

## **REGULAR MEETING - August 7, 2007**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday Evening, August 7, 2007 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 Willie Milsap, 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; Angelo Corley, Joseph Doyle; Phillip Jankowski, Ronald Meer, Willie Milsap (7)**

**ABSENT: Virginia Martin and Paul Przybylinski (2).**

**A QUORUM WAS NOTED PRESENT.**

### **APPROVAL of MINUTES**

President Milsap inquired whether there were any corrections, deletions, or additions to the Minutes of the Regular Meeting of July 17, 2007. On a Motion by Councilman Meer and seconded by Councilman Corley, President Milsap declared the Minutes approved as written.

### **REPORTS of STANDING COMMITTEES**

There were no Reports.

### **REPORTS of SPECIAL or SELECT COMMITTEES**

Evelyn Baker, Chairperson of the Tax Abatement Compliance Committee.

Ms. Baker met with the Michigan City Economic Development Corporation on July 5, 2007 to review local tax abatement compliance information. Currently 37 companies are receiving tax abatement for real estate and/or equipment and ALL companies are in compliance with the tax abatement filing policy. Over 10 years, a total of 54 Tax Abatement Resolutions have been granted to those 37 businesses. Several businesses have multiple abatements. Current tax abatement companies have created over 1,000 new jobs, retention of 851 of those jobs, and \$1,400,000 (One Hundred Forty Million) in new investments during the past 10 years.

### **REPORTS of OTHER CITY OFFICES and DEPARTMENTS**

#### Economic Development.

Kevin Kieft, Business Manager of the Michigan City Economic Development Corporation addressed the Council Members. Mr. Kieft stated that tax abatement is key in the local and global environment to remain competitive. To be able to receive State incentives, local tax abatement must be given. Each Councilperson was given a copy of the tax abatement status list, and currently there is 100% compliance of the companies that intended to file.

#### Controller.

John Shaefer, City Controller of the City of Michigan City spoke about the 2008 Budget that will be presented to the City Council for consideration next week. Mr. Schaefer requested that a workshop be scheduled next week, so that first reading on the budget would be August 21, 2007. Between first and second readings, workshops can then be scheduled with Department Heads to discuss the Budget. President Milsap asked Finance Chair, Mr. Jankowski to schedule the workshop. Mr. Jankowski suggested a tentative date of Tuesday, August 14, 2007 in the evening; however absent Committee Members will have to be notified.

### **PETITIONS**

There were no Petitions.

**COMMUNICATIONS**

There were no Communications.

**RESOLUTIONS**

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

RESOLUTION NO. 4365

A RESOLUTION OF THE COMMON COUNCIL OF  
THE CITY OF MICHIGAN CITY, INDIANA  
ESTABLISHING PROCEDURES FOR SUBMITTING  
ORDINANCES AND RESOLUTIONS TO THE COUNCIL

WHEREAS, it is the Council's responsibility to review and consider passing proposed ordinances and resolutions for various reasons and purposes; and,

WHEREAS, in order to provide for the orderly and efficient consideration of proposed ordinances and resolutions by the Council, it is important that they be in the proper form and accompanied by any necessary documentation when they are placed on the Council's agenda; and,

WHEREAS, it is the responsibility of the City Law Department and the Council's attorney to prepare and/or review proposed ordinances and resolutions before they are placed on the Council's agenda for first reading and to make any necessary corrections or amendments thereafter; and,

WHEREAS, the process for the Law Department and Council attorney to review, edit, and amend proposed ordinances and resolutions is much more efficient if the proposed ordinances and resolutions that are prepared by others are submitted to the Law Department and Council's attorney as an editable document in digital format.

