

## **REGULAR MEETING – May 7, 2008**

The Common Council of the City of Michigan City, Indiana, met in regular session on Wednesday evening, May 7, 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 Patricia Boy, Marc Espar, Phillip Jankowski, Robert McKee, Ron Meer, Richard Murphy, Joe Doyle (7).

**ABSENT:** Angie Nelson, Willie Milsap (2).

Council President stated that Councilman Milsap would be late to the meeting.

### **A QUORUM WAS NOTED PRESENT.**

Council President Meer asked the Council with unanimous consent the Agenda be amended in regards to removing the following Ordinance which is on first reading:

**AN ORDINANCE AMENDING MICHIGAN CITY ZONING ORDINANCE SECTIONS 160.005, 160.010(D)(1), 160.102(T) AND 160.102(U) IN ORDER TO AVOID POTENTIAL PROBLEMS FROM EXISTING ILLEGAL, NONCONFORMING STRUCTURES FOR WHICH THE CITY ISSUED BUILDING PERMITS AND WHICH WERE CONSTRUCTED IN COMPLIANCE WITH THE REQUIREMENTS OF THOSE PERMITS**

**Introduced by:** Bob McKee  
Phillip Jankowski

### **APPROVAL of MINUTES**

President Meer inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of April 15, 2008 and hearing none, the minutes were approved as printed.

### **REPORTS of STANDING COMMITTEES**

Councilman Doyle thanked Comcast for recruiting over 400 volunteers to help with clean up and other odd jobs this past weekend to get the zoo ready for their busy season coming up.

Councilman Doyle stated the Coho Fishing Contest this last weekend was a great success.

Councilman Doyle announced that the Airport had their ground breaking ceremony for the new terminal.

**REPORTS OF SPECIAL OR SELECT COMMITTEES**

There were no reports of special or select committees.

**REPORTS of OTHER CITY OFFICERS and DEPARTMENTS**

Mayor Oberlie encouraged the Council to attend a presentation being held at Purdue North Central Campus, Westville, Indiana on May 8, 2008 regarding House Bill 1001.

Mayor Oberlie reported on the Solid Waste District Meeting held on Monday, May 4, 2008.

Mayor Oberlie advised the Council status of the 2008 Paving Project.

Mayor Oberlie stated he received notice that Herman Kittle will proceed with the construction of Phase II of the Canterbury Housing Apartments.

**PETITIONS**

There were no petitions.

**COMMUNICATIONS**

There were no communications

**RESOLUTIONS**

There was a discussion among Council President Meer, Council Members McKee, Boy and Council Attorney Meyer regarding the number of votes it takes to pass a Resolution or Ordinance when members of the Council are absent.

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

**RESOLUTION NO. 4393**

**A RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL  
ADOPTING THE COUNTY-WIDE LAND DEVELOPMENT PLAN**

**WHEREAS,** the Michigan City Common Council has determined that it is in the best interest of the City of Michigan City to join the effort of the City of La Porte and La Porte County to set common positive goals for the future development of the City of Michigan City; and

**WHEREAS,** the Michigan City Plan Commission has certified a recommendation to the Michigan City Common Council pursuant to Michigan City Zoning Ordinance Section 160.125(E) and Indiana Code 36-7-4-605 that the County-Wide Land Development Plan should be adopted because it sets forth positive goals for the future development of Michigan City.

**NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA** as follows:

The County-Wide Land Development Plan is a result of the joint efforts of the City of Michigan City, the City of La Porte and La Porte County to set forth goals for the positive future growth of the City of Michigan City and based upon the certified recommendation of the Michigan City Plan Commission should be adopted in order to further the future growth and development of the City of Michigan City.

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

Sponsored by: /s/Pat Boy

Councilwoman Boy moved to adopt the Resolution. The motion was seconded by Council Members McKee and Doyle.

Councilwoman Boy stated reasons to support this Ordinance.

BettyLou Nault, President of the League of Women Voters of LaPorte County presented the following statement to the Council;

The League of Women voters of LaPorte County has been studying land use for the past five years and has appeared before you before, in support of the Countywide Land Development Plan as it applies to land use, development, and protection of the environment. We believe that an overriding concept that should be applied in all of the following categories is the effect of change on already existing conditions, including natural habitats, current uses, and current property owners. Land must be managed as a finite resource and not as a commodity, since land ownership, whether public or private, carries responsibility for stewardship.

#### **Watershed**

Allow no net loss or degradation of wetlands or tree canopy; avoid flood-plain and flood-fringe areas for new development; maintain and improve water quality; protect fragile or Historic lands; and use mitigation of wetland loss only as a last resort.

