

## **REGULAR MEETING – April 20, 2010**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, April 20, 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, and Joe Doyle. (7).

**ABSENT:** Ron Meer, Angie Nelson (2).

(Note: President Espar advised that Council Members Meer and Nelson contacted him regarding not being able to attend the Council meeting.)

**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 April 6, 2010.

Councilman McKee made a motion to approve the minutes as printed, second by Councilwoman Boy. The minutes were approved as printed.

### **REPORTS OF STANDING COMMITTEES**

Councilman Jankowski reported on the Finance Committee meeting held on April 16, 2010 and presented minutes of that meeting to each Council Member.

Councilman Jankowski reported from the Utility Committee that the Sanitary District implemented a three (3) part form last week to report any unsafe or hazardous conditions.

Councilman Jankowski commented on the over flows that happened over the last several months advising a contractor had been hired to increase the height of the retaining wall.

Mr. Jankowski stated IOSHA had returned to the Sanitary Treatment Plant to inspect a previous violation, commenting on their findings.

Councilman Jankowski stated that he spoke to John Schaefer, City Controller, advising a copy of the information he requested would be given to each Council Member before the next Council meeting (May 5, 2010).

Councilwoman Boy reported on the Planning and Zoning Committee meeting held on April 16, 2010, advising the Licensing Board approved the amendments being proposed this evening.

#### **REPORTS OF SPECIAL OR SELECT COMMITTEES**

There were no reports of special or select committees.

#### **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,

**MICHIGAN CITY COMMON COUNCIL  
RESOLUTION NO. 4446**

**AUTHORIZING THE SUBMISSION OF A LAKE MICHIGAN  
COASTAL PROGRAM GRANT APPLICATION**

**WHEREAS**, the City of Michigan City, Indiana is eligible to apply for a Lake Michigan Coastal Program Land Acquisition Grant; and

**WHEREAS**, the grant requires a local match of funds, said match to be provided by either the Save the Dunes or the NiSource Charitable Foundation; and

**WHEREAS**, Save the Dunes has identified a sixteen and one half (16½) acre property located on Royal Road which is a high-quality, undeveloped, mixed wet prairie and boreal flatwoods which is described in Exhibit "A" attached hereto and it is in the best interest of the citizens of Michigan City that this prized environmental asset be preserved in its current condition for posterity; and

**WHEREAS**, Save the Dunes, which owns sixty-five (65) acres adjoining the property to be purchased with the grant funds has agreed to accept a conservation easement over the property to ensure its stewardship commitment for the property.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Michigan City Indiana as follows:

Section 1. That the Michigan City Common Council supports and authorizes the submission of a Lake Michigan Coastal Program Grant in the amount of Fifty-Seven Thousand and 00/100

Dollars (\$57,000.00) for the purpose of acquiring the property described in Exhibit "A" and being subject to the receipt of the local match from either the Save the Dunes, NiSource Charitable Foundation, some source other than the City of Michigan City, or a combination of one or more of those sources.

Section 2. That the Controller of the City of Michigan City, Indiana is authorized to create a fund to receive and distribute the grant funds upon approval of the Lake Michigan Coastal Program grant.

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

INTRODUCED BY: c/c Rich Murphy, Member

CO-SPONSOR: c/c Pat Boy, Member

#### **EXHIBIT "A"**

PARCEL#5: Part of the East half (E ½) of the Southeast Quarter (SE ¼) of Section Twenty-six (26), Township Thirty-eight (38) North, Range Four (4) West, LaPorte County, Indiana, described as follows:

Beginning at a point on the East line of said Section, that is Fifty (50) feet South of the Northeast corner of said East half (E ½) of the Southeast Quarter (SE ¼); thence South along said East line, a distance of Thirty (30) rods; thence West parallel with the North line of said Southeast Quarter (SE ¼), a distance of Eighty (80) rods, more or less, to the West line of said East half (E ½) of the Southeast Quarter (SE ¼); thence North along said West line, a distance of Thirty (30) rods to a line parallel with and Fifty (50) feet South of the North line said East half (E ½) of the Southeast Quarter (SE ¼); thence East along said parallel line, a distance of Eighty (80) rods more or less to the place of beginning, containing Fifteen (15) acres, more or less.

