

REGULAR MEETING – April 15, 2008

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, April 15, 2008, at the hour of 6:30 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 6:30 p.m. by Council President Ron Meer.

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

PRESENT: COUNCIL MEMBERS Marc Espar, Phillip Jankowski, Robert McKee, Ron Meer, Willie Milsap, Richard Murphy, Joe Doyle, and Angie Nelson. (8).

ABSENT: Patricia Boy (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 April 1, 2008 and hearing none, the minutes were approved as printed.

REPORTS of STANDING COMMITTEES

Councilwoman Nelson reported on the Health and Safety Committee Meeting held on Tuesday, April 8, 2008 regarding the proposed Ordinance amending Ordinance No. 2261.

Councilman Jankowski reported on the March 22, 2008, Water Department Board Meeting. Mr. Jankowski stated that the Ordinance regarding inter-city transfers would be on the agenda to discuss at the April 22, 2008, Water Department Board Meeting. Mr. Jankowski advised the Council that he would attend this meeting.

Councilman Jankowski commented that a Humane Activities Committee meeting will be scheduled in the near future; and reported on the Animal Control Advisory Board meeting held on April 10, 2008.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Council President Meer commented on the discussion he had with Attorney Meyer and Councilman McKee regarding expediting the Westside Beach Access Resolution. Mr. Meer stated that the Park Department did put the Westside Beach Access in their Five (5) Year Master Plan.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

Al Walus, General Manager, Michigan City Sanitary District did a presentation for the

City Council regarding a summary report of the activities associated with the Trail Creek Watershed Management Plan (A Guide for Cleaner Water).

Joe Exl, Costal Nonpoint Coordinator of the Indiana Department of Natural Resources provided information to the Council on how watershed management relates to the rest of Northwest Indiana.

PETITIONS

There were no petitions.

COMMUNICATIONS

There were no communications

RESOLUTIONS

RESOLUTION

Councilman McKee moved to bring off the table; **MICHIGAN CITY COMMON COUNCIL RESOLUTION REQUESTING MICHIGAN CITY SCHOOL BOARD ACTION REGARDING COMPLYING WITH CONTRACT WITH MICHIGAN CITY PARK AND RECREATION DEPARTMENT FOR USE OF SCHOOL ATHLETIC FACILITIES BY CITY RESIDENTS**, introduced by Bob McKee and Ron Meer;

Councilman Milsap seconded the motion, which carried by the following vote: **AYES: COUNCIL MEMBERS McKee, Meer, Milsap, Murphy, Nelson, Doyle, Espar, and Jankowski (8). NAYS: None (0).**

The Clerk read the Resolution by title only, there being no objections.

Council President Meer asked Councilman McKee to read the resolution in its entirety.

RESOLUTION NO. 4391

MICHIGAN CITY COMMON COUNCIL RESOLUTION REQUESTING MICHIGAN CITY SCHOOL BOARD ACTION REGARDING COMPLYING WITH CONTRACT WITH MICHIGAN CITY PARK AND RECREATION DEPARTMENT FOR USE OF SCHOOL ATHLETIC FACILITIES BY CITY RESIDENTS

WHEREAS, since the taxpayers of Michigan City provide substantial funding for the Michigan City Area Schools (hereafter referred to as MCAS) it should be the taxpayers' right to reasonably utilize gym space and facilities when they are not in use by MCAS; and

WHEREAS, there is clear language in agreements between MCAS and the Michigan City Park and Recreation Department (hereafter referred to as Parks) allowing for Park use of gym space and other MCAS facilities when they are not in use for MCAS functions; and

WHEREAS, the language in those documents specifically and unambiguously requires that both parties follow practices in effect at the time of the execution of the documents for reserving the facilities for use by Parks; and

WHEREAS, Parks has given the MCAS due consideration for the right to use MCAS facilities, including, but not limited to, land to be used by MCAS for construction of expansions to MCAS facilities.

WHEREAS, MCAS Board's policy provides for these said uses of MCAS athletic facilities by Parks; and

WHEREAS, MCAS policy does not allow one group or individual to be discriminated against over another; and

WHEREAS, these polices have not been amended by public vote and therefore should not have been changed or altered by the MCAS administration; and

WHEREAS, MCAS has spent a substantial amount of money, time, and effort to develop a strategic plan with extensive input and effort from area residents; and

WHEREAS, key elements of this strategic plan state the need to make our community an integral part of our school system and our schools an integral part of our community; and

WHEREAS, the City of Michigan City has helped the MCAS implement its strategic plan by appropriating and providing substantial City funds to MCAS for the operations of the Early Learning Center and other MCAS programs.