NOW, THEREFORE, BE IT RESOVED by the Common Council of Michigan City that:

1. Beginning upon the adoption of this Resolution all proposed ordinances or resolutions are to be prepared or reviewed and edited by the Law Department and/or the Council's attorney before they are presented to the Council for first reading.
2. Any such proposed ordinance or resolution prepared by another party shall be submitted to the Law Department or the Council's attorney in an editable, digital format by e-mail or disc in a word processing program acceptable to them. Such submittals shall allow reasonably sufficient time for their review before their submittal to the City Clerk's office, for placement on the appropriate agenda, by noon five (5) days before the specified meeting date.
3. Except in case of an emergency or unless excused by the Council's presiding officer, documentation of any and all necessary prior approvals or recommendations for the passage of an ordinance or resolution shall be submitted to the Council before the Council votes on the proposed ordinance or resolution on first reading.
4. Unless excused by the Council's presiding officer, any documentation or other evidence that the proponent of the proposed ordinance or resolution wants the Council to consider shall be submitted to the Clerk's office no later than noon on the previous Thursday for the next regular meeting, or by noon of a date at least five (5) days before any other meeting, to allow time for making copies to be provided to the Council before the meeting at which the proposed ordinance or resolution is on the agenda for a vote on passage to second reading.
5. To the extend reasonable possible, copies of any such documentation shall be provided to the Law Department and the Council's attorney at the time the proposed ordinance or resolution is submitted to them for their review.
6. The proponent of any proposed ordinance or resolution shall submit a cover letter to the Law Department and the Council's attorney along with the proposed ordinance or resolution. The letter shall contain the name, address, and phone number of the proponent; a narrative explanation of the reasons why the Council should adopt the ordinance or resolution; and demonstrate that any necessary recommendation, certification, or per-approval has been obtained from the appropriate person or agency, including names and dates with copies of any written recommendations, certifications, or per-approvals included with the letter.
7. The Clerk's Office shall provide each Council member, the Council's attorney, and the Law Department with copies of all documents submitted to the Clerk's office for presentation to the Council.
8. Failure to comply with these directives will be grounds for the Council to refuse to consider or act on the proposed ordinance or resolution.

INTRODUCED BY:

\_\_\_\_\_  
Angelo Corley, Member

\_\_\_\_\_  
Virginia Martin

\_\_\_\_\_  
Patricia Boy, Member

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
WILLIE MILSAP, President  
Common Council of Michigan City, Indiana

RESOLUTION APPROVED BY ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
CHARLES E. OBERLIE  
Mayor of Michigan City, Indiana

ATTEST:

\_\_\_\_\_  
THOMAS F. FEDDER  
Clerk of Michigan City (SEAL)

Councilman Corley moved for the adoption of the Resolution, seconded by Councilwoman Boy.

Council President Milsap asked if there were any comments or questions.

Councilman Meer asked Attorney Meyer for clarification on the Resolution regarding procedures for introduction of proposed ordinances or resolutions on how many attorneys must review the ordinance or resolution. Attorney Meyer stated, initially the ordinance can be generated by Corporation Counsel, City Attorney, or Council Attorney to be placed on the agenda.

The Resolution was duly adopted by the following vote: **AYES: COUNCIL MEMBER Meer, Milsap, Baker, Boy, Corley, Doyle, and Jankowski (7). NAYS: (0). ABSENT: Martin, Przybylinski (2).**

There being no objections, the Clerk read by title only (with author's amendments included),

**RESOLUTION NO. 4366**

**A RESOLUTION OF THE COMMON COUNCIL  
OF THE CITY OF MICHIGAN CITY, INDIANA  
OBJECTING TO INCREASED DISCHARGE  
OF INDUSTRIAL WASTE INTO THE GREAT LAKES**

**WHEREAS** the Great Lakes are the largest surface freshwater system on the planet, accounting for 95 percent of the United States' surface fresh water, 21 percent of the world's supply, and the drinking water for more than 40 million people throughout the Great Lakes basin, including Michigan City residents; and

**WHEREAS** the Great Lakes support recreational, commercial, tourism, and cultural activities for residents and visitors, including recreational boating and a \$5 billion sport fishing industry; drive economic development; support critical aquatic and coastal ecosystems; and are priceless, *public* natural resources, shared and held in trust by the Great Lakes and St. Lawrence states and provinces, and essential to the quality of life and economic vitality of the cities, villages, townships, counties, and *countries* along their shores and in the surrounding watershed; and

