

REGULAR MEETING – May 5, 2010

The Common Council of the City of Michigan City, Indiana, met in regular session on Wednesday evening, May 5, 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, Ron Meer, Willie Milsap, Richard Murphy, Angie Nelson and Joe Doyle. (9).

ABSENT: None (0).

A QUORUM WAS NOTED PRESENT.

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

APPROVAL OF MINUTES

President Espar inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of April 20, 2010.

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

REPORTS OF STANDING COMMITTEES

Councilman McKee reported on the Parks and Recreation Committee meeting held on April 23, 2010 and presented minutes of that meeting to each Council Member.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Councilman McKee advised that the Code Review Committee has completed reviewing the entire municipal codes presenting a red-line copy of the changes to each Council member to review. Mr. McKee advised two (2) Code Review workshops have been scheduled to be held on May 11 & 12, 2010 at 5:00 p.m. in the Mayor's Conference

Room, City Hall, to review the recommended changes; asking everyone to review the recommended changes prior to the workshop to be ready for discussion.

Councilman McKee thanked Councilman Doyle, Mayor Oberlie, all Departments and Department Heads for their valuable input and a special thanks for the extra effort put in by Attorney Amber Lapaich, Councilwoman Boy, and Gale Neulieb, Deputy Clerk.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

There were no reports of other city officers and departments

PETITIONS

There were no petitions.

COMMUNICATIONS

Council President Espar noted there were four (4) correspondences' received advising that each Council Member received a copy of them.

Council President Espar stated without any objections, the Council would move on to the first proposed resolution on the agenda.

Councilman Meer commented on the second correspondence received from Robin Tillman, Amalgamated Transit Union, Local #517; addressing the issues regarding the letter received from Charlie Cate, Superintendent, Michigan City Central Maintenance.

Council President Espar advised that the administration/Board of Public Works and Safety was addressing this matter.

Charlie Cate, Superintendent, Central Maintenance addressed Councilman Meer's questions regarding the correspondence he wrote to the State Regulator.

RESOLUTIONS

There being no objection, the Clerk read by title only,

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4447

RATIFYING A ONE YEAR LABOR AGREEMENT BETWEEN THE CITY OF MICHIGAN CITY AND THE MICHIGAN CITY FIREFIGHTERS LOCAL #475 FOR THE CALENDAR YEAR 2010

WHEREAS, there is a labor agreement currently in effect between the City of Michigan City and the Michigan City Firefighters Local #475; and

WHEREAS, there have been successful negotiations between the Labor Negotiations Committee of the Common Council, the Board of Public Works and Safety, and the Michigan City Firefighters Local #475, to formulate certain changes and/or modifications in wages and language all of which have been incorporated into the contract which is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Michigan City, Indiana that said Common Council hereby ratifies the 2010 contract between the City of Michigan City, Indiana, and the Michigan City Firefighters Local #475 a copy of which is attached hereto as Exhibit A.

INTRODUCED BY: /s/ Joseph Doyle, member

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

Councilman McKee stated his concerns regarding the contradictory language included in the contract and bargaining in good faith, that he would support the proposed resolution. Mr. McKee advised that the language needed to be addressed in the next negotiations.

Council President Espar advised that he would be supporting the proposed resolution stating his concerns and reservations regarding the language in the contract. Mr. Espar stated that the Finance Committee would review these concerns at the next contract negotiation with Local #475.

Council President Espar asked if there were any other 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 Murphy, Nelson, Boy, Doyle, Espar, Jankowski, McKee, Meer, and Milsap (9). NAYS: None (0).**

ORDINANCES

The Clerk read on first reading by title only, **AMENDING CHAPTER 2, ARTICLE VIII OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA, COMMONLY KNOWN AS THE ETHICS ORDINANCE**

Introduced by: Patricia Boy

Councilwoman Boy advised that the majority of the changes to the proposed ordinance were suggested by the Ethics Commission. Ms. Boy stated the Council's Ethics Committee met to discuss and did incorporate most of them into the ordinance.

Councilwoman Boy stated that an amended "Uniform Conflict of Interest Disclosure Statement" was changed to make it easier to understand and fill out.

