

## **REGULAR MEETING – APRIL 21, 2009**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, April 21, 2009, 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 Bob McKee.

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

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

**ABSENT:** None (0).

**A QUORUM WAS NOTED PRESENT.**

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

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### **APPROVAL OF MINUTES**

President McKee inquired whether there were any corrections, deletions, or additions to the minutes of the regular Meeting of April 7, 2009.

Councilwoman Boy made a motion to approve the amended minutes as printed, second by Councilman Espar. The motion was approved as printed.

### **REPORTS OF STANDING COMMITTEES**

Councilwoman Nelson reported on the Parks and Recreation Committee Meeting held on April 16, 2009 regarding the proposed additional appropriation golf fund ordinance.

Councilwoman Boy presented the following report on the Licenses and Franchise Committee meeting held on April 14, 2009;

Public Notice: April 9, 2009  
Meeting Date: April 14, 2009 10:30 am

The Licenses & Franchises Committee meeting was called to order at 10:30 am on April 14, 2009. Members of the Committee present were Boy, Doyle, and Nelson. No members were absent. Also attending were City Atty. Amber Lapaich and Plan Dept. employees, Tom Przybylinski and Virginia Orłowski.

Notice of the public meeting was duly posted by the City Clerk's Office on April 9, 2009. This meeting was called to review three ordinances referred to the committee by the Council President on April 7, 2009.

1. Ordinance of the Michigan City Common Council of the City of Michigan City, Indiana Amending Ordinance No. 2053 and all subsequent amending ordinances thereto also known as Section 50-138, 50-140, 50-141, and 50-142 of the Municipal Code of the City of Michigan City, Indiana and Amending Code 1980, § 150.035.1 and all subsequent amending ordinances thereto also known as Section 50-139 of the Municipal Code of the City of Michigan City, Indiana;
2. Ordinance of the Michigan City Common Council of the City of Michigan City, Indiana Amending Ordinance No. 2053 and all subsequent amending ordinances thereto also known as Section 22-661 and 22-663 of the Municipal Code of the City of Michigan City, Indiana and amending Code 1980, § 150-035.1 and all subsequent amending ordinances thereto also known as Section 22-662 of the Municipal code of the City of Michigan City, Indiana;
3. Ordinance of the Michigan City Common council of the City of Michigan City, Indiana Amending Ordinance No. 2053 and all subsequent amending ordinances thereto also known as Section 22-691 and Section 22-692 of the Municipal Code of the City of Michigan City, Indiana.

The committee considered all three ordinances individually, and again as a whole. The proposed ordinances address several different concerns: elimination of contractors "piggy-backing" off other general contractors' registrations (not permits); making registration non-transferrable; requiring proof of licenses for plumbers; making it easier for landlords to acquire master contractor registration; and standardizing the procedures, filing dates, and fees.

During discussions with Mr. Przybylinski and Mrs. Orlowski, we found there were other concerns that still needed to be addressed, among them, that the requirements for electrical and/or mechanical contractors (including HVAC) in 22-695 in the current code refer to "application; examination fee," but the form used by the Plan Dept. refers to "examination application" and should be corrected, although this was not addressed in the proposed ordinances.

The committee also discussed the penalties that already exist and are recommending that the penalty for failure to register be removed because the re-registration is a penalty in itself (the renewal fee is always less than the registration).

Because the ordinances are interrelated, and not wanting to complicate the process, at the conclusion of the committee meeting, the members, by unanimous decision, voted to recommend **WITHDRAWAL** of all three proposed ordinances. They will be amended and resubmitted for first reading at a future date.

With no other matters before the committee, the committee adjourned at 11:45 am.

Councilwoman Nelson reported on the Parks and Recreation Committee meeting held on April 16, 2009.

Councilwoman Boy presented the following report on the Planning & Zoning committee meeting held on April 14, 2009;

Public Notice: April 9, 2009  
Meeting Date: April 14, 2009 6:00 pm

The Planning & Zoning Committee meeting was called to order at 6:00 pm on April 14, 2009. Members of the Committee present were Boy, Espar, and Murphy. No members were absent. Also attending were Plan Commission Atty. Steven Hale and Plan Dept. employee Tom Przybylinski. Members of the public attending were Jody Snider and Michael Conner.

Notice of the public meeting was duly posted by the City Clerk's Office on April 9, 2009. This meeting was called to review three ordinances referred to the committee by the Council President on April 7, 2009.

1. An ordinance of the Common Council of the City of Michigan City, Indiana amending the Michigan City Comprehensive Zoning Ordinance No. 2114 by changing the provisions for the maximum height of structures in residential districts;
2. An ordinance of the Common Council of the City of Michigan City, Indiana, amending the Michigan City Zoning Map and Ordinance No. 2114 by rezoning a parcel of property known as 200 Block (Lots 1,2,3,4,5,6,7,8, and 9) in Orr and DeWolf's Addition to Michigan City from Business B2 to Residential R2; and, Blair's 2<sup>nd</sup> Addition to Michigan City Block 5 SW Corner Lot 11 and piece in NW Corner Lot 10 from Business B2 to Residential R2.
3. An Ordinance of the Common Council of the City of Michigan City, Indiana annexing 44.347 acres of real estate owned by Oehmstead Company, LLC, situated on 600 West, Michigan City, Indiana and declaring the same to be a part of the City of Michigan City, Indiana and providing zoning classification therefor.

