

REGULAR MEETING – April 6, 2010

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, April 6, 2010, 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 Marc Espar.

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

PRESENT: COUNCIL MEMBERS Patricia Boy, Phillip Jankowski, Marc Espar, Robert McKee, Willie Milsap, Richard Murphy, Joe Doyle, Angie Nelson, and Ron Meer (9).

ABSENT: None (0).

A QUORUM WAS NOTED PRESENT.

ALSO PRESENT: Clerk – Thomas Fedder, Deputy Clerk – Gale Neulieb and Council Attorney – James Meyer.

APPROVAL OF MINUTES

President Espar inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of March 16, 2010.

Councilwoman Boy made a motion to approve the minutes as printed, second by Council members Meer and Nelson. The minutes were approved as printed.

REPORTS OF STANDING COMMITTEES

Councilman Jankowski stated that to date the Utility Committee hasn't received from the Sanitary District Board their budget regarding their operating funds, rate increases or capital financing plan that was requested, and have been advised that it would be at least a month before receiving the information.

Councilman Jankowski advised that he also requested from the Controllers Office financial statements along with a list of questions regarding the Sanitary District. Mr. Jankowski stated that he had not received a response as of yet.

Councilman Jankowski stated the Utility Committee obtained and reviewed an IDEM report dated February 5, 2010, advising if someone would like a copy to review to contact him.

Councilman Jankowski reported on the Michigan City Water Departments financial statements for 2009.

Councilman Meer commented on a report received from the Indiana Department of Labor. Councilman Meer addressed the Council regarding the safety deficiency issues that have occurred within the Waste Water Treatment Plant.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Councilman Murphy reported on the Executive Session held on March 31, 2010 regarding the Westside Lake Access.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

There were no reports of other city officers and departments.

PETITIONS

There were no petitions.

COMMUNICATIONS

There were no communications.

RESOLUTIONS

The Clerk read by title only, **RATIFYING A ONE YEAR LABOR AGREEMENT BETWEEN THE CITY OF MICHIGAN CITY AND THE MICHIGAN CITY FIREFIGHTERS LOCAL #475 FOR THE CALENDAR YEAR 2010.**

Introduced by Joe Doyle

Councilman McKee requested an Executive Session to be scheduled regarding the proposed resolution to review.

Councilman McKee made a motion to **TABLE** the resolution until the May 5, 2010 Council meeting, second by Councilwoman Nelson.

The motion to **TABLE** the resolution was carried by the following vote: **AYES: Council Members Murphy, Nelson, Boy, Doyle, Espar, Jankowski, McKee, Meer, and Milsap (9). NAY: None (0).**

The Clerk read by title only, **AUTHORIZING THE SUBMISSION OF AN ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT APPLICATION**

Introduced by: Pat Boy

Councilman Murphy addressed the Council regarding the proposed resolution making a motion to delete (amend) the following;

Area 3: Application not to exceed Two Hundred Thousand and 00/100 Dollars (\$200,000.00) to convert its City owned structures with retrofits to reduce energy consumption and installing insulation and energy efficient windows; and

and

Section 2. That the Michigan City common Council supports and authorizes the

Submission of a Energy Efficiency and Conservation Block Grant application for Area 3 in the amount of One Hundred Ninety Thousand Nine Hundred Seventeen and 00/100 (\$190,917.00) for the purpose of converting City-owned structures with retrofits to reduce energy consumption and installing insulation and energy efficient windows; and

The motion was second by Council Members McKee and Boy.

Council President Espar asked if there were any questions or comments by the general public or Council and hearing none, the amendment was adopted by the following vote: **AYES: Council Members Nelson, Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, and Murphy (9). NAYS: None (0).**

Councilman Meer made a motion to approve the resolution as amended, second by Councilwoman Boy.

Council President Espar asked if there were any questions or comments by the general public or Council on the amended resolution and hearing none the amended resolution was adopted by the following vote: **AYES: Council Members Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy and Nelson (9). NAYS: None (0).**

ORDINANCES

The Clerk read on first reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING MUNICIPAL CODE CHAPTER 54, ARTICLE II, DIVISION 3, MERIT SYSTEM**

Introduced by: Patricia Boy
Co-Sponsor: Angie Nelson

Council President Espar advised that the Ordinance would be referred to the Public Health and Safety Committee.

Councilwoman Boy presented copies of amendments to each Council Member that were done at the Fire Merit Commission meeting April 5, 2010 regarding the proposed ordinance. Ms. Boy stated that discussion would take place at the Public Health and Safety Committee meeting that would be scheduled before the next Council meeting April 20, 2010.

Councilwoman Boy advised that Attorney Meyer reviewed the proposed ordinance and only the title was not in proper form.

Ms. Boy advised the title for the proposed ordinance should read;

AMENDING MUNICIPAL CODE CHAPTER 54, ARTICLE II, DIVISION 3, MERIT SYSTEM

Councilwoman Nelson asked if the proposed amendments were approved by the Fire Merit Commission.