A strip of land Fifty (50) feet in width off of and across the entire North end of the East half (E ½) of the Southeast Quarter (SE ¼) of Section Twenty-six (26), Township Thirty-eight (38) North, Range Four (4) West, said strip being South of and adjoining the Half Section Line, situate in LaPorte County, Indiana, containing about One and one-half (1 ½) acres.

Councilman Murphy advised that this project would be paid 100% with grant money and a partnership with the City of Michigan City and Save the Dunes.

Councilman Murphy stated that representatives from Save the Dunes were present to answer any question the Council may have, asking the Council to support the resolution.

Councilwoman Boy asked to be a Co-Sponsor of the Resolution; there being no objections the Clerk's Office would add her to the resolution

Councilman Murphy made a motion to adopt the resolution, second by Councilwoman Boy.

Council President Espar asked if there were any questions or comments by the general public or Council on the proposed resolution and hearing none, the resolution was adopted by the following vote: **AYES: Council Members Jankowski, McKee, Milsap, Murphy, Boy, Doyle, and Espar (7). NAYS: None (0).**

#### **ORDINANCES**

The Clerk read on first reading by title only, **ADDITIONAL APPROPRIATION FOR THE PARK DEPARTMENT TO ALLOW FOR ADDITIONAL EXPENSES INCURRED FROM THE CONCESSION OPERATION AT PATRIOT PARK**

**Introduced by:** Joseph Doyle

**(DECREASE:** Park fund No. 1315 – Park Concession N/R Unappropriated \$41,491.  
**INCREASE:** Park fund No. 1315 Park Concession N/R Appropriated; 1315 0000 01 411.014 Seasonal Wages \$19,035, 1315 0000 01 413.001 FICA \$1,456, 1315 0000 02 423.095 Merchandise for Resale \$15,000.00, 1315 0000 04 444.005 Other Equipment \$6,000, TOTAL: \$41,491).

Councilman Doyle stated that the Park Department was present to answer any questions regarding the proposed ordinance.

Council President Espar advised the proposed ordinance would be referred to the Finance Committee for consideration and recommendation.

Tony Childers, 205 Douglas Street stated his concerns regarding the proposed additional appropriation ordinance.

John Schaefer, City Controller addressed Tony Childers questions and concerns.

Council Members McKee and Boy commented on the proposed ordinance addressing Mr. Childers concerns.

Councilman McKee stated that the money being used is a profit the Park Department had made on concessions and they are looking to make a profitable investment at Patriot Park.

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 2<sup>nd</sup> reading.

The Clerk read on 2<sup>nd</sup> reading by title only, **AMENDING MUNICIPAL CODE CHAPTER 54, ARTICLE II, DIVISION 3, MERIT SYSTEM**

**Introduced by:** Pat Boy  
**Co-Sponsor:** Angie Nelson

Council President Espar stated that the proposed ordinance was discussed in a Health and Safety Committee meeting held on Friday, April 16, 2010, advising their recommendation was that this ordinance be **TABLED** until the committee receives copies of the Fire Merit State Statute.

Councilwoman Boy made a motion to **TABLE** the ordinance indefinitely, second by Councilmen McKee and Milsap.

The motion was carried by the following vote: **AYES: Council Members McKee, Milsap, Murphy, Boy, Doyle, Espar, and Jankowski (7). NAYS: None (0).**

The Clerk read on second reading by title only, **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 addressed the Council regarding the amendments she proposed at the last Council meeting (April 6, 2010), stating the Licensing Board and City Attorney's Office agreed on the following additional amendments:

(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 a subsequent calendar year prior to payment of the annual renewal fee in accordance with this chapter. Additionally, a license issue by the **board 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. 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.