The committee considered all three ordinances individually.

1. Questions raised concerning ordinance #1 above included whether or not there is a federal regulation allowing television aerial antennas on rooftops or controlling their height; what would happen if someone decided to build a 35' tall building with a flat roof among houses with peaked roofs; and what would happen if a non-conforming house (but not an illegal house) were destroyed by natural disaster or fire – would the owner be able to rebuild to the original height so that the house would still “fit” in the neighborhood?

Other concerns were the differences in measurement and what effect that will have on overall height. Mr. Przybylinski explained the problems with measurement on uneven topography and slopes. Atty. Hale reminded us that the goal of the Plan Commission in this ordinance was to STANDARDIZE the method of measurement, not just to simplify it, and that one method for all eliminates arbitrary and capricious decisions. The goal is to make it fair for all. One suggestion was to make the new changes apply only to the beach areas, not to the older areas of the city.

Because of the questions, which seem to be substantial, the committee unanimously recommended **TABLING** this ordinance for further joint study by members of this committee and members of the Plan Commission's tower committee.

2. Habitat for Humanity is applying for this rezoning. There is currently no commercial use of the property or its surrounding area. Not long ago, a rezoning action from Residential to Business for a property north of these lots was defeated by the Council, overridden and rezoned by the BZA, and again defeated in a court of law – the area residents wanted the area to remain RESIDENTIAL. The Plan Commission has recommended this rezoning based on the best use for the property. Public hearing is pending. The committee recommends **APPROVAL** of this ordinance, if Atty. Meyer assures us that all other requirements have been met.
3. The owner of this property has requested annexation to the city. Part of his property is currently part of the city, and this smaller parcel is not part of the city. Annexation would increase the tax base of the city while it allowed the owner to further develop the property, which is difficult when the whole property straddles the boundary and is subject to both city and county regulations.

This ordinance is filed pursuant to IC 36-4-3-5.1. It appears to meet the requirements for annexation. One hundred percent (100%) of the owners of the land have filed the petition, and more than 1/8 of the boundary is contiguous with the city boundary. The public hearing is pending.

The members, by unanimous decision, voted to recommend **APPROVAL** of this ordinance, if Atty. Meyer assures us that all other requirements have been met.

With no other matters before the committee, the committee adjourned at 7:30 pm.

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

Councilman Murphy reminded everyone a Michigan Boulevard Oversight Committee meeting will be held tomorrow, April 22, 2009 at 6:00 p.m. at the 5<sup>th</sup> Ward Office.

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

M.C.P.D. Assistant Chief Mark Swistek did a power point presentation addressing graffiti in the community.

## **PETITIONS**

There were no petitions.

**COMMUNICATIONS**

The Clerk read the following letter received in the Clerk's Office April 9, 2009;

April 9, 2009

Michigan City Common Council  
100 East Michigan Blvd.  
Michigan City, IN 46360

**Re: Recommendation for Amendment to the Ethics Ordinance**

Dear Common Council Members:

On April 2, 2009, the Michigan City Ethics Advisory Commission held its first meeting pursuant to the *Ethics Ordinance*. In addition to the regular business of the Commission, the Commission questioned that portion of the *Ordinance* that seemingly prohibits any member of any board, any member of any commission, any employee of any department or any official of any office from ever conducting any business with the City of Michigan City. The Commission was concerned that the *Section 7(d)* of the *Ethics Ordinance* prevented such persons or relatives of such persons from ever conducting business with the City, even if the person or relative was the most-qualified and even if there was full disclosure of the relationship in advance of any transaction on the *Uniform Conflict of Interest Statement*.

Under *Section 10(f)(5)(e)* of the *Ordinance*, the Ethics Advisory Commission is empowered:

*To make recommendations to the City Council for amendments to this Ordinance and for such other legislation affecting the subject matter of this Ordinance as the Commission may deem necessary or desirable.*

Pursuant this *Section* of the *Ordinance*, the Commission now recommends that the *Ethics Ordinance* be amended as follows:

**d. Prohibition of certain financial interest. Unless full advance disclosure thereof is made on the Uniform Conflict of Interest Statement, ~~no~~ No official or employee, regardless of prior disclosure thereof, who has a material interest, personally or through a relative, in any business entity doing or seeking to do business with an agency shall influence or attempt to influence the selection of or the conduct of business with such business entity by an agency.**

The amendment would permit board members, commission members, officials, employees or other officers of the City to conduct business with the City, provided full disclosure of the relationship is made in advance, thereby providing full transparency to any such transaction without unduly restraining the City from conducting business with the most-qualified person or company.

Respectfully submitted,

John M. Espar  
Corporation Counsel

Council President McKee referred the recommendation letter to the Ethics Committee to review and come to the Council with their assessment.

Tom Fedder, City Clerk, read a memo from his office advising that due to the special election held on Tuesday, May 19, 2009 that the Council Meeting will be held on **Wednesday**, April 20, 2009, at 6:30 p.m. in the Council Chamber.