Council President Espar stated that he would not be referring the proposed ordinance to committee since the Ethics Committee has already reviewed and agree with the changes suggested by the Ethics Commission.

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

The Clerk read on first reading by title only, **AN ORDINANCE ESTABLISHING THE FINE FOR DELINQUENT FILING OF THE UNIFORM CONFLICT OF INTEREST DISCLOSURE STATEMENT AND ADDING SECTION 50-32 TO CHAPTER 50 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

Introduced by : Patricia Boy

Councilwoman Boy advised the fine for delinquent filing of the "Uniform Conflict of Interest Disclosure Statement" is in the original Ethics Ordinance and that the proposed

ordinance is just adding the fine under Section 50-32 to Chapter 50 of the Municipal Code.

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

The Clerk read on second 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).

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.

President Espar stated that the proposed ordinance was referred to the Finance Committee, reporting on the meeting held on Friday, April 28, 2010. Mr. Espar advised that the recommendation of the Finance Committee was for the Park Board to accept the offer of the bid they had received from a local vendor to operate the Patriot Park concessions for the year 2010 and report back to the Council the profitability of those concessions.

President Espar advised that the Finance Committee agreed to let the proposed ordinance move on to third reading with the understanding that the Park Boards recommendation would be to accept the bid they received from the local vendor to operate Patriot Park’s concessions for this season; returning to the Council asking to withdraw the proposed ordinance on third reading (May 18, 2010).

Council President Espar asked if there were any comments 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. 4085

**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**

WHEREAS, from time to time, changes must be made to Municipal Code to keep it in line with state standards; and

WHEREAS, the Licensing Board has recommended various amendments to correct certain errors, lessen the administrative burden of compliance, and ensure the health and safety of the citizens of Michigan City; and

WHEREAS, the Common Council has considered such amendments offered by the Licensing Board, and has additionally considered its own amendments to said Municipal Code;

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana that the following sections of Chapter 22, Article XI of the Municipal Code of Michigan City be amended as follows:

Sec. 22-571. Purpose.

- (a) It is hereby declared to be the purpose, intent, and policy of the Common Council of the city, that in order to safeguard the health, safety, and public welfare of its citizens, the business of building construction and the persons engaged therein, as hereafter defined, shall be registered and licensed, as set forth herein.
- (b) This chapter does not apply to any construction, alteration, improvement or repair of improvements located on any site and project where state and federal law supersedes this chapter. Nothing in this chapter shall limit the power of a political subdivision to regulate the quality and the character of work performed by contractors through the enforcement of building codes and inspections.

Sec. 22-571.1. Definitions.

- (a) For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (b) **Board** means the Licensing Board.
- (c) **Business Entity** means a sole ownership, firm, partnership, limited partnership, corporation, or any form of unincorporated enterprise owned by 2 or more persons.
- (d) **Contractor** means any business entity, or an officer, agent, or representative of such, who for compensation undertakes to, or submits a bid to, or does himself or herself, or has done by others, construction, repair, alteration, remodeling, addition to, subtraction from, and improvement of structure and building, and/or manages all or any of the above items, and who is responsible for all contracting within the entire project.
- (e) **License** means a certificate issued by the city to an individual or to an individual as part of a greater business entity, through the Planning Department, which confers upon the holder the privilege to perform as a contract or subcontractor with the city. Such a license is issued to an individual and not to any entity of which the individual may be a part.
- (f) **Registration** means the act by which the city, through the Planning Department, confers upon a business entity the privilege to act as a contractor or subcontractor as defined herein, which registration shall be evidenced by a certificate of registration.
- (g) **Specialty Contractor or Subcontractor** means, in addition to the foregoing, an entity who specializes in a particular branch of the building construction industry and who shall be licensed and registered and who shall be limited to the specific field of work practiced.

Sec. 22-572. Regulating vehicle identification signs.