This subsection shall become effective \_\_\_\_\_, 2010 upon passage of this ordinance.

Councilwoman Boy made a motion to adopt the amendments presented, second by Councilman McKee.

Attorney Meyer addressed the Council regarding the language of the amendments to the proposed ordinance.

Discussion ensued among President Espar, Council Members Boy, Murphy, McKee and Attorney Meyer.

Council President Espar asked if there were any questions or comments by the general public or Council on the proposed amendment and hearing none, the amendment was adopted by the following vote: **AYES: Council Members Milsap, Murphy, Boy, Doyle, Espar, Jankowski, and McKee (7). NAYS: None (0).**

Council President Espar asked if there were any questions or comments by the general public on the proposed amended ordinance and hearing none, (Note: President Espar asked the Clerk's Office to send a copy of the proposed amended ordinance to each Council Member and Attorney Meyer) the amended ordinance was laid over for third reading.

The Clerk read on second 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)**

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

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 third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR ANIMAL CONTROL DEPARTMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated - \$8,067.85. **INCREASE:** Account # 9000 0000 04 444.014, Animal Control Department Equipment - \$8,067.85.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilman Jankowski stated that at the Finance Committee meeting held on April 16, 2010 the amount was modified to \$9,617.85.

Attorney Meyer advised the Council that the modified amount would not have to be republished in the News Dispatch.

Councilman Jankowski made a motion to amend the amount from \$8,067.85 to \$9,617.85, second by Councilman Murphy.

Council President Espar directed the Clerk to call for the vote: **AYES: Council Members Murphy, Boy, Doyle, Espar, Jankowski, McKee, and Milsap (7). NAYS: None (0).** The amendment was adopted.

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

The Clerk read on second reading by title only, **APPROVING AN ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVER BOAT FUND**

**Introduced by:** Richard Murphy

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated – \$42,850.00. **INCREASE:** Account # 9000 0000 04 441.001 Land Acquisition - \$42,850.00.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

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 third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR FORESTER EQUIPMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated - \$51,000.00. **INCREASE:** Account #9000 0000 04 444.005 Forester Equipment \$51,000.00).

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Council President Espar stated that he supports the proposed ordinance replacing a 40-foot bucket truck that was purchased, estimating it at a value of approximately \$46,000.00, replacing it due to non-compliant issues with OSHA.

Mr. Espar commented on concerns regarding safety regulations in all City Departments encouraging the administration and all City Departments to review work equipment and all work conditions within the City immediately to insure that our employees' safety is first and foremost. Mr. Espar stated he would be scheduling a meeting with the Mayor addressing safety throughout the City.

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 third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE CENTRAL MAINTENANCE DEPARTMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated – \$35,000.00. **INCREASE:** Account #9000 0000 04 444.009, Central Maintenance Department Equipment – \$35,000.00.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilman Jankowski stated the Finance Committee did not recommend the expenditure for valve stem tire pressure monitors in the amount of \$6,000.00.

Councilman Jankowski made a motion to reduce the appropriation by \$6,000.00, second by Councilwoman Boy.

Councilwoman Boy stated reasons why she supported the proposed amendment.

Council President Espar directed the Clerk to call for the vote: **AYES: Council Members Boy, Doyle, Espar, Jankowski, McKee, Milsap, and Murphy (7). NAYS: None (0).** The amendment was adopted.

Councilman McKee stated his concerns regarding the purchase of the GPS systems as it was related to the Michigan City Transit.

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

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR BUILDING REPAIRS FOR THE DEPARTMENT OF PARKS AND RECREATION**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated – \$18,885.00. **INCREASE:** Account #9000 0000 04 443.007, Park Projects - \$18,885.00.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?"