NOW, THEREFORE, be it resolved that the Michigan City Common Council requests that the MCAS Board take action to ensure that its aforesaid agreements with the Park and MCAS Board policy regarding use by Parks of MCAS' athletic facilities be complied with and enforced immediately and that any future decision making by MCAS regarding this matter incorporates an analysis of what is best for the young people of Michigan City.

Sponsored by: Bob McKee
Ron Meer

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

There was a discussion among Council Members McKee, Doyle, Jankowski, Nelson, and Meer regarding the Resolution.

Phil Latchford, (439 Boyd Circle) President of the Park Department addressed the Council regarding the meeting held between Mayor Oberlie, Clyde Zeek and himself regarding this matter.

Phyllis Stark, 2003 Somerset, Michigan City, agreed with Councilman Doyle's comments and stated her opinion and concerns on this matter.

The motion carried and the Resolution was adopted as follows: **AYES: COUNCIL MEMBERS Meer, Milsap, Murphy, Nelson, Doyle, Espar, and McKee (7). NAYS: COUNCIL MEMBER Jankowski (1).**

RESOLUTION

The Clerk read the Resolution by title only, there being no objections.

A RESOLUTION TO SUPPORT THE INVESTIGATION OF THE AVAILABILITY OF A MORE APPROPRIATE AND BENEFICIAL SITE FOR THE CONSTRUCTION OF A NEW MICHIGAN CITY POLICE STATION; Introduced by: Richard Murphy and Robert McKee.

Council President Meer asked Councilman Murphy to read the resolution in its entirety.

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4392

A RESOLUTION TO SUPPORT THE INVESTIGATION OF THE AVAILABILITY OF A MORE APPROPRIATE AND BENEFICIAL SITE FOR THE CONSTRUCTION OF A NEW MICHIGAN CITY POLICE STATION

WHEREAS, there is a demonstrated need for a new police station in the City of Michigan City; and

WHEREAS, an alternative site to the current location will better leverage the use of the current land by allowing for planning initiatives that will connect our downtown to Washington Park and Lake Michigan; and

WHEREAS, this connectivity has been a major goal and consensus throughout the City's recent extensive planning efforts; and

WHEREAS, the current police station site is on the gateway to Washington Park and there is a need to plan ahead so that generations of Michigan City citizens to come can realize the most value and best use from this piece of property; and

WHEREAS, in each of the plans set forth in the Marquette Plan II, the Andrews University North End Plan, and the Lohan Anderson Reuse Plan, one of the primary goals that is repeatedly stated is better leveraging of the City's greatest natural asset, Lake Michigan, as an asset to our community; and

WHEREAS, the City of Michigan City, Indiana must look to leverage its unique and rare assets to the fullest in order to bring more new residents and businesses here so that we can improve our City and the quality of life of our residents, in order to maximize those beneficial improvements we must look for win-win opportunities as they present themselves; and

WHEREAS, a large investment of public funds in the construction of a civic building in an alternative neighborhood instead of the current identified location will be a powerful stimulus for economic development in that alternative neighborhood; and

WHEREAS, there is precedent demonstrating the economic stimulus and impetus for redevelopment provided by the construction of large, new civic structures in many other communities; and

WHEREAS, the diversification of the location of investment of public funds for the construction of a new police station can make good things happen in another neighborhood in Michigan City; and

WHEREAS, an alternative location for the new police station that is more centrally located in the City would provide the opportunity to provide law enforcement services and access thereto to all areas of the City more efficiently.

NOW, THEREFORE, BE IT RESOLVED that the Michigan City Common Council supports the concept of an alternative site selection for the construction of a new Michigan City Police Station and recommends that a thorough review and investigation of potential alternative sites be undertaken with ample opportunity provided for input from our citizens.

INTRODUCED BY: Richard Murphy
Robert McKee

Council Members Murphy and McKee stated reasons of support.

Charles Sheerin, 402 Sheridan Avenue stated his concerns regarding the misdirection of the Council's focus and attention of the Police Station Resolution that was just adopted.

The motion carried and the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Milsap, Murphy, Nelson, Doyle, Espar, Jankowski, McKee, and Meer (8). NAYS: None (0).**

The Clerk read by title only on first reading, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING THE MICHIGAN CITY COMPREHENSIVE ZONING ORDINANCE RELATING TO THE DEFINITION OF HOTEL AND HOTEL-MINIUM**; Introduced by: Patricia Boy.

John Pugh, Director of Planning and Inspection, addressed the Council in regards to the concept and reason for the proposed Ordinance. Mr. Pugh advised the Council that at the Planning Commission Meeting held on March 25, 2008, their support was unanimous adopting Resolution No. 3-08 regarding Hotel/Hotel-Minium.