- (a) **Findings.** It is necessary that the citizens of the city along with city inspection officials be in a position to identify all motor vehicles used in the operation of registered general, electrical, plumbing, HVAC, and ancillary contractors.
- (b) **Identification required.** All registered general, electrical, plumbing, HVAC, and ancillary contractors, as well as other specialized trades for which other special licenses or registrations are required are to be properly identified while performing work within the corporate boundaries of the city;
 - (1) Such identification shall bear the name of the company business, telephone number and identification number; and
 - (2) All such identification shall be affixed to the driver's side of said vehicle as well as the rear of each vehicle in letters not smaller than three inches high and one-half inch wide and must be legible at all times. Said lettering identification may be in the form of a magnetic sign, provided that the lettering on the magnetic sign meets the specifications listed above.
- (c) **Compliance.** All registered contractors doing business within the city shall have 60 days [from September 19, 2000,] to have their vehicles properly identified. Any contractor not in compliance with this section shall be subject to a fine under section 1-7 of the Code.

Sec. 22-573 – 22-600. Reserved.

Sec. 22-603. Powers.

- (a) *License applications and examinations.* The licensing board shall have the power and duty to receive all applications for licenses for all crafts and trades, to determine examiners and method of examination, to certify examination results, and to approve or disapprove the application or issuance of a license.
- (b) *Suspension or revocation of license(s).* The licensing board shall have the right to revoke or suspend any license issued, upon its investigation or upon satisfactory proof that the holder of the license has willfully, intentionally or repeatedly violated any provisions of this chapter or law of the state pertaining to his business, for incompetency or misconduct in the practice of his business, for deceit or fraud in obtaining the license, for irresponsible financial practices, or for any other reason or ground specified by this chapter. Whenever the licensing board determines that there are reasonable grounds to believe that a license issued should be suspended or revoked the licensing board shall give notice of the alleged violation to the person(s) responsible and hold a hearing to determine whether the license shall be suspended or revoked.

(1) *The notice shall:*

- a. Be in writing.
- b. Include a statement of the reason why the licensing board believes the license should be suspended or revoked and provide a hearing date, time and place for the licensing board to make a determination regarding the license within ten days of the date the notice of the hearing was served.
- c. Be served upon the license holder. The notice shall be deemed to be properly served upon the license holder if a copy thereof is sent by registered or certified mail to his/her last known address, or if a copy thereof is posted in a conspicuous place in or about the residence of business address provided by the license holder on the license application.
- d. The notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(2) *Hearing:*

- a. The license holder shall file in the office of the city clerk a written statement regarding the allegations outlined in the notice provided by the licensing board prior to the date of the hearing.
- b. At the hearing, the petitioner shall be given an opportunity to be heard and to show why the revocation or suspension should not be issued.
- c. Upon application of the license holder, the board may postpone the date of the hearing for a reasonable time beyond the ten-day period, if in its judgment the petitioner has submitted a good and sufficient reason for the postponement. All the hearings shall be open to the public.

(3) *Decision and order.* After the hearing, the licensing board shall determine whether or not the license shall be suspended, revoked or sustained, depending upon its findings as to whether the license holder has complied with the provisions of the Michigan City Building Code.

The findings and all orders of the board shall be reduced to writing and issued to the petitioner by the board. The board shall prepare a record consisting of the notice; any statements filed by the license holder; the statement of finding of facts; and all decisions and orders of the board; and shall deposit them in the office of the city clerk for public inspection.

(4) *Emergency orders.* Whenever the licensing board finds that an emergency exists which requires immediate action to protect the public health, the board may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding other provisions of this article, the order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the licensing board shall be afforded a hearing as soon as possible. After the hearing, depending upon the finding as to whether the provisions of this article have been complied with, the board shall continue the order in effect, modify it, or revoke it.

- (c) *Recognition.* A contractor who provides written proof that he or she has passed an International Code Council Master Examination in his or her respective trade within three (3) years of the date of making application for license will be exempt from the testing requirements of this chapter.

Sec. 22-638. Examinations.

- (a) The International Code Council examinations required by the licensing board shall test the applicant as to his/her knowledge of:
- (1) The rules and regulations for the installation of electrical equipment pursuant to the electrical rules and regulations of this chapter, in the case of applicants for electrical contracting licenses.
 - (2) The rules and regulations for the installation of heating, ventilating and air conditioning equipment pursuant to the heating, ventilating and air conditioning rules and regulations of this chapter, in the case of applicants for heating, ventilating and air conditioning contracting licenses.
- (b) All examinations with a grade of not less than 75 percent correct shall be considered passing.
- (c) Should an applicant fail to pass an examination, the applicant may be reexamined upon reapplying to the licensing board at least 30 days prior to the next examination date. If the applicant shall fail to pass the reexamination, he shall not be eligible to file an application again for examination for a period of six months.