Tony Sindone, representing Smooth Jazz at South Shore started to address issues regarding the construction at the Guy Foreman Amphitheater.

President Espar called a point-of-order, advising Mr. Sindone that at this time public comment was regarding construction at the Park Department, encouraging him to speak during "Public Comments".

Council President Espar repeated three (3) times, "Are there any other questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilman Jankowski reported on the Finance Committee's findings regarding the proposed ordinance that was held on April 16, 2010.

Councilman Jankowski asked the Council to support having amendments on third reading to change the source of funding for the appropriation.

Council President Espar addressed the Council regarding this matter.

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

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE VECTOR CONTROL DEPARTMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated - \$9,020.00. **INCREASE:** Account #9000 0000 04 444.007, Vector Control Department Equipment - \$9,020.00.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilman Jankowski stated that the Finance Committee meeting held on April 16, 2010, modified the amount to read \$8,895.84.

Councilman Jankowski made a motion to amend the amount from \$9,020.00 to \$8,895.84, second by Councilman Murphy.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the amendment was adopted by the following vote: **AYES: Council Members Doyle, Espar, Jankowski, McKee, Milsap, Murphy, and Boy (7). NAYS: None (0).** The amendment was adopted.

Council President Espar asked if there were any comments or questions by the general public or Council amending the amount to read \$8,895.84 and hearing none, the amended ordinance was laid over for third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE POLICE DEPARTMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated - \$67,750.62. **INCREASE:** Account # 9000 0000 04 444.021, Police Department Equipment - \$67,750.62.)

Council President Espar addressed the Council regarding what the additional appropriation was needed for.

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilman Jankowski advised that the Finance Committee recommended approval of the proposed ordinance.

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 third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR LAND ACQUISITION**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000, Riverboat Fund Unappropriated - \$42,500.00. **INCREASE:** Account #9000 0000 04 444.001, Land Acquisition - \$42,500.00.)

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?"

Councilman Jankowski advised that the Finance Committee recommended approval of the proposed ordinance.

Council President Espar repeated three (3) times, "Are there any other questions or comments by the general public at this time?" There was no response and the public hearing was closed.

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 third reading.

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE STREET DEPARTMENT**

**Introduced by:** Marc Espar

**(DECREASE:** fund #9000 Riverboat Fund Unappropriated - \$287,000.00. **INCREASE:** fund #9000 0000 04 444.004, Street Department Equipment - \$287,000.00.)

Council President Espar advised what additional equipment would be acquired with the additional appropriation.

President Espar asked if there were any questions or comments by the general public and hearing none, President Espar opened the formal public hearing, repeating three (3) times "Are there any questions or comments by the general public at this time?"

Councilman Jankowski advised that the Finance Committee recommended approval of the proposed ordinance.

Council President Espar repeated three (3) times, "Are there any other questions or comments by the general public at this time?" There was no response and the public hearing was closed.

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 third reading.

The Clerk read on third reading by title only,

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4082**

**PROVIDING FOR THE PARK DEPARTMENT CONCESSION OPERATIONS (EXCEPT GOLF) IN THE DEPARTMENT OF PARKS AND RECREATION AND AMENDING EXISTING ORDINANCES ACCORDINGLY**

**WHEREAS**, the Michigan City Common Council did, on May 17, 1977, adopt Ordinance No. 2305, entitled, AN ORDINANCE ESTABLISHING A SPECIAL NON-REVERTING OPERATING FUND WITHIN THE DEPARTMENT OF PARKS AND RECREATION OF THE CITY OF MICHIGAN CITY, INDIANA, FOR EXPENSES AT THE ZOO, in order to allow the Michigan City Department of Parks and Recreation (the "Department") to operate food and concession stands and provide for payment of certain operational expenses at the Washington Park Zoo from revenues derived from those activities; and