**RESOLUTIONS**

The Clerk read the Resolution by title only,

**MICHIGAN CITY COMMON COUNCIL****RESOLUTION NO. 4420****APPROVING THE STATEMENT OF BENEFITS (SB-1/PP) FOR TAX ABATEMENT FOR CERTAIN PERSONAL PROPERTY OWNED BY CURRENT MIDWEST WITHIN MICHIGAN CITY AND WAIVING CERTAIN REQUIREMENTS PURSUANT TO INDIANA LAW, INCLUDING, WITHOUT LIMITATION, IC 6-1.1-12.1-9.5**

**WHEREAS**, the COMMON COUNCIL of Michigan City, Indiana, by Ordinance No. 2648 as amended, and / or otherwise, has adopted one or more Declaratory Resolution(s) designating certain areas within Michigan City, Indiana as Economic Revitalization Area(s) for the purpose of real property tax abatement consideration thus establishing a Tax Abatement Area in the City of Michigan City, Indiana, and has further adopted a Tax Abatement Program (the "Program"); and

**WHEREAS**, such Declaratory Resolution includes an area which includes the subject property owned or used by the taxpayer (Current Midwest Company), such being more particularly described as follows:

**601 Sheridan Ave., Michigan City, IN 46360 (with legal description as attached hereto as Exhibit A);**

**WHEREAS**, under the terms of the Program, abatement benefits, among other things, are made available to owners of manufacturing, research and development, and IT equipment, acquired for a newly constructed facility and such benefits are made available as to owners of such property located anywhere within the city limits of the City of Michigan City, Indiana; and

**WHEREAS**, Current Midwest Company has filed with this Council its Statements of Benefits on the forms provided by the State of Indiana and has provided this Council with a presentation in support thereof; and

**WHEREAS**, this Council is satisfied that the Petitioner's Statement of Benefits meets with the requirements of Ordinance Number 2648 as amended, as well as previous tax abatement resolutions adopted by the Common Council of Michigan City; and

**WHEREAS**, the petition of the taxpayer's Statement of Benefits seeks a deduction of ten (10) years pursuant to IC 6-1.1-12.1-4.5(f); and

**WHEREAS**, the Council has previously determined that the qualifications for an economic revitalization area have been met in the location where the project is to be constructed.

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

**SECTION 1.** That the matters and things recited in the preamble hereof are hereby adopted and made a part of this Resolution by incorporation and reference as if repeated in full.

**SECTION 2.** That the Common Council of the City of Michigan City hereby determines:

- A. That the machinery and equipment described in the taxpayer's SB-1/PP will be used in conjunction with and for the purposes of the taxpayer's manufacturing facility. The new construction will allow manufacturing to commence in Michigan City instead of other locations. The proposed construction will provide for establishment of the taxpayer's business presence in its relevant market and allow it to remain competitive with its competitors in the market place. The proposed construction will assist the taxpayer in maintaining its existing employment and provide for future potential employment.
- B. With the new construction, the number of the taxpayer's employees who are estimated to be retained is approximately five (5) with an estimated annual payroll of approximately \$230,000.
- C. The estimated retention of employment and the estimate of annual salaries of those individuals whose employment will be retained, all as described in the Statements of Benefits, are benefits which can be reasonably expected to result from the proposed project.
- D. That the costs described are reasonable for machinery and equipment of this nature and the totality of the benefits described justify the deductions which will occur in tax abatement for the project, including the revitalization of a deteriorated neighborhood and the encouragement of other developers.

- E. That as a result of the above-referenced Resolutions and Ordinances, the deduction to which the petitioner is entitled is ten (10) years with respect to the new manufacturing equipment, research and development equipment, and Information Technology equipment to be installed in the new facility.
- F. That the location of the Petitioner's manufacturing plant described herein (601 Sheridan Ave., Michigan City, IN) is within the Michigan City Economic Revitalization Area.
- G. That the Statement of Benefits filed by the Petitioner meets the requirements of this Council and should be approved.
- H. That the grant of approval referred to herein is subject to the report and oversight provisions of applicable Ordinances of the City of Michigan City, Indiana.
- I. That the Council hereby waives any and all clerical errors that are waivable under State and local law, including without limitation those described in IC 6-1.1-12.1-9.5, subsections (b)(1) and (b)(2), all of which have been corrected prior to the adoption of this Resolution.
- J. SECTION 3. The Common Council hereby accepts and approves the Statements of Benefits of the Petitioner, and hereby authorizes the signature thereof by the President of this Council and the attestation thereof by the City Clerk.

SECTION 4. This Resolution shall be in full force and effect after its adoption by the Michigan City Common Council.