Sec. 22-663. Registration of plumbing contractor and plumbing subcontractor.

No plumbing contractor or plumbing subcontractor licensed as such by the State of Indiana shall engage in the business of plumbing contracting in the city without registering in the office of the planning department, providing proof of insurance, providing proof of license issued by the State of Indiana or evidence of renewal thereof and paying a registration fee in the amount established in section 50-140 to the City Controller. The registration shall be effective until December 31 of each year.

Once a registration has issued, renewal of such registration will be automatic from year to year by submitting proof of insurance, by providing proof of license issued by the State of Indiana or evidence of renewal thereof, and paying the renewal fee established in section 50-140 by February 1.

The registration of a plumbing contractor or plumbing subcontractor licensed as such by the State of Indiana shall not be transferable to any other name, business, or firm other than the name to which it was issued. Nothing in this section relieves the plumbing contractor from obtaining normal permits from the Planning Department. Once registered, a plumbing subcontractor may work under the permit of the plumbing contractor.

Sec. 22-691. Required.

License. No person shall do any work as an electrical and/or mechanical contractor or electrical and/or mechanical subcontractor designated under this chapter without a license from the city and registration of that license with the city. The term "work," as used in the previous sentence, shall include the servicing of as well as the installation and rehabilitation of systems.

Sec. 22-692. Licensing of individuals and business associations.

When any person shall desire to engage in business as an electrical and/or mechanical contractor or electrical and/or mechanical subcontractor, they shall first procure a contractor's license in their specified field by submitting an application to the city licensing board and complying with the examination requirement of section 22-695. In the case of applications by corporations, partnerships, joint ventures or other forms of business associations, the application for a contractor's license shall be made by an officer or full-time employee, who shall be personally responsible and liable for the acts and conduct of the firm or corporation which they represent, insofar as the compliance with the terms and requirements of this chapter is concerned.

Sec. 22-693. Exemption for work by homeowners.

The provisions of this subdivision regarding licenses shall not apply to any homeowner doing his own electrical work by himself in a residence for his own occupancy, but limited to a one-family or two-family dwelling, upon otherwise complying with this chapter as required of licensed

contractors in this chapter. However, the owner shall do the work himself upon the premises. If the owner should not do the work on the premises and he uses a permit with the intention to nullify a provision of this chapter by himself or in conspiracy with another, he shall be guilty of an offense punishable as provided in section 1-7. A permit taken out by a homeowner may be transferred without cost to any electrical contractor licensed by the city, the transfer to be effectuated by the city controller. The permit issued to the homeowner shall have this section printed upon it.

Sec. 22-694. Exemptions from examination requirement.

All electrical contractors and HVAC contractors who on January 1, 2005, hold a contractor's license under the provisions of other ordinances of the city shall not be required to take an examination as provided in this article, but shall upon application be granted a renewal license upon otherwise complying with the provisions of this subdivision, subject to the limitations in Sec. 22-698 of this chapter.

Sec. 22-695. License application and fee; examination requirement.

- (a) The city licensing board shall require all applicants under this subdivision to furnish the following information:
- (1) A statement of the applicant's proposed contracting business;
 - (2) The type of contractor's license being applied for;
 - (3) The name, residence and business address of the applicant;
 - (4) If the applicant is a partnership, joint venture, corporation or other type of business association or firm, the name and business address of the organization, and the name and residence of all officers, directors or partners, as the case may be, and their interest in the organization;
 - (5) A sworn list of all businesses owned, operated and managed by the applicant or in which the applicant has had an interest of any kind during the past five years, and the addresses of these businesses;
 - (6) Three letters of recommendation from reputable businesses or professionals, not related by blood or marriage to the applicant, from the county of the applicant's home business address, vouching for the applicant's reputation as to honesty, integrity and good character.
 - (7) A statement, under oath, that the applicant has not been convicted of a felony during the past five years, and that he/she is not presently indicted for committing a felony.
- (b) All applications shall be accompanied by a nonrefundable license application fee in the amount established in section 50-141.
- (c) In addition to the acceptance of the application by the City Licensing Board, no person shall be issued a license under this chapter unless that person passes the International Code Council Standard Master Electrician and/or the Standard Master Mechanical Examination or receives reciprocity by providing proof of having previously taken the International Code Council Standard Master Electrician and/or the Standard Master Mechanical Examination and having received a passing grade of at least Seventy-Five Percent (75%).