**WHEREAS**, the Michigan City Common Council did, on November 18, 2003, adopt Ordinance No. 3909, entitled AN ORDINANCE AMENDING ORDINANCE NO. 2305 WHICH ESTABLISHED A SPECIAL NON-REVERTING FUND WITHIN THE DEPARTMENT OF PARKS AND RECREATION FOR EXPENSES AT THE WASHINGTON PARK ZOO, in order to include in the Fund concession revenues and expenses at Washington Park and the Washington Park Zoo; and

**WHEREAS**, the Michigan City Common Council did, on April 19, 2005, adopt Ordinance No. 3949, entitled AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING ORDINANCE NO. 2305 WHICH ESTABLISHED A ZOO NON-REVERTING FUND IN ORDER TO PROVIDE FOR REVENUES AND EXPENSES AT THE NEW GIFT SHOP AT THE WASHINGTON PARK ZOO, in order to include the receipt and expenditure of revenues and expenses at the Zoo gift shop in the Fund; and

**WHEREAS**, the Michigan City Common Council did, on April 7, 2009, adopt Ordinance No. 4049, entitled AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA PROVIDING FOR THE PARK DEPARTMENT CONCESSION OPERATIONS (EXCEPT PATRIOT PARK AND GOLF) IN THE DEPARTMENT OF PARKS AND RECREATION AND AMENDING EXISTING ORDINANCES ACCORDINGLY, in order to include the receipt and expenditure of revenues and expenses at any park facility, except Patriot Park and the Michigan City Municipal Golf Course, in the Fund; and

**WHEREAS**, the Park Department, acting by and through the Michigan City Parks and Recreation Board (Board), intends to operate Patriot Park concession operations in-house and such concession operations are intended to eventually be operated on a self-sustaining basis, thus not requiring the expenditures of funds appropriated from general tax revenues; and

**WHEREAS**, the Board has determined that it is in the best interest of the Park Department and the City of Michigan City to amend Ordinance No. 4049 so as to remove the exclusion of Patriot Park from its coverage and has requested that the Common Council do so at its earliest convenience.

**NOW, THEREFORE BE IT ORDAINED** by the Michigan City Common Council as follows:

**Section 1.** All revenues and expenses of all concession activities at all Park facilities, except the Michigan City Golf Courses, shall be deposited into and expended from the Park Department's Concession Non-Reverting Fund 1315.

**Section 2.** All revenues received from sales of food, beverage and sundries from locations referred to in Section 1, above, shall be deposited in Concession Non-Reverting Fund No. 1315.

**Section 3.** Expenditures may be made from such Fund for the operating expenses of the facilities used for said sales, including, without limitation, the purchase of inventory for sale and salaries of special part-time employees and for the following purposes:

- (a.) Purchase of fixtures, equipment and capital improvements,
- (b.) Maintenance, repair and improvements to concession equipment, and
- (c.) Feed for the animals at the Zoo.

Section 4. Each year, in the submission of the Park Department's proposed budget for the following fiscal year, the anticipated revenues and expenditures from said Fund shall be shown. Expenditures from said Fund shall be limited, however, to those set forth in Section 3 above. Any surplus funds remaining at the end of a fiscal year after all items in Section 3 have been paid shall remain in said Fund and shall be available for other necessary purchases or improvements for the Park Department as determined to be appropriate by the Park Board.

Section 5. Expenditures may be made from said Fund without special appropriations, but only upon approved claims allowed and signed by the appropriate officers of the Park Board.

Section 6. All budgeting requirements herein shall be completed in the Park Department budget for the next fiscal year after the adoption hereof.

Section 7. Any parts of Ordinance 2305, Ordinance No. 3909, Ordinance No. 3949, and Ordinance No. 4049 which are in conflict with this Ordinance are hereby repealed.

Section 8. This Ordinance shall be in full force and effect from and after its adoption, approval by the Mayor and publication according to law.