Introduced by: /s/ Joseph Doyle  
Common Council Member

/s/ Ron Meer  
Common Council Member

## **Exhibit – A -**

Parcel No. 46-01-31-252-013.000-022

### LEGAL DESCRIPTION RIDER

Lots 2,3,4,5,6,7,8,9 in Block 34; part of the South ½ of vacated East Loyal Avenue; part of the North-South vacated alley in said Block 34, and the North ½ of vacated East Ruane Avenue, all in Frederick H. Bartlett's South Shore Acres, which is recorded in Plat Book 6 pages 26 and 27, in the Office of the Recorder of LaPorte County, Indiana, all being more particularly described as follows: Commencing at the Northeast corner of Block 34 in said Frederick H. Bartlett's South Shore Acres; thence South along the Westerly right of way line of Sheridan Avenue, a distance of 58.00 feet to the place of beginning; thence continuing South along the Westerly right of way line of said Sheridan Avenue, a distance of 241.00 feet to the centerline of vacated East Ruane Avenue; thence Westerly at an angle of 90 degrees to the left of the last above described line and also along the centerline of vacated East Ruane Avenue, a distance of 381.50 feet; thence Northerly at an angle of 90 degrees to the left of the last above described line, a distance of 332.00 feet to the centerline of vacated East Loyal Avenue; thence Easterly at an angle of 90 degrees to the left of the last above described line and also along the centerline of vacated East Loyal Avenue, a distance of 240.00 feet; thence Southerly at an angle of 90 degrees to the left of the last above described line, a distance of 91.00 feet; thence Easterly at an angle of 90 degrees to the right of the last above described line, a distance of 141.50 feet to the place of beginning.

Councilman Meer moved to adopt the resolution, second by Councilman Doyle.

Councilman Meer stated that Attorney Donoghue and representatives from Current Midwest Company were there to answer any questions the Council or general public may have.

Bob Bailey, 311 Kenwood Place, former executive director of the Department of Redevelopment, addressed the Council regarding the proposed resolution.

Attorney Donoghue, representing Current Midwest Company, stated Scott Engwert, Vice President of Current Midwest Company was present to answer any questions or concerns regarding their project. Attorney Donoghue addressed the Council advising reasons to support the proposed tax abatement.

Discussion ensued among Attorney Donoghue, Council Members Boy, Espar and Meer.

John Regetz, Executive Director, Michigan City Economic Development Corporation, advised the Council of MCEDC's full support regarding the application for tax abatement and recommended they adopt the resolution.

Councilman Meer stated several reasons to support the resolution.

Councilwoman Boy thanked Current Midwest Company for coming to Michigan City.

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

The Clerk read the Resolution by title only,

**MICHIGAN CITY COMMON COUNCIL**

**RESOLUTION NO. 4421**

**APPROVING THE STATEMENT OF BENEFITS (SB-1) FOR TAX ABATEMENT FOR CERTAIN REAL PROPERTY OWNED BY CURRENT MIDWEST COMPANY AND THOMAS A. ENGWERT WITHIN MICHIGAN CITY AND WAIVING CERTAIN REQUIREMENTS PURSUANT TO INDIANA LAW, INCLUDING, WITHOUT LIMITATION, IC 6-1.1-12.1-9.5**

**WHEREAS**, the COMMON COUNCIL of Michigan City, Indiana, by Ordinance No. 2648 as amended, and / or otherwise, has adopted one or more Declaratory Resolution(s) designating certain areas within Michigan City, Indiana as Economic Revitalization Area(s) for the purpose of real property tax abatement consideration thus establishing a Tax Abatement Area in the City of Michigan City, Indiana, and has further adopted a Tax Abatement Program (the "Program"); and

**WHEREAS**, such Declaratory Resolution includes an area which includes the subject property owned or used by the taxpayer (Current Midwest Company and Thomas A. Engwert), such being more particularly described as follows:

**601 Sheridan Ave., Michigan City, IN 46360 (with legal description as attached hereto as Exhibit A)**

**WHEREAS**, under the terms of the Program, abatement benefits, among other things, are made available to owners of real estate upon which new construction has occurred and such benefits are made available as to owners of such property located anywhere within the city limits of the City of Michigan City, Indiana; and

**WHEREAS**, Current Midwest Company and Thomas A. Engwert has filed with this Council its Statements of Benefits on the forms provided by the State of Indiana and has provided this Council with a presentation in support thereof; and

**WHEREAS**, this Council is satisfied that the Petitioner's Statement of Benefits meets with the requirements of Ordinance Number 2648, as amended, as well as previous tax abatement resolutions adopted by the Common Council of Michigan City; and

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

**SECTION 1.** That the matters and things recited in the preamble hereof are hereby adopted and made a part of this Resolution by incorporation and reference as if repeated in full.

**SECTION 2.** That the Common Council of the City of Michigan City hereby determines:

K. That the real estate improvements described in the taxpayer's SB-1 will be used in conjunction with and for the purposes of the taxpayer's manufacturing facility. The new construction will allow manufacturing to commence in Michigan City instead of other locations. The proposed construction will provide for establishment of the taxpayer's business presence in its relevant market and allow it to remain competitive with its competitors in the market place. The proposed construction will assist the taxpayer in maintaining its existing employment and provide for future potential employment.

L. With the new construction, the number of the taxpayer's employees who will likely be retained is approximately five (5) with an annual payroll of approximately \$230,000.

- M. The estimated retention of employment and the estimate of annual salaries of those individuals whose employment will be retained, all as described in the Statements of Benefits, are benefits which can be reasonably expected to result from the proposed project.
- N. That the costs are reasonable for projects of this nature and the totality of the benefits described justify the deductions which will occur in tax abatement for the project, including the revitalization of a deteriorated neighborhood and the encouragement of other developers.
- O. That as a result of the above-referenced Resolutions and Ordinances, the deduction to which the petitioner is entitled to is ten (10) years with respect to the real property improvements and / or construction.
- P. That the location of the Petitioner’s manufacturing plant described herein (601 Sheridan Ave., Michigan City, IN) is within the Michigan City Economic Revitalization Area.
- Q. That the Statement of Benefits filed by the Petitioner meets the requirements of this Council and should be approved.
- R. That the grant of approval referred to herein is subject to the report and oversight provisions of applicable Ordinances of the City of Michigan City, Indiana.
- S. That the Council hereby waives any and all clerical errors that are waivable under State and local law, including without limitation those described in IC 6-1.1-12.1-9.5, subsections (b)(1) and (b)(2), all of which have been corrected prior to the adoption of this Resolution.

