

REGULAR MEETING - OCTOBER 17, 2006

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, October 17, 2006, 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 Ron Meer, 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; Patricia Boy; Joseph Doyle; Phillip Jankowski; Charles Lungren; Virginia Martin; Ronald Meer; and Paul Przybylinski (8)

ABSENT: COUNCIL MEMBER Milsap (1).

A QUORUM WAS NOTED PRESENT.

APPROVAL of MINUTES

President Meer inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of October 3, 2006, and, hearing none, the minutes were approved as printed.

Council President Meer advised the Council that Councilman Lungren has informed him that he does not wish to serve on the Overview Committee for the North End Development. Council President Meer said Councilman Milsap has agreed to replace Councilman Lungren on that committee.

REPORTS of STANDING, SPECIAL, or SELECT COMMITTEES

Councilman Lungren reported on Redevelopment Commission meeting held October 16, 2006.

Councilwoman Baker advised that the Michigan City Code Book Committee meeting which was scheduled for October 9th was cancelled and rescheduled for Monday, *October 3rd, 10:15 a.m. in the Mayor's Conference room. This meeting will be a review, update and discussion of the current Michigan City Code Book.

(*Note: See comments by the public regarding the correct date.)

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

There were no reports.

PETITIONS

There were no petitions.

COMMUNICATIONS

There were no communications.

RESOLUTIONS

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

RESOLUTION NO. 4347

**A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION
FOR A GRANT UNDER SECTION 5307
OF THE FEDERAL TRANSIT ACT, AS AMENDED**

Resolution authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for federal transportation assistance authorized by 49 U.S.C. chapter 53, title 23 United States Code, and other federal statutes administered by the Federal Transit Administration.

WHEREAS, the Federal Transportation Administrator has been delegated authority to award federal financial assistance for transportation project;

WHEREAS, the grant or cooperative agreement for the federal financial assistance will impose certain obligations upon the applicant, and may require the applicant to provide the local share of the project cost;

WHEREAS, the applicant has or will provide all annual certifications assurances to the Federal Transit Administration required for the project;

NOW, THEREFORE, BE IT RESOLVED by the Michigan City Common Council:

1. That Mayor Charles Oberlie is authorized to execute and file an application for federal assistance on behalf of the Michigan City Municipal Coach Department with the Federal Transit Administration for federal assistance authorized by 49 U.S.C. chapter 53, Title 23, United States Code, or other federal statutes authorizing a project administered by the Federal Transit Administration. That the City of Michigan City, Indiana, is the Designated Recipient as defined by 49 U.S.C. § 5307(a)(2).
2. That Walter Gipson, Municipal Coach Director, is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a federal assistance grant or cooperative agreement.
3. That Mayor Oberlie is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the Michigan City Municipal Coach Department.

INTRODUCED BY: /s/ Phillip E. Jankowski

Councilman Jankowski moved to adopt the Resolution, seconded by Council Members Doyle and Przybylinski.

Councilman Jankowski explained the proposed Resolution, stated this is the renewal of the transit funding.

Council President Meer asked if there were any questions or comments by the Council or public, and hearing none directed the Clerk to call for the vote: **AYES: COUNCIL MEMBERS Baker, Boy, Doyle, Jankowski, Lungren, Martin, Meer, and Przybylinski (8). NAYS: None (0).**

ORDINANCES

The Clerk read on first reading by title only, **ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY TO AMEND ZONING ORDINANCE NO. 2114** as introduced by Pat Boy. (Re: approximately thirty (30) acres currently zoned R-3 Residential by Ordinance No. 2132 - News Dispatch ad October 18, 2006.)

Councilwoman Boy explained the proposed Ordinance, stating this is the same property in which a Resolution was passed by the Council in May regarding Pahs Road.

Council Attorney Alevizos responded to questions by Councilman Lungren on the status regarding litigation concerning the zoning and annexation of this property. Councilman Lungren voiced his opinion regarding the best use of the land and said he would not be supporting the recommendation of the Plan Commission.

(For the record, Councilman Milsap entered and was noted present.)

Council President Meer stated , before the Council moves on to public comment this evening, he would ask the public to limit their comments to five (5) minutes or less.

Council President Meer asked if anyone from the general public wished to comment on the proposed Ordinance on first reading and the following individuals spoke on the Ordinance: Dawn Bancsi (5271 N. Johnson Road), Tom Bancsi (5271 N. Johnson Road), Chuck Barnthouse (4852 N. Clover Lane), Rob Beckman (8515 Pahs Road), and John Bougearel (107 Martin Street).