Sec. 22-697. Liability insurance and workman's compensation insurance.

The applicant for a license under this subdivision shall file with the planning department proof of workman's compensation insurance as required by the laws of the State of Indiana and a certificate of insurance of a responsible insurance company, authorized to do business in the state, indicating that the applicant has acquired public liability and property damage insurance in amounts not less than \$500,000.00 in case of damage or injury to one person, and not less than \$1,000,000.00 in case of damage or injury to more than one person, and not less than \$100,000.00 in case of damage to properties arising out of one accident.

Sec. 22-698. Issuance; fee; renewal; transfer.

- (a) The planning director or his designee, upon written authorization from the City Licensing Board, shall issue a contractor's license to a person, pursuant to this subdivision. The contractor shall pay a license registration fee in the amount established in section 50-142, payable to the planning department, and show proof of identification in the form of a valid driver's license or State photo ID. The license shall be effective until December 31 of each year.

- (b) Once a contractor's license is issued, the renewal of the license will be automatic from year to year with the payment of the renewal fee by February 1, except as outlined in subsection (d) of this section. Failure to pay the licensing fee before February 1 of each year will result in the license being automatically voided and require reapplication for licensing to the City Licensing Board. If it has been more than three (3) years since the contractor's last examination, the contractor who lets his license lapse shall be subject to all re-examination requirements under section 22-695(c).
- (c) The license issued by the planning department shall not be transferable to any other person other than the name to which it was issued.
- (d) All licenses are for a term beginning January 1 and ending December 31 of the same calendar year. A contractor may not perform any work under a license in a subsequent calendar year prior to payment of the annual renewal fee in accordance with this chapter. Additionally, a license issued by the planning department is valid upon payment of the annual renewal fee until such time as the contractor to whom the license was issued fails to perform any work under a permit issued for that license for a period of five (5) years, in which case the license expires. 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 sub-section shall become effective on the date of passage of this ordinance.
- (e) Every contractor's license shall be displayed at the contractor's principal business office or place of employment. All licensed contractor vehicles used the city shall be clearly identified with the name of the contractor's firm or corporation on the vehicle as required by Sec. 22-571.2.

Sec. 22-699. Forfeitures and Fines.

- (a) If any person holding a contractor's license under the provisions of this subdivision shall be cited by the planning director three times for violating any of the provisions of this chapter, his license shall be forfeited. The mayor shall order his license cancelled and the licensee shall then have no further rights under the license.
- (b) The person whose contractor's license has been forfeited and cancelled may apply after the expiration of six months from the forfeiture and cancellation, as provided in this subdivision, for a new license.
- (c) When any business entity, or a duly authorized agent or representative of such, acts as a contractor without first obtaining a license as provided herein, or any individual who continues to act as a contractor after his or her license or registration has been suspended or revoked, the city licensing board and the Planning Department shall petition the Board of Works to bring action in the Circuit or Superior Courts of LaPorte County, Indiana, for mandatory and injunctive relief in the enforcement of, and to secure compliance with any order or orders made by the Planning Department, and any such action for mandatory injunctive relief may be jointed with an action to recover the penalties provided in this ordinance.
- (d) Any person or entity violating any provision of this chapter or refusing a lawful order issued by the Planning Department, shall be fined in a sum not less than \$10 nor more than \$300. Each day of the unlawful activity shall constitute a separate offense.
- (e) Any person, who acts as a contractor without first obtaining a license as provided herein, shall be fined, as determined by proceedings before the city license board, subject to the terms of Section 1-7 of this municipal code.

THIS ORDINANCE shall be in full force and effect after passage and signature of the Mayor.