**SECTION 3.** The Common Council hereby accepts and approves the Statements of Benefits of the Petitioner, and hereby authorizes the signature thereof by the President of this Council and the attestation thereof by the City Clerk.

**SECTION 4.** This Resolution shall be in full force and effect after its adoption by the Michigan City Common Council.

Introduced by: /s/ Joseph Doyle  
Common Council Member

/s/ Ron Meer  
Common Council Member

**Exhibit – A -**

Parcel No. 46-01-31-252-013.000-022

LEGAL DESCRIPTION RIDER

Lots 2,3,4,5,6,7,8,9 in Block 34; part of the South ½ of vacated East Loyal Avenue; part of the North-South vacated alley in said Block 34, and the North ½ of vacated East Ruane Avenue, all in Frederick H. Bartlett’s South Shore Acres, which is recorded in Plat Book 6 pages 26 and 27, in the Office of the Recorder of LaPorte County, Indiana, all being more particularly described as follows: Commencing at the Northeast corner of Block 34 in said Frederick H. Bartlett’s South Shore Acres; thence South along the Westerly right of way line of Sheridan Avenue, a distance of 58.00 feet to the place of beginning; thence continuing South along the Westerly right of way line of said Sheridan Avenue, a distance of 241.00 feet to the centerline of vacated East Ruane Avenue; thence Westerly at an angle of 90 degrees to the left of the last above described line and also along the centerline of vacated East Ruane Avenue, a distance of 381.50 feet; thence Northerly at an angle of 90 degrees to the left of the last above described line, a distance of 332.00 feet to the centerline of vacated East Loyal Avenue; thence Easterly at an angle of 90 degrees to the left of the last above described line and also along the centerline of vacated East Loyal Avenue, a distance of 240.00 feet; thence Southerly at an angle of 90 degrees to the left of the last above described line, a distance of 91.00 feet; thence Easterly at an angle of 90 degrees to the right of the last above described line, a distance of 141.50 feet to the place of beginning.

Councilman Doyle made a motion to adopt the resolution, second by Councilman Meer.

Attorney Donoghue, Attorney Meyer and Council Members Espar, McKee, and Meer discussed the data on the SB-1 form. The following information was changed and initialed by Vice President, Scott Engwert, Current Midwest Company;

	Cost	Assessed Value
Current values	0	0
Plus estimated values	456,000	456,000
Less Values	0	0
Net estimated values- Upon completion	456,000	456,000

John Pugh, City Planner, stated that the Plan Commission supports Current Midwest Company's development project and advised Councilman Meer that the property is 2.6 acres and is zoned M-2 which is industrial.

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

### **ORDINANCES**

The Clerk read on first reading by title only, **APPROVING ADDITIONAL APPROPRIATION FOR THE PURPOSE OF CREATING AN ADDITIONAL FULL TIME POSITION WITHIN THE STREET DEPARTMENT**

**INTRODUCED BY:** Marc Espar

( **DECREASE** Fund #0708, MVHF Unappropriated -\$14,000.00, **INCREASE** Accounts # 0708 0000 01411.001, Salary \$8,276.00, 411.016 Overtime – \$1,288.00, 413.001FICA - \$712.00, 413.004 Health Insurance - \$2,700.00, 413.002 PERF - \$1,024.00).

Councilman Espar stated that the proposed ordinance was requested by Mayor Oberlie. Mr. Espar advised that it relates to what he views as a need for an additional employee for the Michigan Boulevard corridor maintenance, once the City assumes control on October 1, 2009.

John Schaefer, City Controller, addressed Councilman Meer's questions regarding the purpose of creating an additional full time position within the Street Department.

Council President McKee referred the Ordinance to the Finance Committee.

Council President McKee 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 first reading by title only, **APPROVING ADDITIONAL APPROPRIATION FOR PURPOSES OF ACQUIRING STREET EQUIPMENT, PARK EQUIPMENT, AND DE-ICING SALT**

**INTRODUCED BY:** Marc Espar

(**DECREASE** Fund #9000, Riverboat , Unappropriated - \$455,700.00 , **INCREASE** Account #9000 0000 04 444.004 - \$165,000.00 Street Equipment (Street truck with plows, spreader and GPS \$135,000, and Two spreaders \$30,000), **INCREASE** Account # 9000 0000 04 444.011- \$112,700.00 (Park truck, two (2) quad cab trucks, two (2) 72" mowers, gator, and bunker rake), **INCREASE** Account # 9000 0000 02 423.002 - \$14,000.00 Repair Parts (to convert sanitary truck for forestry use), **INCREASE** Account # 9000 0000 06 460.100 - \$14,000.00, Transfer of Funds to MVHF **INCREASE** Account # 9000 0000 03 436.005 - \$150,000.00 Other Repair & Maintenance – Salt)

Councilman Espar stated that the proposed ordinance was requested by Mayor Oberlie. Mr. Espar stated the proposed ordinance is to purchase equipment needed in the Park and Street Departments, and to purchase de-icing salt for the upcoming winter.