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

The Clerk read on first reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL AMENDING CHAPTER 22, ARTICLE XI OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA COMMONLY KNOWN AS THE CONTRACTOR SECTION OF BUILDINGS AND BUILDING REGULATIONS**

Introduced by: Patricia Boy

Councilwoman Boy advised the Council was given a copy of the amended ordinance from Attorney Meyer, stating the only change at this time would be the title reading;

**AMENDING CHAPTER 22, ARTICLE XI OF THE MUNICIPAL CODE OF THE
CITY OF MICHIGAN CITY, INDIANA COMMONLY KNOWN AS THE
CONTRACTOR SECTION OF BUILDINGS AND BUILDING REGULATIONS**

Councilwoman Boy presented the following amendments to each Council Member received in the Clerk's Office on April 6, 2010, 2010:

Sec. 22-298

(b) Once a contractor's license is issued, the renewal of the license will be automatic from year to year with the payment of the renewal fee by February 1, except as outlined in subsection (d) of this section. Failure to pay the licensing fee before February 1 of each year will result in the license being automatically voided and require reapplication for licensing to the City Licensing Board. If it has been more than three (3) years since the contractor's last examination, the contractor who lets his license lapse shall be subject to all re-examination requirements under section 22-695(c).

(c) The license issued by the planning department shall not be transferable to any other person other than the name to which it was issued.

(d) All licenses are for a term beginning January 1 and ending December 31 of the same calendar year. A contractor may not perform any work under a license in subsequent calendar year prior to payment of the annual renewal fee in accordance with this chapter. Additionally, a license issued by the **board** is valid upon payment of the annual renewal fee until such time as the contractor to whom the license was issued fails to perform any work under a permit issued for that license for a period of five (5) years, in which case the license expires. A contractor whose license expires after five (5) years of no work is subject to the terms of subsection (b) of this section as well as all terms of Sec. 22-695.

Councilwoman Boy made the following Author's amendment to Sec. 22-298 (d) the third sentence should read; Additionally, a license issued by the **Planning Department** is valid upon payment of the annual renewal fee until such time as the contractor to whom the license was issued fails to perform any work under a permit issued for that license for a period of five (5) years, in which case the license expires.

Councilman Meer made a motion to adopt the written amendments that Councilwoman Boy presented.

Council President Espar advised that amendments would have to be done on second reading at the next Council meeting April 20, 2010.

Council President Espar referred the proposed ordinance to the Planning and Zoning Committee for consideration and recommendation.

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

The Clerk read on first reading by title only, **APPROVING ADDITIONAL
APPROPRIATION IN THE BUDGET OF THE LEGAL SERVICES FUND**

Introduced by: Marc Espar

**(DECREASE: Fund #9000, Riverboat Fund , Unappropriated - \$160,000.00.
INCREASE: Account # 9000 0000 03 431.001, Appropriated, Legal Services –
\$160,000.00)**

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

The Clerk read on second reading by title only, **PROVIDING FOR THE PARK DEPARTMENT CONCESSION OPERATIONS (EXCEPT GOLF) IN THE DEPARTMENT OF PARKS AND RECREATION AND AMENDING EXISTING ORDINANCES ACCORDINGLY**

Introduced by: Joe Doyle

Councilman Doyle advised the Park Department was present to answer any questions the Council may have.

Councilwoman Boy reminded the Finance Committee to check the title of the proposed ordinance asking if it should be referred to as amending an ordinance or a municipal code.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was laid over on third reading.

The Clerk read on second reading by title only, **AMENDING SECTION 3 OF ORDINANCE NO. 3748 TO ALLOW FOR THE TRANSFER OF MONIES FROM THE ZOO EDUCATION NON-REVERTING FUND NO. 1303 TO THE OPERATING BUDGET OF THE MICHIGAN CITY PARK AND RECREATION DEPARTMENT TO PAY THE WASHINGTON PARK ZOO EDUCATION CURATOR'S ANNUAL WAGES**

Introduced by: Joe Doyle

Councilwoman Boy reminded the Finance Committee to check the title of the proposed ordinance asking if it should be referred to as amending an ordinance or a municipal code.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was laid over on third reading.

The Clerk read on second reading by title only, **AMENDING THE ZOO NON-REVERTING CAPITAL IMPROVEMENT FUND AND AMENDING ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 2-411 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

Introduced by: Joe Doyle

Councilman Doyle made an Authors amendment deleting Sec.2-411(c); At the discretion of the Park Board, monies derived from Zoo admission fees, donations, fundraisers or any other source approved by the Park Board may be deposited into the Fund.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was laid over on third reading.

Shannon Eason, Park and Recreation Director of Administration addressed the Council regarding if any of the attorneys that reviewed the proposed ordinance know if the title should be referred to as amending an ordinance or a municipal code.

