted herself with professionalism and dedication to the City; and

WHEREAS, Councilwoman Joie Winski showed respect for fellow City Council Members and others for their views and opinions, not always agreeing but never being disagreeable, always listening, and continually seeking harmony and cooperation by working together for the best interest of the City; and

WHEREAS, we want to thank Councilwoman Joie Winski for her dedication while on the City Council. Councilwoman Joie Winski will be missed by all.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Michigan City that the City hereby recognizes, commends and thanks Councilwoman Joie Winski for her dedicated service to the Community and the City Council.

INTRODUCED BY: */s/ Paul Przybylinski and
All Members of the Council*

Councilman Przybylinski moved to adopt the Resolution, seconded by Councilman Milsap.

Speaking were Councilmen Przybylinski, Wilson, and Lungren.

The motion carried and the Resolution was adopted as follows: **AYES: MEMBERS Milsap, Przybylinski, Wilson, Baker, Harmon, Lungren, and Martin (7). NAYS: None (0). ABSTAINING: COUNCIL MEMBER Winski (1).**

The Clerk read by title only, there being no objections,

RESOLUTION NO. 4215

RESOLUTION SUPPORTING THE APPROVAL BY THE STATE BOARD OF TAX COMMISSIONERS OF A LATE FILING OF FORM 322 ERA/PPXX FOR THE ASSESSMENT YEAR MARCH 1, 2003 BY TUSCARORA INCORPORATED, SUCCESSOR TO POLYFOAM PACKERS CORPORATION

WHEREAS, on December 19, 1995, the Michigan City Common Council adopted Resolution Number 3815 approving a Statement of Benefits in support of Application for Property Tax Abatement (new manufacturing equipment) by Polyfoam Packers Corporation; on June 6, 2000, the Michigan City Common Council adopted Resolution No. 4036 approving a Statement of Benefits in Support of Application for Property Tax Abatement (new manufacturing equipment) by Polyfoam Packers Corporation; and

WHEREAS, subsequent thereto Tuscarora Incorporated (successor to Polyfoam Packers Corporation) failed to file with the LaPorte County Auditor's Office an Application for Deduction from Assessed Valuation (new manufacturing equipment) form 322ERA/PPXX (the Deduction Application) in a timely manner, the Deduction Application being mailed to the LaPorte County Auditor on June 16, 2003, being two (2) days subsequent to the extension date for filing; and

WHEREAS, the Deduction Application was for the assessment year beginning March 1, 2003; and

WHEREAS, such failure affected deductions for 2003 personal property taxes payable in 2004; and

WHEREAS, such failure to so file the Deduction Application was due to inadvertent oversight in that this time period was the transition period relating to the sale by Polyfoam Packers Corporation to Tuscarora Incorporated; and

WHEREAS, Tuscarora Incorporated is otherwise in compliance with all filing requirements, including filing requirements relating to forms CF-1 (Compliance with Statement of Benefits); and

WHEREAS, pursuant Rule 4. **Miscellaneous Provisions**, 50 IAC 10-4-2 and based upon *State Board of Tax Commissioners of Indiana vs. New Energy Company of Indiana, 585 NE2nd 38*, the State Board of Tax Commissioners may consider a late filing application in its discretion;

WHEREAS, in exercising such discretion, the State Board of Tax Commissioners may consider the fact that the local governing body supports the approval of a late-filed Deduction Application.

WHEREAS, this Council desires to support the approval by the State Board of Tax Commissioners of a late filing of the Deduction Application.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. That the matters and things recited in the preamble hereof are hereby adopted and made a part of this Resolution by incorporation and reference as if repeated in full.

SECTION 2. That the Common Council of the City of Michigan City, Indiana, finds that the late filing of the Deduction Application for 2003 payable in 2004 was due to inadvertent oversight resulting in the late filing of Form 322 ERA/PP for such year.

SECTION 3. The Common Council of the City of Michigan City, Indiana, hereby supports the approval by the State Board of Tax Commissioners of the late-filed Deduction Application by Tuscarora Incorporated, even though such approval would result in a loss of tax revenues.

SECTION 4. This Resolution shall be in full force and effect after its adoption by the Michigan City Common Council.