Discussion ensued among John Schaefer, City Controller and Councilman Meer regarding the additional cost of salt anticipated for Michigan Boulevard.

Mr. Schaefer addressed Councilman Meer's questions regarding the \$14,000 repair part (to convert sanitary truck for forestry use).

Council President McKee referred the Ordinance to the Finance Committee.

Councilman Espar advised that the Finance Committee would be meeting on Thursday, April 23, 2009 to discuss the ordinance.

Council President McKee 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 first reading by title only, **APPROVING ADDITIONAL APPROPRIATIONS TO PROVIDE FUNDING FOR THE REPAIR OF TWO FIRE TRUCKS AND CONSTRUCTION OF THE OASIS SPLASH PAD**

**INTRODUCED BY:** Marc Espar

(**DECREASE** Fund #9000, Riverboat Unappropriated - \$525,000.00 **INCREASE** Account #9000 0000 04 444.012 - \$225,000.00, Fire truck repairs **INCREASE:** Account #9000 0000 04 443.007 - \$300,000.00, Oasis splash pad construction )

Councilman Espar stated that the proposed ordinance was requested by Mayor Oberlie. Mr. Espar stated the proposed ordinance is for substantial repairs to two (2) fire trucks being rebuilt along with additional construction costs to the Oasis Splash Pad to finish their project. Mr. Espar stated that staff members from the Park Department were there to answer any questions the general public or Council may have.

Councilman Espar requested that second and third reading be held at the next Council Meeting (May 5, 2009).

M.C.F.D. Chief Lamb presented pictures of the ladder truck being rebuilt at the factory.

Jan Orlich, Superintendent of Parks and Recreation and John Schaefer, City Controller addressed questions and concerns from Council Members Meer, Doyle, Milsap, Boy, McKee, Murphy and Espar regarding the additional appropriation for the splash pad project.

Council President McKee referred this ordinance to the Finance Committee.

Councilman Meer requested a complete breakdown of the additional appropriation monies for the splash pad by the next council meeting (May 5, 2009).

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

The Clerk read on first reading by title only, **AN ORDINANCE PROHIBITING THE FEEDING OF WILDLIFE IN PUBLIC PARKS AND ADDING SEC. 14-13 TO ARTICLE 1 OF CHAPTER 14 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Joe Doyle  
Marc Espar

Councilman Doyle advised the ordinance was a result of a study in a city in Wisconsin that solved several of their problems in regards to prohibiting the feeding of wildlife.

Jim Witkowski, Michigan City, addressed the Council asking them to support this ordinance.

Councilman Meer stated that it is important that the public knows that this Ordinance is specific to only the Port Authority and Park Department properties.

Councilman Meer addressed the fourth WHEREAS in the proposed Ordinance;

**WHEREAS, the Michigan City Common Council, having considered said Resolution No. 669 and Resolution No. 2009-1 now finds that the feeding of wildlife within the City constitutes a nuisance and safety hazard and is detrimental to the health and general welfare of the public.**

Council President McKee referred this ordinance to the Public Health and Safety Committee.

Attorney Meyer addressed Councilwoman Boy's questions regarding enforcing the Ordinance.

Shannon Eason, Administrative Director, Parks and Recreation Department, advised Councilwoman Boy that the Park Department has filed for an Indiana Department of Natural Resource grant to purchase lids for each garbage can.

Council President McKee commented on genetic source identification, stating essentially this would be testing exactly where the e-coli are coming from. Mr. McKee stated that by the next Council meeting (May 5, 2009) he will have information on testing procedures and costs to start identifying where the primary resource is coming from.

Councilman Meer addressed the feeding of wildlife at Striebel Pond.

Council President McKee 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 first reading by title only, **AN ORDINANCE ESTABLISHING THE TIME TO SET OUT AND REMOVE RECYCLABLE CONTAINERS PRIOR TO AND AFTER COLLECTION OF RECYCLABLE MATERIAL BY THE LAPORTE COUNTY SOLID WASTE DISTRICT AND ADDING SEC. 98-146 TO DIVISION 2, ARTICLE IV, OF CHAPTER 98 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Phil Jankowski

Councilman Jankowski stated that the Ordinance was a request from the Refuse Department to address the storage of recyclable containers.

Angelo Corley, 240 Springland Avenue, stated his concerns about proposed fines to be given to citizens regarding where recyclable containers should be stored.

Councilman Espar commented on reasons he supports the ordinance.

Councilwoman Boy asked why the Ordinance didn't state any fees. Councilman Jankowski stated that the fees are in the complete Ordinance on refuse containers.

Councilman Jankowski addressed Councilwoman Nelson's concerns regarding people that have these containers, have no garage, don't have an alley and only can store them in their front yard.

Council President McKee 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, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA AMENDING THE MICHIGAN CITY COMPREHENSIVE ZONING ORDINANCE NO. 2114 BY CHANGING THE PROVISIONS FOR THE MAXIMUM HEIGHT OF STRUCTURES IN RESIDENTIAL DISTRICTS**

**INTRODUCED BY:** Patricia Boy

President McKee asked if there were any questions or comments by the general public or Council and hearing none, President McKee opened the formal public hearing, repeating three times "Any questions or comments by the general public at this time?"