**WHEREAS** the Great Lakes are virtually a closed system, finite and vulnerable to depletion and degradation, with only one percent of the water in the Great Lakes being recharged each year; what we put in the lakes affects the health of those 40 million people, and the development and survival of future generations; and

**WHEREAS** President George W. Bush has called the Great Lakes a national treasure; Congress has expressed its commitment to protecting the Great Lakes from pollutants and contaminants through the Clean Water Act and subsequent legislation; and the United States Environmental Protection Agency (EPA) and Environment Canada joined together in promulgating the Great Lakes Binational Toxics Strategy to eliminate the presence of persistent toxic substances in the Great Lakes basin; and

**WHEREAS** 327 IAC 2-1.5-3 states that the goal of the state is to restore and maintain the chemical, physical, and biological integrity of the waters of the state within the Great Lakes system, and it is the public policy of the state that the discharge of toxic substances in toxic amounts be prohibited; and

**WHEREAS** 327 IAC 2-1.5-4 states that for all surface waters of the state within the Great Lakes system, existing instream water uses and the level of water quality necessary to protect existing uses shall be maintained and protected, and where an impairment exists, there shall be no *lowering* of the water quality with respect to the pollutant or pollutants that are causing the impairment, and all high quality waters designated under section 19(b) of this rule as an outstanding state resource water shall be maintained and protected in their present high quality without degradation; and

**WHEREAS** 327 IAC 2-1.5-5 (a) states that all surface waters of the state within the Great Lakes system are designated for full-body contact recreation; shall be capable of supporting a well-balanced, warm water aquatic community except those as described in 327 IAC 2-1.5-5 (a)(7); and the Indiana portion of the open waters of Lake Michigan are among those designated as salmonid waters that shall be capable of supporting a salmonid fishery; and that where multiple uses have been designated for a body of water, the most protective of all simultaneously applicable standards will apply; and

**WHEREAS** the Great Lakes are already plagued by pollutants such as mercury, PCBs, ammonia, DDT, alkylated lead, hexachlorobenzene, TCDD, toxaphene, and others; mercury and PCBs cause fish consumption warnings; *e. coli* causes record numbers of beach closures; high amounts of ammonia contribute to algae blooms, and the algae die-off results in dissolved oxygen depletion that can threaten fish; and controversial "mixing zones" dilute toxic chemicals discharged into the Great Lakes system, that may be a threat to humans, fish and wildlife through the fish we eat and the water we drink; and

**WHEREAS** the Indiana Department of Environmental Management (IDEM) recently issued a permit to BP PLC that will allow their facility in Whiting, Indiana to release 54 percent more ammonia and 35 percent more total suspended solids, and discharge an average of 1,584 pounds of ammonia and 4,925 pounds of total suspended solids daily into “the Indiana portion of the open waters of Lake Michigan”; and

**WHEREAS** a healthy future for the Great Lakes is wholly reliant on the intervention of federal, state and local government, and the support and cooperation of private business, we must insist that these entities work to restore the lakes to greatness because they are an invaluable resource for all of us to both use and protect; and Congress has a clear role in protecting the Great Lakes as an entity that spans across State and international boundaries; and

**WHEREAS** the City of Michigan City and the Sanitary District of Michigan City have gone to great lengths, at high cost, to meet or exceed government standards for Municipal Waste Water Treatment Plants, and to minimize point-source pollution in Lake Michigan. As co-stewards of clean water in Lake Michigan, we must take action to urge BP Amoco to join us in these critical efforts to reduce pollution in Lake Michigan, rather than adding pollution to the lake; and