#### **Environment**

Reduce or eliminate agents of pollution, septic system effluent, air particulate matter, water, light, and groundwater pollution, brownfields, and non-point sources of pollution; require new development to meet MS4 standards where applicable; carefully monitor trash disposal & recycling facilities; surpass state-mandated waste-reduction goals; strategically locate landfills and transfer stations to avoid damage to surrounding areas and to protect the county's health, safety, and welfare; and reclaim brownfields for development to curb urban sprawl.

#### **Agriculture**

Preserve farmland, with distinction between levels of impact; protect large, nonagricultural forested areas; limit encroachment of development in agricultural areas; use area sewage systems; and eliminate individual septic systems for development in areas without municipal sewers.

#### **Development**

Include collector roads and infrastructure in clustered, compact, contiguous, development, only where utilities and infrastructure exist or where they can be easily provided; choose sustainable communities and conservation developments rather than strip developments; develop and enforce greenspace or landscape development ordinances; enact and enforce MS4 and Rule 5 regulations; plan and carefully scrutinize new development to maintain the urban forest canopy and preserve greenspace, and create an atmosphere which can attract and hold businesses and their employees; and mandate significant buffers between disparate uses.

#### **Other Concerns**

Continue to acquire land for public use, such as parks; promote protection of land provided by conservation easements; regulate and carefully review plans for areas impacted by public or private investment where siting impact environmental justice; review federally funded projects at all government levels to maximize benefits to achieve the goals of the Countywide Land Development Plan; incorporate the Complete streets philosophy in road building and improvements to reduce use of automobiles, increase the use of non-polluting modes of travel, improve pedestrian safety and convenience to improve traffic flow; encourage diversity in construction styles within appropriate zones, and a variety of housing styles to allow choices for all incomes and special needs, preserve and maintain core neighborhoods by providing space for future

industrial, commercial, cultural, and artistic enterprises; eliminate “demolition by neglect” through appropriate ordinances and incentives, inspections, fines, and enforcement; create a county-wide area Plan Commission as defined in IC 36-7-4-102, to eliminate conflicts between cities, towns, and unincorporated areas, and to standardize terminology; facilitate the planning process by creating comprehensive checklists for all development activities for use by all planning departments, under any plan commission; bring local citizens into the process by development of Citizens Advisory Committees to assist and provide input to Plan Commissions; increase public notice requirements for zoning or use changes through a more proactive approach; mandate training for Plan commission and BZA members; and standardize rules of procedure for maximum communication among all affected parties regarding zoning ordinances, special uses, and variances.

We all understand why a comprehensive plan is essential. We also understand that development has occurred in the past that has damaged our ecosystem: strip development where cost of services is extremely high; development in areas where there is no provision for sewers; lost agricultural land due to failure to protect; and brownfields. We must consider the mistakes of the past the costs of remediation. The remaining resources available in the county are limited, and we have no room left for future mistakes. For all of these reasons, it is imperative that this body adopt the Countywide Land Development Plan. This historic, landmark document will enable us all, together, to move confidently forward to protect our residents, our lakes, our lands, our resources, our environment, and our future.

Council President Meer asked if there were any other comments or question by the Council or general public and there being none, the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Meer, Murphy, Boy, Doyle, Espar, Jankowski, and McKee (7). NAYS: None (0).**

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

## RESOLUTION [4394](#)

### A RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL SUPPORTING THE INDIANA TRANSPORTATION ENHANCEMENT PROGRAM GRANT FOR THE RESTORATION OF THE FORMER “LINE CAR”

**WHEREAS**, the City of Michigan City has received an Indiana Transportation Enhancement Program grant for the restoration of the former “Line Car:” and

**WHEREAS**, there exists the possibility of adding additional preserved South Shore cars and other artifacts to a display venue and receive additional grants; and

**NOW, THEREFORE**, be it resolved by the Common Council of the City of Michigan City that:

Section I: The City Council states support for the completion of the Line Car restoration and display as funded through the existing grant; and

Section II: The Council supports the continued investigation of displaying additional cars and artifacts understanding that no additional local funds will be committed by this act of investigation.

Sponsored by: /s/ Richard Murphy

Councilman Murphy moved to adopt the Resolution, seconded by Council Members McKee and Espar.

Councilman Murphy stated reasons to encourage the Council to support the Resolution.

Council Members Boy and Meer stated concerns regarding financial commitment in the future.

Council President Meer asked if there were any comments or questions by the Council or general public and there being none, the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS Murphy, Boy, Doyle, Espar, Jankowski, and McKee, (6). NAYS: COUNCIL MEMBER Meer (1).**

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

**A RESOLUTION REQUESTING THAT THE MICHIGAN CITY PLAN COMMISSION TAKE ACTION TO INVESTIGATE PERMITTED ILLEGAL NONCONFORMING STRUCTURES IN MICHIGAN CITY AND CERTIFY ITS RECOMMENDATION TO THE COMMON COUNCIL REGARDING AMENDMENTS TO THE MICHIGAN CITY ZONING ORDINANCE PROPOSED BY THE COMMON COUNCIL TO ADDRESS THE PROBLEMS CAUSED BY THE PERMITTED ILLEGAL NONCONFORMING STRUCTURES**

**Introduced by:** Robert McKee  
Phillip E. Jankowski

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

Councilman McKee addressed the Council with reasons why they should support the Resolution.