INTRODUCED BY: /s/ Patricia Boy, member

Councilwoman Boy stated that the proposed ordinance was referred to the Council's Planning and Zoning Committee and their recommendation was to approve with the amendments that were adopted at the last meeting (April 20, 2010).

Councilwoman Boy made a motion to adopt the ordinance, second by Councilwoman Nelson.

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

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4086

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE LEGAL SERVICES FUND

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget into the Legal Services Fund for attorney fees, legal costs and/or settlement purposes; and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund <i>Unappropriated Balance</i>	\$160,000.00	
INCREASE Account #9000 0000 03 431.001 <i>Legal Services</i>		\$160,000.00
TOTAL FOR FUND	\$160,000.00	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated there was a Formal Public Hearing held on April 20, 2010 for the proposed ordinance.

Councilwoman Boy made a motion to adopt the proposed ordinance, second by Councilman Jankowski.

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 adopted by the following vote: **AYES: Council Members Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, and Nelson (9). Nays: None (0).**

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4087

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR ANIMAL CONTROL DEPARTMENT

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the construction of a concrete slab with drain for the Animal Control Department's freezer (\$3,400.00) and the purchase of bite guards (\$4,667.85); and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund Unappropriated Balance	\$ 9,617.85	
INCREASE Account # 9000 0000 04 444.014 Animal Control Department Equipment		\$ 9,617.85
TOTAL FOR FUND	\$ 9,617.85	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated the proposed ordinance was referred to the Finance Committee advising their recommendation was the proposed ordinance be adopted.

President Espar addressed Councilman Meer's question regarding what the Animal Control Department was purchasing with the proposed appropriation.

Councilwoman Boy advised there was a Formal Public Hearing held at the last Council meeting (April 20, 2010).

Councilman Jankowski made a motion to adopt the proposed amended ordinance, second by Councilwoman Boy.

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 adopted by the following vote: **AYES: Council Members Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, and Boy (9). NAYS: None (0).**

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4088

APPROVING AN ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVER BOAT FUND

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the acquisition of the Pawloske property and Lin See property; and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund Unappropriated Balance	\$42,850	
INCREASE Account # 9000 0000 04 441.001 Land Acquisition		\$42,850
TOTAL FOR FUND	\$42,850	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Richard Murphy, Member
Michigan City Common Council

Councilman Murphy reminded the Council that the proposed ordinance is a matching contribution to fund land acquisition for the Trail Creek Project.

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

President Espar stated that a Formal Public Hearing was held at the April 20, 2010 Council meeting regarding this ordinance.

Councilwoman Boy noted that the money would revert back to the Riverboat fund if not used.

Council President Espar asked if there were any questions or comments by the general public or Council and hearing none, the ordinance was adopted by the following vote:

AYES: Council Members Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, Boy, and Doyle (9). NAYS: None (0).

The Clerk read on third reading,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4089

**APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR
FORESTER EQUIPMENT**

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the purchase of one used 40-foot bucket truck (\$46,000), and forks for a loader currently in use (\$5,000); and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund Unappropriated Balance	\$ 51,000.00	
INCREASE Account # 9000 0000 04 444.005 Forester Equipment		\$ 51,000.00
TOTAL FOR FUND	\$ 51,000.00	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated that there was a Formal Public Hearing held on April 20, 2010 on the proposed ordinance and that it was referred to the Finance Committee for their consideration, advising the Finance Committee recommended passage without amendment.

Council President Espar stated that at the last Council meeting (April 20, 2010) he requested the administration undertake a thorough review of all City Departments regarding safety procedures and issues.

Council President Espar stated the proposed ordinance was to replace a 40-foot bucket truck that was purchased, replacing it due to non-compliant issues with OSHA.

Councilman Jankowski made a motion to adopt the proposed ordinance, second by Councilwoman Boy.

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 adopted by the following vote: **AYES: Council Members Jankowski, McKee, Meer, Milsap, Murphy, Nelson, Boy, Doyle, and Espar (9). NAYS: None (0).**

Councilman Meer requested that the following proposed ordinance be read in its entirety.