**WHEREAS** a section of the BP website is dedicated to the environmental requirements for new projects and the BP website contains the following quote: “BP needs to convince its critics that in a company of such size, it is able to turn good headquarters policies into effective operational practice.” While the IDEM permit may not violate the *legal* limits of discharges of ammonia and total suspended solids, we must urge BP to consider the effect this increased discharge will have on Lake Michigan and on its environmental image, and to begin this “effective operational practice” right here in Northwest Indiana with an improved system that will not result in increased ammonia, and improved filtering that will not result in increased total suspended solids in Lake Michigan;

**NOW, THEREFORE, BE IT RESOLVED** that we strongly disagree with BP’s demand to increase their daily mass limits for discharge of ammonia and total suspended solids into Lake Michigan instead of expending the time, effort, and money to design and implement advanced treatment technologies so as to avoid increasing the pollution it discharges into the Lake. We urge the State of Indiana to reconsider issuance of a permit allowing BP to increase their daily mass limits for ammonia and total suspended solids into Lake Michigan on the basis that BP has failed to demonstrate that it has no reasonable alternative to increasing the pollution. We believe that BP’s allegation of lack of space as stated in the Permit Fact Sheet is highly suspect in light of the size of the BP plant and the fact that waste water could be pumped to additional treatment facilities anywhere within the extremely large BP plant before discharge into the Lake. We believe IDEM should have applied a more protective standard in judging whether BP was reasonably able to provide additional treatment to the wastewater discharge from its new facility. Considering the great value in keeping additional pollutants out of Lake Michigan, the availability of advanced wastewater treatment technologies, and BP’s profitability and assets, BP should be able to find ways to substantially reduce the solids and the ammonia in its discharge to Lake Michigan; and

**BE IT FURTHER RESOLVED** that we call on the U.S. Congress to take action to protect and restore the Great Lakes, including, but not limited to, identifying appropriate sources for the funds necessary to improve, protect, and preserve the waters of the Great Lakes and on the United States EPA and IDEM to be proactive in assuring that the actions they take regarding NPDES permitted discharges into the Great Lakes basin should be consistent with the goal of preserving and restoring the Great Lakes, and they should not allow an increased discharge of pollutants into the Great Lakes unless there is clear and convincing proof provided to and verified by them, and provided to the public, that the benefit greatly outweighs the harm, and that, under the totality of the relevant circumstances, there is no feasible alternative to allowing the increased discharge; and-

**BE IT FURTHER RESOLVED** that in regards to any permit issued by IDEM which allows an increase in the discharge of a pollutant into Lake Michigan, IDEM provide a detailed recitation in the draft Fact Sheet of each and every significant fact it relied on in concluding that the permittee had provided clear and convincing proof, which IDEM had independently verified, that the benefit greatly outweighs the harm and that, under the totality of the relevant circumstances, there is no feasible alternative to allowing the increased discharge.

The Council hereby requests the City Clerk to forward copies of this resolution to:

Gerald Rhoades  
BP Amoco PLC  
2815 Indianapolis Blvd.  
Whiting, IN 46394-2197

US Senator Evan Bayh  
131 Russell Senate Office Building  
Washington, D.C. 20510-1404

US Senator Richard G. Lugar  
306 Hart Senate Office Building  
Washington, D.C. 20510-1401

US Representative Joe Donnelly  
1218 Longworth House Office Building  
Washington, D.C. 20515-1402

Senator Jim Arnold  
200 West Washington Street  
Indianapolis, In 46204-2785

State Representative Scott Pelath  
Indiana House of Representatives  
200 W. Washington St.  
Indianapolis, IN 46204

State Representative Tom Dermody  
Indiana House Republicans  
200 W. Washington St.  
Indianapolis, Indiana 46204

Commissioner Thomas Easterly  
Indiana Department of Environmental Management  
100 N. Senate Ave.  
Indianapolis, IN 46206

EPA Administrator Stephen L. Johnson  
US Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Regional Administrator Mary A. Gade  
US EPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Governor Mitch Daniels  
Governor's Residence  
4750 N. Meridian Street  
Indianapolis, IN 46208

President George W. Bush  
The White House  
Washington, D.C. 20500

Introduced by: \_\_\_\_\_  
Patricia Boy, Member

Passed by the Common Council of the City of Michigan City, Indiana this \_\_\_\_ day of August, 2007.