Councilman Murphy stated his concerns regarding the proposed Resolution and asked the Council to vote against adopting the Resolution. Mr. Murphy requested that the Council begin working with the City of Michigan City's Planning Department and Plan Commission to create a detailed action plan to bring the complete zoning code to today's standards.

Councilman Murphy read a statement against the Resolution from Councilwoman Nelson since she could not attend.

Councilwoman Boy announced that there will be a public hearing at the next Plan Commission Meeting regarding this issue.

John Pugh, Director, Planning and Inspection, responded to Councilwoman Boy's questions in regards to hiring a consultant and updating the Zoning Ordinance.

There was a discussion regarding the Resolution among, Council Members, Doyle, Espar, McKee, Murphy, Boy, Meer and Mr. Pugh.

Further discussion ensued among Jed Mandel (203 Georgia Avenue), William Facciponti (904 Lake Shore Drive), and Edward Noonan (207 Georgia Avenue).

Council President Meer asked if there where any comments or questions by the Council or general public and hearing none, the Resolution **failed** by the following vote: **AYES: COUNCIL MEMBERS Doyle, Jankowski, McKee, (3). Councilman (Milsap entered the meeting at this time and was noted present). NAYS: Boy, Espar, Meer, Murphy, Milsap (5).**

**ORDINANCES**

The Clerk read on first reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING THE MICHIGAN CITY COMPREHENSIVE ZONING ORDINANCE ALLOWING RESIDENCES ABOVE THE FIRST FLOOR IN A B-1 DISTRICT**, Introduced by: Pat Boy.

Councilwoman Boy stated that the proposed Ordinance would progress the re-development of the North End Plan.

Councilwoman Boy and Mr. Pugh addressed Councilman Milsap regarding inspections that would be required if the Ordinance is adopted.

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

The Clerk read on second reading by title only, there being no objections, **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.

Councilman McKee read Section 1 and stated his concerns regarding the language.

***Individual hotel (motel) rooms or suites shall be furnished and may include mini-refrigerators, bars, bar sinks, and microwave food heating equipment, but shall not include multiple bathrooms, full kitchens with full size refrigerators, stoves and/or dishwasher.***

There was a discussion between John Pugh, Director of Planning and Inspection, Council Members McKee, Espar, Boy, and Council Attorney Meyer.

Council Attorney Meyer advised the Council amendments to this Ordinance have to be made by the Plan Commission with the Council's recommendation.

Council President Meer withdrew the Ordinance at this time to have Councilwoman Boy take it back to the Plan Commission to address the issues and concerns in the language.

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

Councilman Jankowski advised the Council that members of the Water Department were present to answer any questions regarding the proposed Ordinance.

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

The Clerk read on third reading by title only, there being no objections,

**ORDINANCE [4022](#)****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.

Sponsored by: Joe Doyle, Member  
Co-Sponsored by: Patricia Boy, Member  
Robert McKee, Member

Councilman Doyle moved to adopt the Ordinance, seconded by Councilwoman Boy.

Council President Meer asked if there were any comments or questions by the Council or general public and hearing none, the Ordinance was adopted by the following vote: **AYES: COUNCIL MEMBERS Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy and Boy (8). NAYS: None (0).**

### **UNFINISHED BUSINESS**

There was no unfinished business.

### **NEW BUSINESS**

There was no new business.

### **COMMENTS FROM THE COUNCIL**

Councilman McKee congratulated Mr. Kintzele and Mayor Oberlie regarding the approval of the Garbage Collection Containers, he feels it will be an asset to the community and will approve the service.

Councilman McKee commented on issues regarding the non conforming structures.

Council President Meer sent condolences to Police Chief Neitzel and his family for the loss of his mother.

Council President Meer announced that as of May 1, 2008 the additional S.O.G. Units have been instituted into our neighborhood patrols.

**COMMENTS FROM THE PUBLIC**

Mike Gardner, (113 Willowspring Court), Michigan City Bar and Restaurant Association and Larry Fegasus, Rodini's Restaurant stated their concerns regarding the alcohol licenses being issued for the Northend Development and the Ordinance to be proposed regarding a no smoking band.

Councilman Espar addressed Mr. Gardner and Mr. Fegasus's concerns.

Council President Meer stated that there will be public hearings and workshops for public input regarding this issue before any Ordinance would be brought to the Council.

**ADJOURNMENT**

On motion by Councilman Doyle, supported by Councilman Jankowski, and there being no further business to transact, President Meer declared the meeting ADJOURNED (approximately 7:54 p.m.).

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Thomas F. Fedder, City Clerk