INTRODUCED BY: /s/ Virginia Martin
/s/ JoEileen Winski

Councilwoman Winski moved to adopt the Resolution. The motion was seconded by Councilman Przybylinski.

Entering into discussion were Council Members Winski and Milsap, Attorney Patrick Donoghue (standing in for Attorney O. Jerrold Winski), and Ken Sears (Manufacturing Manager, Tuscarora).

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Przybylinski, Wilson, Winski, Baker, Harmon, Lungren, Martin, and Milsap (8). NAYS: None (0).**

The Clerk read by title only, there being no objections,

RESOLUTION NO. 4216

**A RESOLUTION AUTHORIZING TEMPORARY TRANSFERS BETWEEN FUNDS OF
THE CITY OF MICHIGAN CITY, INDIANA**

WHEREAS, certain funds within the accounts of the City of Michigan City do not have a sufficient balance to meet their obligations; and

WHEREAS, state statute (I.C. 36-1-8-4) provides that the fiscal body of the City may permit a temporary transfer between funds for cash flow purposes; and

WHEREAS, the repayment of such temporary transfers may be extended to June 30 of the year following the transfer if an emergency exists; and

WHEREAS, such an emergency exists due to the delayed collection of property taxes in LaPorte County;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Michigan City, Indiana that temporary interfund transfers be made as follows:

| <u>TRANSFER FROM</u> | <u>AMOUNT</u> |
|--|------------------|
| Riverboat Gaming Fund 9000 | \$ 8,500,000 |
| Boyd Development Fund 0417 | 3,200,000 |
| CEDIT Fund 0227 | 1,500,000 |
| Fire Pension Investment Fund 0343 | 650,000 |
| Police Pension Investment Fund 0344 | 749,000 |
| Blue Chip Donation Fund 0419 | 300,000 |
| Cumulative Capital Development Fund 2391 | <u>700,000</u> |
| Total Transfer From | \$15,599,000 |
| <u>TRANSFER TO</u> | |
| General Fund 0101 | \$11,000,000 |
| Barker Civic Center Fund 1001 | 150,000 |
| Park & Recreation Fund 1301 | 1,300,000 |
| Aviation Operating Fund 2102 | 100,000 |
| Hometown Indiana Forestry Fund 4003 | 7,000 |
| Fire Equipment Grant Fund 4401 | 2,000 |
| Sanitary District Debt Service Fund 8280 | 1,940,000 |
| Sanitary District Refuse Fund 8203 | <u>1,100,000</u> |
| Total Transfer To | \$15,599,000 |

BE IT FURTHER RESOLVED that the temporary transfers be repaid as soon as possible following the collection of property tax revenues from LaPorte County, but no later than June 30, 2004.

INTRODUCED BY: */s/ Virginia Martin*

Councilman Wilson moved to adopt the Resolution, seconded by Councilwoman Winski.

President Martin made an author's amendment to change the TRANSFER FROM and TRANSFER TO to read as above. There were no objections.

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Wilson, Winski, Baker, Harmon, Lungren, Martin, Milsap, and Przybylinski (8). NAYS: None (0).**

There being no objections, the Clerk read by title only,

RESOLUTION NO. 4217

**A RESOLUTION FOR INCREASING AND DECREASING CERTAIN APPROPRIATIONS
WITHIN THE BUDGET OF THE POLICE COMMISSION,
IN GENERAL FUND #0101,
FOR THE YEAR 2003, IN MICHIGAN CITY, INDIANA**

WHEREAS, there exist certain circumstances within the budget of the Police Commission of Michigan City which require the increasing and decreasing of appropriations for the year 2003.

Section 1. It is deemed advisable and necessary, in order to meet the circumstances facing said Police Commission of the City, that the Common Council make the following transfer of appropriations, as listed, to-wit:

GENERAL FUND #0101

Police Commission

DECREASE: A/C #0101 0071 03 430.005
Other Professional Services \$7,213.58

Section 5. That the Common Council of the City of Michigan City hereby determines and finds that the area hereby described, to-wit: the entire corporate limits of the City of Michigan City, Indiana, continues to be an Economic Revitalization Area for the purposes of real property and personal property tax abatement.