Council President Meer requested to schedule a **Special Meeting for Monday, October 23rd at 7:00 p.m.**, to hear the following Ordinance on second reading: ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY TO AMEND ZONING ORDINANCE NO. 2114 (Re: approximately thirty (30) acres currently zoned R-3 Residential by Ordinance No. 2132/Pahs Road); and, a **Special meeting** to be scheduled for **Monday, October 23rd at 7:30 p.m.** to hear the following Ordinance on third reading: ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA TO AMEND ZONING ORDINANCE NO. 2114 (Re: approximately thirty (30) acres currently zoned R-3 Residential by Ordinance No. 2132/Pahs Road).

There was discussion among City Clerk Fedder, Council Attorney Alevizos, Council President Meer, City Attorney Jennifer Evans and Attorney Randolph R. Rompola (Barker & Daniels LLP) in regards to a need for a public hearing on this matter.

The Clerk read on first reading by title only, **ADDITIONAL APPROPRIATIONS ORDINANCE**, introduced by Phillip Jankowski. (**DECREASE** Riverboat Fund 9000, **INCREASE** Overtime \$97,500.00, Other Supplies \$8,800.00, Other Contractual Services \$324,700.00, and Other Capital Outlay \$134,000.00 (total \$565,000.00) - News Dispatch ad October 18, 2006 - Public hearing to be held November 21, 2006.)

Councilman Jankowski explained the proposed Ordinance, stating this is basically to cover the expenses relating to the severe storm on August 23, 2006.

Council President Meer asked if there were any questions or comments by the Council and City Controller Schaefer responded to questions by Councilman Przybylinski regarding insurance coverage. There was discussion among Controller Schaefer and Councilman Przybylinski regarding sidewalk damage resulting from the storm and monies left in the sidewalk program.

Council President Meer asked if there were any questions or comments by the public and hearing none, the Ordinance was then laid over for second reading.

The Clerk read on first reading by title only, **AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 2114**, as introduced by Pat Boy. (Re: rezoning R2 & B2 to B1 - NE Corner Franklin St. & Barker Ave. to Pine St., Michigan City, Indiana - Petitioner: Preferred - Michigan City, LLC. Reason for petitioning: to develop a 14,475 square feet Walgreens Drug Store with 2 drive through lanes and 57 parking spaces, 1 loading area.)

Councilwoman Boy explained the proposed rezoning Ordinance.

There was discussion among Mr. Endy Zememides (Preferred Development), Council Members Baker, Milsap, Boy and Przybylinski regarding the proposed development.

Council President Meer asked if there any comments or questions by the general public and there was no response.

The Ordinance was then laid over for second reading and a public hearing on November 8, 2006.

The Clerk read on first reading by title only, **AN ORDINANCE AUTHORIZING THE CITY OF MICHIGAN CITY TO ISSUE ITS "VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS (GARDEN ESTATES WEST APARTMENTS PROJECT), SERIES 2006" AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**, introduced by Patricia Boy.

Councilwoman Boy gave a brief explanation of the proposed Ordinance and stated that there were representatives present to speak on the Ordinance.

Attorney Thomas J. Rutkowski, representative for the Michigan City Economic Development Commission, said the Commission met on October 10th following the May 5th meeting of the Council which adopted a Resolution supporting the issuance of multifamily housing Revenue Bonds for the purpose of financing a 174 unit residential housing project at 900 Pine Tree Court. He said this Resolution was on behalf of Garden Estates West and was sent to the Council recommending the passing of the Ordinance which will not be an obligation to the City of Michigan City relative to the

bonds.

Mr. Melton Pinsky gave an overview of the usage of the bonds and plans for the renovation of Garden Estates West.

Council President Meer asked if there were any questions or comments by the Council and Mr. Pinsky responded by questions by Council Members Lungren, Milsap and Przybylinski.

Councilman Przybylinski moved to suspend the rules to allow second reading at this meeting and there was no objection.

Mr. Pinsky and Councilwoman Boy responded to questions by Councilman Lungren regarding the fire alarm system and carbon monoxide detectors. Mr. Pinsky responded to Councilman Milsap's question regarding the usage of local contractors.

Council President Meer asked if there were any questions or comments by the general public.

Mr. Pinsky responded to questions by Wesley Skulley, 508 Pine Tree Drive, regarding Contractors on this project.

Councilman Przybylinski moved to allow second reading, there being no objections. Councilman Lungren seconded the motion.

The Clerk read on second reading by title only, **AN ORDINANCE AUTHORIZING THE CITY OF MICHIGAN CITY TO ISSUE ITS "VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS (GARDEN ESTATES WEST APARTMENTS PROJECT), SERIES 2006" AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**, introduced by Patricia Boy.

Council President Meer stated these are the types of projects that Michigan City needs, working on existing apartment complexes and existing housing throughout our city.

Council President Meer asked if there were any questions or comments by the general public and hearing none, Council President Meer advised that he would put the Ordinance on the agenda scheduled for Monday, October 23, 2006, 7:30 p.m. in the Council Chambers. Council President Meer said the Ordinance will be on third reading.