INTRODUCED BY: /s/ JOSEPH DOYLE

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

Councilman McKee addressed the Council stating reasons he supported the proposed ordinance.

Councilman McKee made a motion to adopt the ordinance, second by Councilman Doyle.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was adopted by the following vote **AYES: Council Members Espar, Jankowski, McKee, Milsap, Murphy, Boy, and Doyle (7). Nays: None (0).**

The Clerk read on third reading by title only,

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4083**

**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**

**WHEREAS**, on April 6, 1999, the Michigan City Common Council adopted Ordinance No. 3748 entitled "AN ORDINANCE ESTABLISHING A SPECIAL NON-REVERTING FUND WITHIN THE DEPARTMENT OF PARKS AND RECREATION OF THE CITY OF MICHIGAN CITY, INDIANA FOR PROGRAMS AT THE WASHINGTON PARK ZOO;" and

**WHEREAS**, on November 19, 2009, the Michigan City Park and Recreation Board passed Resolution No. 691 recommending that Ordinance No. 3748 be amended to allow for an annual transfer of funds from the Zoo Education Non-Reverting Fund to the operating budget for the Michigan City Park and Recreation Board for the purpose of paying the Education Curator's annual wages; and

**WHEREAS**, the Michigan City Common Council accepts the recommendations of the Michigan City Park and Recreation Board per Resolution No. 691, and as such, the need exists to amend Section 3 of Ordinance No. 3748 of the City of Michigan City, Indiana.

**NOW, THEREFORE, BE IT ORDAINED**, that Section 3 of Ordinance No. 3748 of the City of Michigan City, Indiana, shall be and is hereby amended to read as follows

Section 3: Expenditures shall be made from said Fund only for the operating expenses of the programs operated by said Department in regards to the Zoo activities described in Section 2 hereof and only to reimburse the operating budget of the Michigan City Park Department for the Washington Park Zoo Education Curator’s annual wages.

This Ordinance shall take effect after the same has been passed by the Council, approved by the Mayor, and any necessary publication.

INTRODUCED BY: /s/ JOSEPH DOYLE

Dennis Boy, 218 Southwood Drive, asked what the job description of the Curator was as opposed to the Zoo Director.

Shannon Eason, Parks and Recreation, Director of Administration, addressed Mr. Boy’s questions.

Councilman McKee made a motion to adopt the ordinance, second by Councilmen Doyle and Murphy.

Council President Espar asked if there were any other comments or questions by the general public or Council and hearing none, the ordinance was adopted by the following vote: **AYES: Council Members Jankowski, McKee, Milsap, Murphy, Boy, Doyle, and Espar (7). NAYS: None (0).**

The Clerk read on third reading by title only,

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4084**

**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**

**WHEREAS**, on March 20, 1969, the Michigan City Common Council adopted Ordinance No. 2060 entitled “ORDINANCE CREATING A SPECIAL NON-REVERTING CAPITAL FUND FOR SPECIFIC CAPITAL IMPROVEMENTS IN THE MICHIGAN CITY WASHINGTON PARK ZOO;” and

**WHEREAS**, on November 19, 2009, the Michigan City Park and Recreation Board passed Resolution No. 687 recommending that Ordinance No. 2060 be amended to specify that monies received from donations or fundraisers may be placed in the Park Department’s Zoo Non-Reverting Capital Fund; and

**WHEREAS**, the Michigan City Common Council accepts the recommendations of the Michigan City Park and Recreation Board per Resolution No. 687, and as such, the need exists to amend Ordinance No. 2060 and all subsequent amending ordinances thereto also known as Section 2-411 of the Municipal Code of the City of Michigan City, Indiana.