The Ordinance was laid over for second reading.

The Clerk read by title only on first reading, **AN ORDINANCE TO AMEND ORDINANCE NO. 2580**; Introduced by: Phillip Jankowski.

Councilman Jankowski advised the Council that the Water Department requested this Ordinance and that Water Department Board President, Larry Jordon, Superintendent, Randall Russell and their Attorney Gerald Winski were in attendance to answer any questions regarding this matter.

Attorney Winski addressed the Council in regards to the proposed Ordinance which will provide periodic testing of emergency equipment which is used for the immediate safety, health and welfare of the community.

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

The Clerk read on second reading , there being no objections, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING ORDINANCE NO. 2261 REGARDING GARBAGE COLLECTION**; Introduced by Joe Doyle, Co-Sponsored by: Patricia Boy and Robert McKee.

Councilwoman Nelson moved to make the following amendments (changes in bold);

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MICHIGAN CITY, INDIANA AMENDING ORDINANCE
NO. 2261 REGARDING *GARBAGE* COLLECTION**

WHEREAS, there currently exist **MICHIGAN CITY CODE SECTIONS 98-111** and **98-142**, which provide for municipal garbage collection and disposal services; and

WHEREAS, the Common Council has determined that amending the ordinance is necessary to improve and protect the health, safety and general welfare of the citizens and employees of the City of Michigan City.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Michigan City, Indiana, that **MICHIGAN CITY CODE SECTIONS 98-111 SHALL BE AMENDED TO INCLUDE THE FOLLOWING DEFINITIONS AND SECTION 98-142 SHALL BE DELETED IN ITS ENTIRETY AND REPLACED AS FOLLOWS:**

Section 98-111. Definitions.

Occupant shall mean any person living, sleeping, cooking or having actual possession of a dwelling unit, other than a temporary guest; a person who is using the property as a legal address for any purpose; or any person having actual possession of any building or structure other than a dwelling unit or rooming unit.

Owner means any person who, alone or jointly or severally with others:

- A. Has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- B. Has possession, charge, care and/or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this Article, and of the rules and regulations adopted pursuant to this Article, to the same extent as if he were the owner.

Cart means the 96 gallon wheeled **cart or any other container** provided by the City for disposing of residential, retail, commercial and/or office garbage, trash or rubbish.

Dumpster means a trash receptacle which may hold 5 or more yards of residential, retail, commercial and/or office garbage, trash or rubbish.

Section 98-142. Containers

1. (a) Required. It shall be the duty of every person owning or leasing a residence or place of business in the City wherein garbage accumulates from anything whatsoever to maintain in a clean and odor free condition a cart provided by the City.

(b) Standards. The only container that maybe used must be a cart that the City will supply. In some cases, where numerous carts are needed, such as apartment complexes, the City may, **at its discretion**, provide dumpsters for the garbage, trash or rubbish.

Plastic garbage bags with tight-fitting tie closures may be used, but shall be placed inside the cart or dumpster with the lids thereof being closed at all times other than when something is being placed in them. Each cart provided by the City will be equipped with convenient handles and wheels so it will be readily moveable by one person. The carts shall be equipped with a tight-fitting lid or cover so constructed that it shall be watertight, fly proof, raccoon proof, and rat proof.

(c) Placement for collection. All carts must be put out for collection by 7:00 a.m. on the day scheduled for their collection with the arrows located on the carts pointing out toward the street or alley from which collection is made. All carts must have open access for the trash collectors to retrieve them. **For street pick-up**, carts shall be set out no more than 24 hours prior to the usual time of collection and shall be removed within 24 hours after collection. Reasonable precautions must be **taken by customers** to protect the carts from the depredations of dogs, cats and other animals to prevent the scattering of the material stored in the cart until collected by the City. The City may, by and through any person or officer authorized by the Mayor, designate the location on the premises where the carts are to be placed before the time the garbage collectors are scheduled to reach the premises on the day collections are scheduled for the district. **The premises owner shall insure that each cart used for the premises shall be clearly identified in indelible letters at least 2 inches in height with the service address or apartment number of the premises served by each cart.** At no time shall the cart be moved from its assigned address. The Refuse Department must be contacted at (219) 873-1530 for special pick-up at the normal collection location of all large items that cannot fit within the cart.

(d) Storage of garbage. All garbage, trash or rubbish which accumulates shall be deposited in either a cart or dumpster. The lid to every cart and dumpster shall be kept on and closed at all times other than when placing items in them.

(e) Distribution of the carts to all City residences or places of business shall be within forty-five (45) days of the issuance of an Executive Order by the Mayor of the City of Michigan City and upon approval of the necessary funding appropriations by the Michigan City Common Council.