Section 6. That the deductions to be allowed for property tax abatement within the Economic Revitalization Area so designated shall be deductions allowed under Section 3 and 4, Chapter 12.1, Article 1.1, Title 6 (Real Estate) and deduction allowed under Section 4.5 of said Chapter (Manufacturing Equipment).

Section 7. That any person who wishes to claim a deduction under this Resolution shall comply with the Statement of Benefits filing requirements of said Sections 3 and 4.5 which statements shall be reviewed and approved or rejected by this Council as provided in said Sections 3 and 4.5 of I. C. 6-1.1-12.1 and only those persons whose Statement of Benefits are approved shall be entitled to the deductions. The Statement of Benefits shall contain the information described in I.C. 6-1.1-12.1 and shall be submitted on forms prescribed by the State Board of Tax Commissioners.

Section 8. That the designation as an Economic Revitalization Area and the effectiveness of this Resolution shall expire December 31, 2005, and all persons whose Statement of Benefits have been approved prior to said date shall be entitled to the applicable property tax deduction hereunder.

Section 9. That owners of real property whose Statement of Benefit applications are approved by resolution of this Council shall be entitled to a property tax deduction for a maximum period of ten (10) years, and owners of personal property whose Statement of Benefits applications are so approved shall be entitled to a property tax deduction for a period of either five (5) years or ten (10) years as this Council shall, on a case by case basis, determine.

Section 10. That the procedures described herein for application for tax abatement shall be effective from the date of adoption hereof through December 31, 2005.

Section 11. This resolution shall be in force and effect from and after its adoption by the Common Council and approved by the Mayor.

INTRODUCED BY: /s/ Virginia Martin

Councilman Wilson moved to adopt the Resolution; the motion was seconded by Councilman Przybylinski.

There was discussion among Council Members Przybylinski and Winski and Attorney Patrick Donoghue.

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Baker, Harmon, Lungren, Martin, Milsap, Przybylinski, Wilson, and Winski (8). NAYS: None (0).**

ORDINANCES

The Clerk read by title only on third reading, there being no objections, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA — TREE ORDINANCE**, introduced by Joseph LaRocco. (Agreement was reached to allow amendments on third reading.)

Councilman Lungren requested that he be named co-author of the Ordinance; permission was granted.

Councilman Lungren moved to table the Ordinance until the next meeting but was informed that an Ordinance cannot be held over to a new Council. He then withdrew the Ordinance, with the intention of reintroducing it next year.

UNFINISHED BUSINESS

Appointment to Tree Board, replacing Joseph LaRocco.

This will be taken care of when committee assignments are made in January.

Appointments to Urban Enterprise Association — Terms ending December 31, 2007.

- Incumbents: John Sharkey
- Charles Payne (does not wish to be reappointed)
- Kevin McConnell

Appointments to Redevelopment Commission — terms to expire December 31, 2004.

- Incumbents: Roger `McKee (does not wish to be reappointed)
- Scott Cooley

All of these appointments were held over to the first regular meeting in January.

NEW BUSINESS

There was no new business.

COMMENTS FROM THE COUNCIL

Council Members Winski, Wilson, and Harmon made farewell comments.

Councilmen Przybylinski and Lungren and Councilwoman Martin wished everyone happy holidays and thanked the departing members.

COMMENTS FROM THE PUBLIC

Dennis Boy (218 Southwood) thanked Councilwoman Winski.

Mayor Oberlie thanked Council Members for their cooperation during the last year, extended best wishes to those departing members, invited members to the employee holiday luncheon, and stated that offices will reopen on December 26, granting Christmas Eve as a holiday. He said offices will be closed on January 1 and, on January 2, will reopen at 8:00 a.m. New hours will be 8:00 a.m. to 4:30 p.m. By extending the workday 1/2 hour and paying for half of a lunch hour (with 1/2 hour unpaid lunch period), it will standardize work hours throughout the city.

Tony Rodriguez (Director, Economic Development Corporation) commended the Council Members for their efforts in economic development and wished them happy holidays.

ADJOURNMENT

On motion by Councilman Wilson, supported by Councilman Milsap, and there being no further business to transact, President Martin declared the meeting ADJOURNED (approximately 8:25 p.m.).

Thomas F. Fedder, City Clerk