Howard Mason, 108 Carroll Avenue, Treasurer of Sheridan Beach Homeowners Association, commented on the proposed provisions for the maximum height of structures in residential districts.

John Pugh, City Planner, addressed Bob Bailey, 311 Kenwood Place, concerns regarding what areas in the City the proposed ordinance would apply to.

Jim Witkowski, Michigan City, agreed with Mr. Mason stating the height restriction should stay at 30 feet.

President McKee repeated three times, "Any questions or comments by the general public at this time?" There was no response and the public hearing was closed.

Councilwoman Boy advised that the current Ordinance doesn't have a standard way of measuring building heights, clarifying some of the changes that will go in effect after adoption.

Councilwoman Boy moved to **TABLE** the Ordinance, second by Councilman Milsap.

Council President McKee directed the Clerk to call for the vote: **AYES: COUNCIL MEMBERS Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, and Nelson (9). NAYS: None (0). President McKee stated the ordinance was TABLED.**

The Clerk read on second reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AMENDING THE MICHIGAN CITY ZONING MAP AND ORDINANCE NO. 2114 BY REZONING A PARCEL OF PROPERTY KNOWN AS 200 BLOCK (1,2,3,4,5,6,7,8, AND 9) IN ORR AND DEWOLF'S ADDITION TO MICHIGAN CITY FROM BUSINESS B2 TO RESIDENTIAL R2; AND BLAIR'S 2<sup>ND</sup> ADDITION TO MICHIGAN CITY BLOCK 5 SW CORNER LOT 11 AND PIECE IN NW CORNER LOT 10 FROM BUSINESS B2 TO RESIDENTIAL R2**

**INTRODUCED BY:** Ron Meer

Councilman Meer stated the Planning and Zoning Committee's recommendation was to adopt this ordinance.

Councilman Meer advised there would be a Formal Public Hearing at the May 5, 2009 Council Meeting regarding this matter.

Councilman Meer addressed Councilman Espar's concerns regarding amendments at the public hearing on third reading.

Council President McKee asked if there were any comments or questions from 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, **APPROVING ADDITIONAL APPROPRIATION FOR THE BUDGET OF THE GOLF FUND**

**INTRODUCED BY:** Joe Doyle

(**DECREASE:** Fund # 1314 Golf Unappropriated - \$ 21,800.00,  
**INCREASE:** Fund # 1314 0000 02 423.005, Miscellaneous Merchandise Supplies (to purchase inventory for resale and related supplies) \$16,500.00  
 Fund # 1314 0000 03 439.011, Contractual Services (to provide bartender training for employees, purchase alcohol permits, and purchase alcohol liability insurance) \$ 3,600.00, Fund # 1314 0000 02 423.003 Small Tools & Minor Equipment (to purchase refrigerators) \$ 1,700.00).

Councilman Doyle stated that members of the staff from the Park Department were there to answer any questions the general public or Council may have.

Jason Richardson, Director of the Michigan City Golf Course addressed Council Members Milsap, Meer, Boy and Nelson's questions.

Council President McKee 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, **AN ORDINANCE REQUIRING THE REMOVAL OF GRAFFITI IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE, DECLARING THAT PROPERTY MAY BECOME A NUISANCE OWING TO THE FAILURE OF RESPONSIBLE PARTIES TO REMOVE GRAFFITI AFTER HAVING BEEN REQUESTED TO DO SO BY CITY, ESTABLISHING A PROCESS FOR THE REMOVAL OF GRAFFITI AND THE RECOVERY OF PUBLIC CLEAN-UP EXPENSES, CREATING CIVIL REMEDIES, AND ADDING ARTICLE VII TO CHAPTER 46 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, LAPORTE COUNTY, INDIANA**

**INTRODUCED BY:** Angie Nelson  
 Willie Milsap

Councilwoman Nelson stated that she hoped the power point presentation by Assistant Chief Swistek answered any questions anyone had.

Councilman Meer thanked the police department, assuring the community there will be cooperation with the residents of Michigan City regarding the removal of graffiti.

Councilwoman Nelson made a motion to add to Section 46-196 (a) the following Author's Amendment;

**Section 46-196(a) Graffiti Removal Assistance Programs Available Through City. The City will offer removal of graffiti, for which Notice will be sent explaining the waiver process which is needed before entering the property and removing the graffiti.** After securing the written consent of the property owner and a "Release of the City from liability for property damage or personal injury," the City may enter the property to remove the graffiti. The City shall be authorized to use public funds and equipment for the removal of the graffiti, or for the painting or repair of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located.

Councilwoman Boy agreed with Councilwoman Nelson that the language in Section 46-196(a) needed to be amended to clarify it.

Councilwoman Nelson stated that she would e-mail a copy of proposed waivers to each Council Member that she received from the insurance company.

Councilman Murphy commended the team that put the ordinance together, along with the Police Department, for their approach to law enforcement with the spirit of cooperation with residents.