(Ord. No. 2261. 9-7-1976; Code 1980, § 93.04; Ord. No. 3942, 1-4-2005)

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

Councilman McKee seconded the motion.

Councilwoman Nelson stated that the amendments made came from discussions during the Health and Safety Committee Meeting along with input from Jim Kintzele, Refuse Superintendent, and Connie Adams, Refuse Inspector.

Paul Przybylinski, 1716 Washington Street made comments and stated his concerns regarding the language of the proposed Ordinance.

Jim Kintzele, Refuse Superintendent, addressed Charles Sheerin, 402 Sheridan Avenue in regards to each owner's responsibility identifying their address on the cart issued at each location.

Council President Meer directed the Clerk to call for the vote: **AYES: COUNCIL MEMBERS Murphy, Nelson, Doyle, Espar, Jankowski, McKee, Meer, and Milsap (8). NAYS: None (0).**

Council President Meer asked if there were any other comments from the Council or general public regarding the proposed amended Ordinance and hearing none, the Ordinance was laid over for third reading.

The Clerk read on second reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING ORDINANCE NO. 2124 AND ALL SUBSEQUENTLY ENACTED AMENDING ORDINANCES THERETO, OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY;** Introduced by: Robert McKee, Co-Sponsored by: Patricia Boy and Joe Doyle.

Councilman McKee, seconded by Council Members Doyle and Milsap, moved to **TABLE** the Ordinance until the May 20, 2008 Council Meeting. The motion carried as follows: **AYES: COUNCIL MEMBERS Nelson, Doyle, Espar, Jankowski, McKee, Meer, Milsap, and Murphy (8). NAYS: None (0).**

The Clerk read on third reading by title only,

ORDINANCE 4021

ADDITIONAL APPROPRIATIONS ORDINANCE

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Michigan City, LaPorte County, Indiana, that for the expenses of the taxing unit the following additional sums of money are hereby appropriated out of the funds named and for the purpose specified, subject to the laws governing the same:

| | <u>AMOUNT REQUESTED</u> | <u>AMOUNT APPROPRIATED</u> |
|------------------------------------------------------------|-----------------------------|--------------------------------|
| DECREASE Riverboat Gaming Fund #9000 Unappropriated | \$450,000.00 | |
| INCREASE Account #9000 0000 04 444.013 Refuse Equipment | \$450,000.00 | |
| TOTAL FOR REFUSE EQUIPMENT | \$450,000.00 | |

Introduced by: Marc Espar

Councilman Espar moved to adopt, seconded by Council Members Milsap and Nelson.

The formal public hearing was opened, with President Meer asking, "Is there anyone from the public that wishes to speak on this Ordinance on third reading?" There was no response and the public hearing was closed.

Council President Meer directed the Clerk to call for the vote: **AYES: COUNCIL MEMBERS Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, and Nelson (8). NAYS: None (0).**

UNFINISHED BUSINESS

Mayor Oberlie responded to Councilman Milsap regarding the status of the Michigan Boulevard project.

Mayor Oberlie addressed several questions from Council President Meer in regards to the progress and status on the Westside Access Project.

Mayor Oberlie advised Councilwoman Nelson that there is an existing grant for the Singing Sands Trail project.

NEW BUSINESS

There was no new Business.

COMMENTS FROM THE COUNCIL

Councilman Espar thanked the News Dispatch for expediting the public discussion he would like to have in respect to a potential adoption of a smoke free air Ordinance. Mr. Espar requested the Health and Safety Committee begin exploring the possibility of receiving public input. Council President Meer referred this to Chairperson Nelson.

Councilman McKee commented on the amending Ordinance No.2124 in regards to enforcement issues with vicious dogs.

Mayor Oberlie advised that an Animal Control Officer is on call 24 hours, 7 days a week to assist the Police Department.

Councilwoman Nelson commented on the status she received from Teresa Schuter, LaPorte County Auditor, regarding the issuance of tax rebate checks to LaPorte County residents.

Councilwoman Nelson announced that this month is "National Child Abuse Prevention Month" and asked the community to help support the organizations in LaPorte County.

Councilwoman Nelson stated her concerns regarding the City purchasing the old YMCA as a community center.

Council President Meer addressed an enforcement that was done in regards to an animal running loose and the jurisdiction of the Animal Control Officer as far as being allowed to go on private property.

COMMENTS FROM THE PUBLIC

ADJOURNMENT

On motion by Councilman McKee, supported by Councilman Jankowski, and there being no further business to transact, President Meer declared the meeting ADJOURNED (approximately 8:35 p.m.).