There being no objections, the Clerk read the proposed ordinance on third reading in its entirety,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4090

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE CENTRAL MAINTENANCE DEPARTMENT

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the purchase of , GPS software/hardware (\$20,000), and a used van to replace a vehicle in the Planning Department (\$9,000); and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund Unappropriated Balance	\$ 29,000.00	
INCREASE Account # 9000 0000 04 444.009 Central Maintenance Department Equipment		\$ 29,000.00
TOTAL FOR FUND	\$ 29,000.00	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated that the proposed ordinance was referred to the Finance Committee advising they did not recommend the expenditure for the valve stem tire pressure monitors in the amount of \$6,000.00, reducing the proposed appropriation ordinance to \$29,000.00.

Council President Espar advised there was a Formal Public Hearing held at the Council meeting on April 20, 2010, stating the amended amount was adopted at that time (\$29,000.00).

Discussion ensued among Council Members McKee, Meer, Nelson, Milsap, and Espar, and Charlie Cate, Superintendent, Central Maintenance, regarding GPS system.

Councilman Jankowski made a motion to adopt the proposed ordinance, second by Councilman Milsap.

Council President Espar asked if there were any questions or comments by the general public or Council on the proposed amended ordinance and hearing none, the ordinance was adopted by the following vote: **AYES: Council Members McKee, Milsap, Murphy, Nelson, Boy, Doyle, Espar, and Jankowski (8). NAYS: Meer (1).**
The ordinance was adopted.

The Clerk read on third 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.)

Council President Espar stated there was a Formal Public Hearing held on April 20, 2010 regarding the proposed ordinance.

President Espar stated that at the Finance Committee meeting held on April 16, 2010, the Mayor indicated he would be reviewing the operational budget and would find another source for the proposed appropriation requested in the amount of \$18,885.00.

President Espar spoke to Mayor Oberlie advising he requested additional time to address this matter.

Councilman Jankowski made a motion to **TABLE** the proposed ordinance indefinitely, second by Councilwoman Boy.

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 **TABLED**, indefinitely by the following vote: **AYES: Council Members Meer, Milsap, Murphy, Nelson, Boy, Doyle, Espar, Jankowski, and McKee (9).** **NAYS: None (0).**

The Clerk read on third 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

Council President Espar stated that a Formal Public Hearing was held at the April 20, 2010 Council meeting and that it was referred to Finance Committee for their consideration.

President Espar stated that at the Finance Committee meeting, the Mayor indicated he would review the operational budget and would find another source for their request of the additional appropriation.

Mayor Oberlie indicated to President Espar he would like to request additional time to address this matter.

Councilwoman Nelson made a motion to **TABLE** the proposed ordinance indefinitely, second by Councilman Jankowski. (Note: The proposed Ordinance if brought back to the Council would be on third reading.)

Council President Espar asked if there were any questions or comments by the general public or Council and hearing none, the ordinance was **TABLED**, indefinitely by the following vote: **AYES: Council Members Milsap, Murphy, Nelson, Boy, Doyle, Espar, Jankowski, and Meer (8).** **NAYS: McKee (1).**

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4091

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE POLICE DEPARTMENT

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the purchase and installation of security camera equipment (\$57,416.12), the purchase of a chiller compressor to replace a failed 2001 compressor (\$8,700.00), and electronic locks for the basement entry (\$1,634.50); and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, LaPorte County, Indiana, that for the expenses of the City, the following additional sums of money

are hereby appropriated out of the fund named and for the purpose specified, subject to the laws governing the same:

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund <i>Unappropriated Balance</i>	\$67,750.62	
INCREASE Account #9000 0000 04 444.021 <i>Police Department Equipment</i>		\$67,750.62
TOTAL FOR FUND	\$67,750.62	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated there was a Formal Public Hearing held on April 20, 2010, and the proposed ordinance was referred to the Finance Committee for their consideration.

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

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 Murphy, Nelson, Boy, Doyle, Espar, Jankowski, McKee, Meer, and Milsap (9). NAYS: None (0).**

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4092

**APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR
LAND ACQUISITION**

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the local share of a grant administered by the Indiana Department of Homeland Security, the purpose of which is to fund 75% of the cost to acquire flood-prone buildings; and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund <i>Unappropriated Balance</i>	\$42,500.00	
INCREASE Account #9000 0000 04 444.001 <i>Land Acquisition</i>		\$42,500.00

TOTAL FOR FUND **\$42,500.00**

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated there was a Formal Public Hearing held on April 20, 2010 and that the Finance Committee’s recommendation is to adopt the proposed ordinance without amendment.