Council President McKee 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, **AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 50-138, 50-140, 50-141, AND 50-142 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA AND AMENDING CODE 1980, § 150.035.1 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 50-139 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Patricia Boy

Councilman Espar called a point of order stating the annexation ordinance was the next ordinance to be read on second reading.

President McKee directed the Clerk to read that ordinance on second reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA ANNEXING 44.347 ACRES OF REAL ESTATE OWNED BY OEHMSTEAD COMPANY, LLC, SITUATED ON 600 WEST, MICHIGAN CITY, INDIANA AND DECLARING THE SAME TO BE A PART OF THE CITY OF MICHIGAN CITY, INDIANA AND PROVIDING ZONING CLASSIFICATION THEREFORE**

**INTRODUCED BY:** Robert McKee  
Joseph Doyle  
Marc Espar

Council President McKee stated this Ordinance needs to be **TABLED** due to state statute and timeframe regarding the publication of the public hearing (20 days prior to public hearing), and advised the Formal Public Hearing will be held at the next Council meeting (May 5, 2009).

Councilman Doyle made a motion to **TABLE** the Ordinance until the next Council meeting, second by Councilmen Milsap and Espar.

President McKee directed the clerk to take the vote: **AYES: COUNCIL MEMBERS Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, and Boy (9). NAYS: None (0).** President McKee stated the ordinance would be **TABLED** until the May 5, 2009 Council meeting.

The Clerk read on second reading by title only, **AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 50-138, 50-140, 50-141, AND 50-142 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA AND AMENDING CODE 1980, § 150.035.1 AND**

**ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 50-139 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Patricia Boy

Councilwoman Boy stated the Licenses and Franchises Committee's recommendation was to withdraw the ordinance.

Council President McKee asked if there was anyone that wished to sponsor the proposed ordinance and hearing none, the ordinance was withdrawn.

The Clerk read on second reading by title only, **AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 22-661 AND 22-663 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA AND AMENDING CODE 1980, § 150.035.1 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 22-662 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Patricia Boy

Councilwoman Boy stated the Licenses and Franchise Committee also recommends this ordinance be withdrawn.

Council President McKee asked if there was anyone that wished to sponsor the proposed ordinance and hearing none, the ordinance was withdrawn.

The Clerk read on second reading by title only, **AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 22-691 AND SECTION 22- 692 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

**INTRODUCED BY:** Patricia Boy

Councilwoman Boy stated the Licenses and Franchise Committee also recommends this ordinance be withdrawn.

Council President McKee asked if there was anyone that wished to sponsor the proposed Ordinance and hearing none, the ordinance was withdrawn.

**UNFINISHED BUSINESS**

Councilman Murphy presented the following press release;

**South Shore analysis team to present on May 14th**

Chuck D'Aprix, Principal of Washington, D.C.-based Economic Development Visions announced Tuesday that he and team members Stuart Sirota of TND Planning in Baltimore, MD and Glenn Kellogg of Urban Advisors Ltd of Washington, D.C. will be in Michigan City on May 14th to present the findings of their economic impact analysis of the location of the South Shore rails in Michigan City.

The presentation will take place on Thursday, May 14th at 6:30 p.m. in the City Council chambers at City Hall, 100 Michigan Boulevard, Michigan City, Indiana.

According to D'Aprix the team has employed state-of-the-art modeling as they have studied the three potential routes for the commuter line: the current 11th street site, the northern Amtrak site and the southern CSX site. He said, "There are countless variables we have been considering as we look at

the three proposed lines. It is not our role to say which site we would prefer, but rather to offer an objective examination of the economic development potential of each site. It is important that people understand that our role is very focused and that we are not conducting a transportation study per se--but rather an economic analysis study."

He added, "We have endeavored at every turn to remain objective, professional, and focused on the scope of work. Many people have contacted us to ask what we think the best site is--and we have to be quite clear in defining our role as one limited to the economic costs and benefits of each site."

He also said, "Sometimes cities, and Michigan City is no exception, feel "studied to death." We are very sensitive to that and believe what we have to offer will add value to the whole siting process. It will also allow folks to plainly see the economic benefits of each site. We believe we have adopted a creative and thorough approach."

D'Aprix was quick to praise the members of the team, "It is an honor to work with nationally-known consultants such as Stu Sirota and Glenn Kellogg. This is top-notch talent and we have gelled as a team in a way that will well serve Michigan City. We look forward to presenting our results."

Councilman Richard Murphy of Michigan City's First Ward said of the announcement, "I have great confidence in our analysis team. It has been a long time coming, but I believe these findings will empower us to chart a course where Michigan City, NICTD, and the region can all win."

### **NEW BUSINESS**

Councilman Jankowski moved to **TABLE** nominations to the Animal Control Advisory Board until the first Council Meeting in June (June 2, 2009). The motion was second by Councilman Milsap and approved by the following vote: **AYES: COUNCIL MEMBERS Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, Boy, and Doyle (9). NAYS: None (0).**

### **COMMENTS FROM THE PUBLIC**

There were no comments from the public.

### **COMMENTS FROM THE COUNCIL**

Councilwoman Nelson thanked her daughter for attending the Council meeting.

### **ADJOURNMENT**

A motion by Councilman Milsap, supported by Councilman Espar, and there being no further business to transact, President McKee declared the meeting **ADJOURNED** (approximately 9:20 p.m.).

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Thomas F. Fedder, City Clerk