\_\_\_\_\_  
Willie Milsap, President  
Michigan City Common Council

Approved by me, this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Charles E. Oberlie, Mayor  
City of Michigan City, Indiana

ATTEST:  
(Seal)

\_\_\_\_\_  
Thomas F. Fedder, City Clerk  
City of Michigan City, Indiana

*(For the record Councilman Przybylinski entered the meeting at approximately 7:50 p.m.)*

Council President Milsap asked if there were any comments or questions.

Councilman Przybylinski felt more information should have been included in the Resolution’s ‘12<sup>th</sup> Whereas’ clause specifying the millions of dollars that were spent adhering to Federal and State Government mandates set in place, along with timetable mandates that municipalities must follow to separate storm water from sewage. Councilman Przybylinski further stated it is hypocritical for the Federal and State Government to allow BP to discharge pollutants into the Lake affecting all Northwest Indiana Communities.

Jeanette Neagu representing the Save the Dunes Council and the Lake Michigan Interleague Organization spoke in support of Pat Boy’s Resolution in objecting to increased discharge of industrial Waste into the Great Lakes.

Betty Lou Nault, President of the La Porte County League of Women Voters presented a Statement to the Michigan City Common Council in Support of Resolution.

Councilman Boy moved for the adoption of the Resolution, with support by Councilman Doyle.

The Resolution was duly adopted by the following vote: **AYES: COUNCIL MEMBER Meer, Milsap, Baker, Boy, Corley, Doyle, and Jankowski, Przybylinski (8). NAYS: (0). ABSENT: Martin, (1).**

**ORDINANCES**

The Clerk read on third reading by title only,

ORDINANCE NO. 4008

AN ORDINANCE OF THE MICHIGAN CITY COMMON COUNCIL  
FOR THE REGULATION OF FIREWORKS  
WITHIN THE CITY OF MICHIGAN CITY, INDIANA  
PURSUANT TO INDIANA CODE 22-11-14-10.5

WHEREAS, during the recent legislative session, the Indiana General Assembly passed Senate Enrolled Act 9, which becomes effective upon the signature of the Governor; and

WHEREAS, Senate Enrolled Act 9 adds to the Indiana Code 22-11-14-10.5, which is designed to limit the use of consumer fireworks to thirteen (13) days of the year; and

WHEREAS, Senate Enrolled Act 9, as codified in I.C. 22-11-14-10.5, gives municipalities the ability to regulate the use of consumer fireworks, subject to the thirteen (13) days specifically exempted; and

WHEREAS, the City of Michigan City desires to adopt the regulations as set forth in Indiana Code 22-11-14-10.5, as amended from time to time.

NOW, THEREFORE, be it Ordained by the Common Council of the City of Michigan City, Indiana that:

1. Discharge Prohibited. It is unlawful for any person to shoot off, release, otherwise discharge or cause to be discharged, any fireworks within the limits of the City of Michigan City as defined by I.C. 22-11-14-1, except as provided by law.

The following exemptions are permitted:

- a. Public fireworks displays where a permit is granted pursuant to I.C. 22-11-14-2 or IC 22-11-14-3.5; and
- b. Fireworks displays as set forth by State law, including the hours between 5:00 p.m. and 2 hours after sunset from June 29 to July 3<sup>rd</sup> and from July 5<sup>th</sup> to July 9<sup>th</sup>; 10:00 a.m. to midnight on July 4<sup>th</sup>; and 10:00 a.m. on December 31<sup>st</sup> to 1:00 a.m. on January 1<sup>st</sup>.

2. Nuisance. The use or discharge of fireworks which causes serious annoyance to a neighborhood or the residents therein by loud, frequent, or habitual noise is declared to be a nuisance. It is unlawful for any person to conduct such activities.