The Clerk read on second reading by title only, **CREATING AN ANONYMOUS REPORTING PROGRAM FOR WRONGFUL CONDUCT AND DANGEROUS**

CONDITIONS REGARDING THE OPERATIONS OF ALL DEPARTMENTS AND AGENCIES OF MICHIGAN CITY GOVERNMENT

Introduced by: Phil Jankowski
Ron Meer
Patricia Boy

Councilman Jankowski stated that due to the Finance Committee not meeting as of to date he made a motion to **TABLE** the ordinance until the May 18, 2010 Council meeting, second by Councilman McKee.

The motion was carried by the following vote: **AYES: Council Member Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, and Boy (9). NAYS: None (0).** The Ordinance was **TABLED**.

UNFINISHED BUSINESS

Council President Espar stated Mayor Oberlie has requested advice and consent concerning the appointment of Mr. Derrick Dircks as a member of the Michigan City Historic Review Board. Mr. Dircks term will begin immediately and expire March 15, 2012.

Mr. Dircks addressed the Council regarding reasons he would like to serve on the Historic Review Board.

Councilman Murphy made a motion to appoint Mr. Dircks to the Michigan City Historic Review Board, second by Councilwoman Boy.

The motion was carried by the following vote: **AYES: COUNCIL MEMBERS Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, Boy, and Doyle (9). NAYS: None (0).**

President Espar thanked Mr. Dircks for his contributions to our City and wished him luck on his endeavors.

NEW BUSINESS

Council President Espar advised Mayor Oberlie has requested the advice and consent concerning the appointment of Mr. Cory Soller as a member of the Michigan City Human Rights Board. Mr. Soller's term will begin immediately and expire November 2, 2013.

President Espar stated the Council will consider the advice and consent at the next Council meeting, April 20, 2010.

Mr. Soller addressed the Council asking them to support the Mayor's request stating several reasons he would like to serve on the Human Rights Board.

COMMENTS FROM THE PUBLIC

Sharon Carnes, 314 Kenwood Place addressed the Council stating her concerns regarding the Sanitary District Board meeting and the investigation they are pursuing.

Larry Silvestri, 314 Kenwood, commented on the Sanitary Board meeting he attended on Wednesday, April 28, 2010.

COMMENTS FROM THE COUNCIL

Councilman Jankowski expressed his concerns regarding the termination of Councilman Meer and issues happening at the Michigan City Sanitary District.

Councilwoman Boy announced the Michigan City Fire Department is taking applications for Probationary Firefighters at the Personnel Office, City Hall. Ms. Boy advised the deadline would be April 30, 2010 at 4:00 p.m. and the written test would be held on May 15, 2010 at the Fire/Police Training Center, 2510 E. Michigan Blvd.

Councilman Milsap asked for an update/status of the building height ordinance.

President Espar addressed Mr. Milsap's request.

Councilman Meer thanked Councilman Murphy and Attorney Meyer for attending the Executive Session held on March 31, 2010 regarding the Westside Lake Access.

Councilwoman Nelson agreed with Larry Silvestri, Sharon Carnes, and Phil Jankowski's comments regarding the issues at the Sanitary District.

Councilwoman Nelson stated her concerns regarding procedures and safety issues at the Sanitary District, hoping they will be resolved in the near future. Ms. Nelson addressed the issue regarding the information requested by Councilman Jankowski and her concerns about receiving it in a timely manner.

Councilmen Jankowski and Meer advised Councilwoman Boy that they were not aware of a written safety policy at the Sanitary District.

Councilwoman Nelson advised that she asked if there was a written safety policy at their meeting in August, 2009 when Council Jankowski requested the information from the Sanitary District.

Councilwoman Boy asked Attorney Meyer if the Sanitary District has the documents being requested, and are they withholding the requested information; asking if there were any other recourse other than filing a subpoena to receive the information he requested.

Discussion ensued among Attorney Meyer, Council Members, Boy, Meer, and Jankowski.

Councilwoman Boy made a motion to subpoena the information Councilman Jankowski requested from the Sanitary District, second by Councilman Jankowski.

Council Members Nelson, Jankowski, and Espar, discussed filing a subpoena.

Council President Espar suggested to Councilwoman Boy and Councilman Jankowski to try one more attempt and have Attorney Meyer write the letter to the Sanitary District requesting the documents and requesting the information be delivered to the Council before the next Council meeting (April 20, 2010).

Councilwoman Boy and Councilman Jankowski withdrew their motions to file a subpoena for the documents from the Sanitary District agreeing with President Espar's suggestion.

Councilman McKee stated his concerns regarding not receiving the capital plan from the Sanitary District.

Council President Espar asked Attorney Meyer to draft a letter to the Sanitary District requesting the documents before the next Council meeting.

Councilwoman Boy asked Attorney Meyer to request that they deliver the documents

prior to the next Council meeting so each Council member can review them, not be delivered to their desk the night of the Council meeting (April 20, 2010).

ADJOURNMENT

A motion by Councilwoman Nelson, supported by Councilwoman Boy, and there being no further business to transact, President Espar declared the meeting ADJOURNED (approximately 7:30 p.m.).

Thomas F. Fedder, City Clerk