**NOW, THEREFORE, BE IT ORDAINED**, that Section 2-411 of the Municipal Code of the City of Michigan City, Indiana, shall be and is hereby amended to read as follows:

**Sec. 2-411. Zoo Non-Reverting Capital Improvement Fund No. 1319**

- (a) There is hereby created the Zoo Non-Reverting Capital Fund (Fund) to fund capital improvements and certain maintenance activities in Washington Park Zoo.
- (b) All monies deposited into the Fund shall be expended only for the following activities in the Washington Park Zoo:
  - (1) Maintaining present buildings, structures and enclosures in the Zoo area.
  - (2) Building new buildings, structures and enclosures in the Zoo area.
- (d) Monies deposited in the Fund shall not be expended except for the purposes for which the Fund was created.

This Ordinance shall take effect after the same has been passed by the Council, approved by the Mayor, and any necessary publication.

INTRODUCED BY: \_\_\_\_\_  
JOSEPH DOYLE

Councilman Doyle made a motion to adopt the ordinance, second by Councilman McKee.

Council President Espar asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was adopted by the following vote: **AYES: Council Members McKee, Milsap, Murphy, Boy, Doyle, Espar, and Jankowski (7). NAYS: None (0).**

### **UNFINISHED BUSINESS**

Council President Espar stated Mayor Oberlie had requested 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 that Mr. Soller contacted him indicating he was unable to attend the meeting and that he did attend the last Council meeting (April 6, 2010) addressing the Council regarding his appointment.

Councilman McKee made a motion to provide consent, second by Councilwoman Boy.

Council President Espar asked if there were any comments or questions by the Council and hearing none, the motion was passed by the following vote: **AYES: Milsap, Murphy, Boy, Doyle, Espar, Jankowski, and McKee (7). NAYS: None (0).**

Council President Espar thanked Mr. Soller for his commitment and services to the City of Michigan City.

Council President Espar presented the following letter that was requested by the Council at the last Council meeting, (April 6, 2010) requesting information from the Sanitary District;

Mr. Boyd Phelps  
President, Board of Commissioners  
Michigan City Sanitary District

Re: Request For Documents

Dear Mr. Phelps:

I am writing on behalf of the Michigan City Common Council to request that the Sanitary District produce to the Common Council on or before May 3, 2010 a copy of the following documents:

1. The Sanitary District's updated Capital Improvement Plan.
2. The Sanitary District's Wastewater Capacity Improvement Project (CIP) Plan.
3. The Sanitary District's Capital Financing Plan for any capital projects costing \$1 Million or more the Sanitary District plans to begin design and/or construction within the next 5 years.
4. The Sanitary District's 2010 Budget.
5. Documentation of results of the rate review process discussed in Sanitary District's September 25, 2009 letter to Utility Committee.
6. Any document(s) establishing the hiring of a financial consultant to assist in the rate review and analysis.
7. Any report, preliminary and final versions, of any financial consultant concerning the Sanitary District's financial condition and/or cost of service, and/or rates provided to the Sanitary District since January 1, 2009 to date.
8. Documentation of the results, preliminary and/or final, of the detailed analysis of Sewer Subsystem C discussed on page 8 of the same letter.
9. Any and all of the Sanitary District's written Safety Policies concerning the operation of the Sanitary District's facilities and the conduct of its employees, vendors, and contractors.
10. Any and all of the Sanitary District's written policies and procedures for preventive, predictive, and corrective maintenance.
11. The name of the maintenance tracking system used by the Sanitary District to alert employees to the need for all prescribed preventive and predictive maintenance.

12. All of the work orders and/or written directives generated during the period March 15, 2010 through April 14, 2010 regarding preventive, predictive and corrective maintenance for all Sanitary facilities and equipment.

In addition, some members of the Council have received allegations to the effect that the Sanitary District's management has failed to insure that all necessary preventive and predictive maintenance be performed in a timely and competent manner. Thus, the equipment and facilities at the plant would deteriorate more quickly than would otherwise be the case so that the Common Council will be required to approve millions of dollars in financing for a new or rebuilt plant. Presumably, the documentation you produce in response to the above requests will prove those allegations to be false. Please be advised that the Common Council will be reluctant to approve the expenditure of large sums of money for new equipment and facilities for the Sanitary District if the Sanitary District cannot document that it timely provided all of the prescribed predictive, preventive, and corrective maintenance for the existing equipment and facilities.