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

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

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4093

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR EQUIPMENT FOR THE STREET DEPARTMENT

WHEREAS, it has been demonstrated to the Council that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the purchase of two trucks equipped with snow plowing accessories to replace a 1997 unit and a 2002 unit (\$249,000), and the refurbishment of two 2004 street sweepers (\$38,000); and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Riverboat Fund #9000 to be appropriated for that purpose.

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

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #9000, Riverboat Fund <i>Unappropriated Balance</i>	\$287,000.00	
INCREASE Account #9000 0000 04 444.004 <i>Street Department Equipment</i>		\$287,000.00
TOTAL FOR FUND	\$287,000.00	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Marc Espar, President
Michigan City Common Council

Council President Espar stated there was a Formal Public Hearing on April 20, 2010 and the Finance Committee's recommendation is to adopt the proposed ordinance without amendment.

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

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 Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, and Nelson (9). NAYS: None (0).**

UNFINISHED BUSINESS

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

Councilman Meer made a motion to provide consent, second by Councilmen McKee and Doyle.

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: COUNCIL MEMBERS Doyle, Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, and Boy (9). NAYS: None (0).**

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

President Espar advised there was a letter sent to Mr. Boyd Phelps, President, Board of Commissioners, Michigan City Sanitary District, requesting documents to be provided to the Council by May 3, 2010. President Espar stated that due to Mr. Phelps being on vacation the requested documents would be received by Friday, May 7, 2010.

President Espar asked the Utility Committee to schedule a meeting as soon as possible upon receipt of the documents for review.

NEW BUSINESS

There was no new business.

COMMENTS FROM THE PUBLIC

Luke Tillman, Michigan City, presented the following letter to the Council;

Re: Bus Safety, Complaint

First I would like to apologize for my absence today. I'm having unexpected outpatient surgery. I would be happy to make myself available at a later date.

I have written to the Michigan City Common Council, because I believe that the public and employees safety is a serious issue and should be a priority.

On 4/21/10, after a driver reported problems with the brake system on bus #30 the director of Transportation, Mr. Gipson ordered two drivers to drive the bus. He also stated to the other drivers via radio if any one refused to drive the bus they would be disciplined.

I believe this is a very dangerous situation. Mr. Gipson ordered the drivers to drive the bus without a proper inspection.

It was noted that the bus was slow in stopping (fading) and pulling to the right. These are both signs of problems with your brake system. Still no inspection.

With the multitude of stopping and picking up of the passengers to the right side, I want to make every effort to ensure the safety of the public and our drivers.

I'm asking the Michigan City Common Council for help with our safety concerns. We have expressed our safety issues with Transit management and others. I feel myself and others need updated/additional safety training.

Sincerely, Robin Barzoni-Tillman

Louis E. Hapke, 142 Concord Drive, addressed the Council regarding the spending of River Boat money by the City.

COMMENTS FROM THE COUNCIL

Councilwoman Nelson addressed the Council's previous request from the administration to review what procedures are implemented in each City Department regarding safety training programs or any other safety issues. Ms. Nelson asked, if the Mayor had a timeline in regards to addressing this matter.

Councilman Meer commented on some suggestions that should be addressed during testing/inspecting the brake system procedures on City buses and transit.

Councilman Doyle invited everyone to attend the Armed Forces Day parade that will be held on May 15, 2010 at 11:00 a.m. with events following at Washington Park.

Council President Espar stated that he received a letter from Susan Lardino, Indiana State Board of Accounts, advising the SBOA is currently conducting the annual audit of the City of Michigan City for the year 2009. Mr. Espar advised that he would forward each Council Member her email for any questions or concerns they may have.

ADJOURNMENT

A motion by Councilman Doyle, supported by Councilwoman Boy, and there being no further business to transact, President Espar declared the meeting ADJOURNED (approximately 7:45 p.m.).

Thomas F. Fedder, City Clerk