There was discussion among Councilman Lungren, Council Attorney Alevizos and Attorney Rutkowski regarding having the Ordinance read tonight on third reading.

Councilman Przybylinski moved to suspend the rules to allow third reading of the Ordinance tonight, stating that it is a prescribed emergency under deadline and documents be signed on third reading.

After discussion among Council Attorney Alevizos, Councilman Przybylinski, and Council President Meer regarding the Ordinance being heard on third reading at tonight's meeting.

Council President Meer stated this matter will be on the agenda that is scheduled for Monday, October 23, 2006, 7:30 p.m.: and, it will be the second issue on that agenda.

The Clerk read on second reading by title only, **AN ORDINANCE OF THE CITY OF MICHIGAN CITY, INDIANA RECOGNIZING AFSCME COUNCIL 62 AS THE BARGAINING AGENT FOR NON-SUPERVISORY EMPLOYEES OF THE OFFICE OF THE CLERK OF THE CITY OF MICHIGAN CITY, INDIANA**, introduced by Paul A. Przybylinski.

Councilman Przybylinski spoke on the proposed Ordinance.

There was discussion among Councilwoman Boy and Gale Neulieb regarding objections by the other employee in the office.

Council President Meer asked if there were any questions or comments by the general public and hearing none, the Ordinance was then laid over for third reading.

The Clerk read on second reading by title only, **ADDITIONAL APPROPRIATIONS ORDINANCE**, introduced by Joseph Doyle. (**DECREASE** Aviation Fuel Fund 2104, **INCREASE** Aviation Fuel Fund \$85,000.00 - News Dispatch ad October 4, 2006 - Public Hearing to be held November 8, 2006.)

Council President Meer asked if there were any questions or comments by the Council and Airport Manager Brian Payne responded to a question by Councilman Lungren regarding fuel sales.

Council President Meer asked if there were any questions by the general public and hearing none, the Ordinance was then laid over for third reading.

UNFINISHED BUSINESS

There was no Unfinished Business

NEW BUSINESS

There was no New Business.

COMMENTS FROM THE COUNCIL

Councilwoman Boy requested that the statement from Dawn Bancsi regarding Pahs Road be made part of the Council record and Council President said yes, and that it be submitted to the Clerk.

Tom and Dawn D. Bancsi
5271 N. Johnson Rd.
Michigan City, IN 46360

Meeting for the Common Council of Michigan City Indiana

Concerns regarding the parcel of land currently designated R3:

1. R3 is a zoning of multidwelling habitat, which obviously can include apartments, condos, etc. It is a fairly known fact that the planned project for this land includes potentially a new strip mall adjacent to the Route 20 area and further South on the property placement of housing that would hold multiple units, again potentially supporting lower income housing.
 - a. Concerns regarding this issue include:
 - i. The effects of the real estate of the currently present R1 homes in the adjacent properties
 - (1) Families that are considering or were considering moving have contacted real estate agents to assess potential earnings on the home. One family was told by the realtor that their home originally at \$130,000 would now value at \$90,000 even after much remodeling due to the "word" this type of housing would be entering the nearby lands.
 - ii. The social, economic impact of this type of housing:
 - (1) A recent article discussed at the Planning Commission by our concerned citizens, reported that for families that are already receiving Transitional Assistance (i.e. Welfare) the likelihood, specifically in Indiana, to progress past this is very poor with Indiana being last in the state in this process compared with the rest of the country. This would mean, in an area such as Michigan City, which is already hard pressed for employment for its current citizens, the individuals encouraged to move to this area would not be able to find jobs. This is not a responsible move for the city to support for itself and for the people that would be moving to this area.
 - (2) In the Chicago Tribune on Sunday October 8th, an article discussed why the Robert Taylor homes did not work as predicted. It showed that over time the very small percentage of people who were originally in the homes that required Transitional assistance eventually became over 90% of the individuals. This progressed to greater delinquency of the properties, increased crime, increased drug and drug transactions on the property, and loss of life (including children).
 - iii. The traffic and congestion and the safety of the students in the area of the Michigan City High School.
 - (1) As stated above, historically it has been shown through Chicago planning the influence of drugs including cocaine, marijuana, crack, and heroine (Chicago Tribune, above), which is obviously not a desirable situation across from the high school.
 - (2) Traffic — the high school itself is a major area of congestion at the start and close of school. In the News Dispatch of September 27th 2006, many of the School Board themselves noted concerns regarding the students' safety with vehicle accidents from the number of students driving on the two lane Pahs Road. With the addition of the multidwelling housing, this can only increase the frequency and concern due to just the increased number of cars and people, as well as the need for increased city supported transportation along these routes to accommodate more people. Currently, the intersection of Pahs and Johnson road is already a frightening place to need to pause and turn regardless of any new construction.
 - (3) This is in no way a means of preventing students from attending Michigan City High School. The concerns represented this evening are for the current homeowners and the current students, as well as the safety and productivity any other individual that would move into the area. Using the land for R1 dwellings similar to the current established region about the high school would also support a safe and potentially drug free environment for additional students and families.
 - iv. The ability of the land to support R3 housing:
 - (1) After attending the Planning Commission's meeting in September, it is clear from the only available study presented that the land in question has many issues that do not