Thank you in advance for your anticipated cooperation and efforts in responding to this request for documents. If there are any questions, don't hesitate to ask.

Sincerely yours,

Marc Espar, President  
Michigan City Common Council

CC: Mayor Chuck Oberlie  
City Clerk  
Council Members  
Council Attorney

Council President Espar addressed Councilman McKee's question regarding how many reports were received concerning deterioration of plant equipment.

Council President Espar asked if there were any comments or questions by the Council and hearing none, the letter was approved to send to Mr. Boyd Phelps, President, Board of Commissioners, Michigan City Sanitary District by the following vote: **AYES: Council Members Boy, Doyle, Espar, Jankowski, McKee, Milsap, and Murphy (7).** **NAYS: None (0).**

President Espar advised that he would send the approved correspondence to Mr. Phelps, President, Board of Commissioners, Michigan City Sanitary District tomorrow, April 21, 2010.

### **NEW BUSINESS**

Council President Espar stated Mayor Oberlie has requested advise and consent concerning the re-appointment of Mr. John Haynes as a member of the Michigan City Port Authority Board. Mr. Haynes term would begin immediately and expire April 12, 2014.

President Espar stated the Council would consider the advice and consent at the next Council meeting, May 5, 2010.

### **COMMENTS FROM THE PUBLIC**

Tony Sindone, representing Smooth Jazz at South Shore, addressed the Council with his concerns regarding the renovation design of the Guy Foreman Amphitheater in regards to the serpentine ramp placed through the middle of the lawn area in front of the amphitheater.

Discussion ensued among Jan Orlich, Parks and Recreation, Superintendent, Bryant Dabiney, Michigan City Vice President, Michigan City Parks and Recreation Board of Directors, Tony Sindone representing Smooth Jazz at South Shore, Bernie Scott, 2714 Franklin Street, and Kent Lang, Michigan City, regarding this matter.

**COMMENTS FROM THE COUNCIL**

Councilwoman Boy suggested Ms. Orlich and Mr. Sindone schedule a meeting to discuss the seating issues.

Councilman Milsap commented on the concerns that "Smooth Jazz at South Shore" were addressing regarding the seating at the Guy Foreman Amphitheater for their event. Mr. Milsap asked Mr. Sindone what it would take to solve the issues they have. (Bernie Scott, 2714 Franklin Street, answered Mr. Milsap in regards to what it would take to solve their problems to move forward on having their event this summer.)

Councilman McKee commented on the issues that "Smooth Jazz at South Shore" brought to the Council, asking for a workshop to be scheduled to address these issues, encouraging the Council to go down to the amphitheater to observe before the workshop.

Councilman Doyle agreed with Councilman McKee, stating that a workshop needs to be scheduled to reach a solution.

Councilman Murphy agreed with both Councilmen McKee and Doyle.

Attorney Meyer addressed Councilwoman Boy advising there was a forty-eight (48) hour notice that needs to be posted before having a meeting.

Council President Espar asked Councilman Doyle, Chairperson of the Council's Parks and Recreation Committee to schedule a workshop as soon as possible, notifying all parties involved when and where it will be held.

Councilman Milsap commented on the issue regarding seating at the "Smooth Jazz at South Shore" event, and the start of ticket sales that would begin soon.

Councilman Murphy stated that if the notice would be out on Wednesday, April 21, 2010 the workshop could be scheduled for Friday, advising he would be available.

**ADJOURNMENT**

A motion by Councilman McKee, supported by Councilwoman Boy, and there being no further business to transact, President Espar declared the meeting ADJOURNED (approximately 7:53 p.m.).

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Thomas F. Fedder, City Clerk