3. Parental Responsibility. It shall be unlawful for the parent, guardian or other person having the care, custody and control of a minor under the age of 18 years to knowingly permit such minor to fire, shoot off, or discharge any fireworks within the City of Michigan City.

4. Liability for Fire. Any person shall be liable for damage to person or property caused by the use or discharge of fireworks, and shall also be liable for costs of fire service by the Michigan City Fire Department as defined in I.C. 22-11-14-1 or other emergency services necessitated by the use or discharge of fireworks.

5. Penalties. Any person convicted of violating the provisions of this section may be punished by a fine in an amount of up to \$\_\_\_\_\_ per occurrence.

Any person convicted of violating the provisions of Section 2 may be punished by a fine in an amount up to \$\_\_\_\_\_. A civil action to abate such nuisance may also be brought under the provisions of I.C. 32-30-6 and I.C. 32-30-7.

6. Severability. It is not the intent or purpose of this subsection to conflict with or otherwise contravene the lawful sale or possession of fireworks in the State of Indiana.

This Ordinance shall be in full force and effect after passage and approval by the Mayor of Michigan City.

INTRODUCED BY: \_\_\_\_\_  
Phil Jankowski, Member

Passed by a vote of \_\_\_\_\_ by the Common Council of the City of Michigan City, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Willie Milsap  
President, Common Council

Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Charles Oberlie  
Mayor of Michigan City

ATTEST:

\_\_\_\_\_  
Thomas F. Fedder, City Clerk

Councilman Jankowski moved for the adoption of the Ordinance, which was seconded by Councilwoman Boy and Councilman Meer.

Council President Milsap asked if there were any other comments or questions by the Council or public, and hearing none directed the Clerk to call for the vote regarding the adoption of the Ordinance.

Councilman Jankowski stated that this Ordinance will limit fireworks as approved by the State of Indiana.

**AYES: COUNCIL MEMBERS Przybylinski, Baker, Boy, Corley, Doyle, Jankowski, Meer, and Milsap (8). NAYS: (0). Absent: Martin (1).**

**UNFINISHED BUSINESS**

There was no Unfinished Business.

**NEW BUSINESS**

Councilman Meer moved to adopt Mayor Oberlie’s recommendation to appoint Ms. Catchings to the Historic Review Board with support by Mr. Doyle.

President Milsap asked Ms. Catchings to come up to the microphone and identify herself. Janet Catchings of 326 Helen Street appeared at the microphones and there were no questions from the Council or public regarding the appointment.

**AYES: COUNCIL MEMBERS Przybylinski, Baker, Boy, Corley, Doyle, Jankowski, Meer, and Milsap (8). NAYS: (0). Absent: Martin (1).**

Councilman Jankowski moved to appoint Lynn Kaiser to the Redevelopment Committee, with support by Ms. Boy. No comments by the public or the Council.

Lynn Kaiser of 322 Lake Hills Road told the Council she would much like to be a member of the Committee.

**AYES: COUNCIL MEMBERS Przybylinski, Baker, Boy, Corley, Doyle, Jankowski, Meer, and Milsap (8). NAYS: (0). Absent: Martin (1).**

**COMMENTS FROM THE COUNCIL**

Councilman Przybylinski questioned if the Presiding Officer can direct our Attorney to give us a status report on current or pending litigation in the City. Councilman Przybylinski would like information on how many lawsuits are current, pending, and monies involved or expended. This information could be discussed at an executive session.

Attorney Meyer stated one of the exceptions to the Open Door Rule is pending or threatened litigation. The City Council could legally ask for the information and specify what parameters of each lawsuit they would like to receive information on in an executive session.

**COMMENTS FROM THE PUBLIC**

There were no Comments from the Public.

**ADJOURNMENT**

On motion by Councilman Meer, supported by Councilman Corley, and there being no further business to transact, President Milsap declared the meeting ADJOURNED (approximately 8:30 p.m.)

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Thomas F. Fedder, City Clerk  
Michigan City, Indiana