- support R3.
- (2) When this report was read by Ms. Boy at that meeting, near its conclusion of the matter, it was made clear that the land has substantial issues with soil drainage, which is made clear each downfall as the ditches swell, the reserve pond on Johnson and 20 fills, and the Evergreen plaza parking lots flood enough to require patrons to be towed from the various establishments. Precipitation is definitely an issue for this area as the LaPorte County website pasture.ecn.purdue.edu reports that LaPorte County receives twice the amount snow fall than any other northern Indiana region averaging 70 inches per year in this area. As people may remember just two years ago in January some 28 inches fell overnight that then warmed and rained and again flooded Trail Creek.
 - (3) After person communication between Mr. Thomas Bancsi and individuals from Save the Dunes, it has also come to pass that this land has areas that are designated wetlands. Wetlands are areas that are meant to help drainage of rainfalls. Their plants and wildlife are very specific to that type of water concentration. The potential of destroying these and attempting to artificially control the water has already been shown to be inefficient as mentioned in the flooding statements prior.
 - (4) R3 is of concern then, because as an attendee to the Mayor supported Watershed Program in June of this year, such establishments having large surface areas of roofing and parking lot reduce the amount of land for water absorption greatly, especially compared to area of agriculture and even R1 or individual housing, which includes lawns, trees, and landscaping that helps reduce these surface areas and actively absorb water. The trees mentioned in the Soil report by Mrs. Boy at the Planning Commission meeting, supports this statement, as it was one of the recommended uses of the land in question.
 - (5) Pollution and invasive species — In addition to the flooding comes the effect of the movement of these substances through the Trail Creek waterways. All anyone has to do to see the influence of this is to watch that tall purple plant (name unknown) that has spread itself down all of 20 and has surround the retention pond within one month over the summer. The trash and waste found in the creek in our backyard is astonishing.
- b. Final statement:
- i. According to MichiganCity.com the City Council's purpose is to "to provide citizens with a voice and representation on city administration".
 - ii. Today and on this matter, this could not be a more important time for the Council to represent the concerned citizens of LaPorte County.
 - iii. Many of the issues represented are supported by those who are present, live in the area, and may wish to eventually reside in this wonderful city of great potential, therefore, it is all of our responsibilities to take care and research and investigate what is the BEST use of this land for BEST benefit for the MOST people and in this case, it is clear that the R3 designation does not support the people and we wish that the Council continues to at least follow their original proposal to reassign this land to R1 and make the land the best it can be and it can offer to the safety, economics and environment of Michigan City, LaPorte County.

Councilwoman Boy said the Youth Council will be meeting on Thursday evening from 6:30 to 7:30 p.m. in the Mayor's Conference Room and anyone in the Michigan City Area Schools district 8th grade through 12th grade is welcome to come.

Councilman Przybylinski spoke on Boat Slips through the Port Authority and the Trail Creek Water Shed Program.

Councilman Lungren made remarks regarding the Washington Street Sewer Project/sidewalks.

Council Attorney Alevizos requested a copy of the Redevelopment Commission minutes when they become available and Councilman Lungren responded to a question by Council Attorney Alevizos regarding leasing of Boat Slips.

Council President Meer commented on a article that was in the News Dispatch from School Teachers and also a letter by the Chamber of Commerce from Mr. Tim Bietry concerning the Early Learning Center. Councilman Przybylinski made various comments regarding funds received by the School Board.

COMMENTS FROM THE PUBLIC

Joan Chumley, 832 Pine Street, had a question directed to Councilwoman Baker regarding the Michigan City Code Book Committee meeting. Earlier in the meeting Councilwoman Baker said the meeting of October 9th had been cancelled and re-scheduled for October 3rd. Ms. Chumley wanted to know if she mis-stated the date and Councilwoman Baker said the correct date is October 23rd.

There was discussion among John Vail (Michigan City), Council President Meer and Council Attorney Alevizos regarding the readings of the Pahs Road Rezoning Ordinance.

ADJOURNMENT

On motion by Councilman Lungren, supported by Council, and there being no further business to transact, President Meer declared the meeting ADJOURNED (9:05 p.m.).

Thomas F. Fedder, City Clerk