

REGULAR MEETING – May 20, 2009

The Common Council of the City of Michigan City, Indiana, met in regular session on Wednesday evening, May 20, 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.

APPROVAL OF MINUTES

President McKee inquired whether there were any corrections, deletions, or additions to the minutes of the regular Meeting of May 5, 2009.

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

REPORTS OF STANDING COMMITTEES

Councilman Doyle reported on the Ethics Committee meeting held on Thursday, May 14, 2009.

Councilwoman Boy presented the following report regarding the joint Tower/Planning and Zoning Committee meeting held on Friday, May 15, 2009 in the Mayor's Conference Room.

Public Notice: May 13, 2009
Meeting Date: May 15, 2009 - 3:00 pm

The joint meeting of the Planning & Zoning Committee and the Plan Commission Tower Committee was called to order at 3:00 pm on May 15, 2009. Members of the Committees present were Pat Boy, Rich Murphy, John Carr, and Tim Smith. Marc Espar was absent. Also attending was Plan Commission Atty. Steven Hale.

Notice of the public meeting was duly posted by the City Clerk's Office on May 13, 2009. This meeting was called to review, in joint committee, the following ordinance which was referred to this committee by the Council President on April 7, 2009.

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;

Questions to be considered regarding the ordinance included:

1. Is there a federal regulation controlling height of television aerial antennas on rooftops;
2. What would happen if someone decided to build a 35' tall building with a flat roof among houses with peaked roofs;
3. What would happen if a non-conforming (but not illegal) house were destroyed by natural disaster or fire – would the owner be able to rebuild to the original height;
4. What affect do the different ways of measuring have on overall height, and what problems occur with measurement on uneven topography and slopes; and
5. What about suggestions of having the new changes apply only to the beach areas, and not to other residential areas of the city?

Responses to the questions follow:

1. Atty. Hale advised us that television aerial antennas on rooftops are controlled by state and federal law and there is no need for our ordinance to address this issue.
2. Members felt that the flat-roof issue would affect the beach area the most, having little effect on the rest of the city's residential areas. For standardizing measurement and eliminating the gaps in our current code, the committee thought it best to leave the height at 35 feet. There is little difference between the current system of measuring 30 feet to the midpoint of a roof and the new system of measuring 35 feet to the peak of a roof, and a 35-foot flat-roof building would leave absolutely no leeway for adding a deck on top, because the fence or railing required would exceed the height limit.
3. Rebuilding of non-conforming structures is already addressed in our code, in Section 160.110. While that code may need some clarification, it is not part of the ordinance before us. Anyone with a non-conforming structure that needs to rebuild would be referred to the BZA if they wanted to exceed existing bulk standards.
4. The current code leaves the decision up to the inspector concerning which method of measurement will be used for determining building height. It refers to standards, but does not provide those standards. The proposed ordinance creates one standard measurement method, which clarifies the process. It also eliminates the practice of "berming" or building up the grade so that the house will be higher without exceeding the height limit. This is a big problem in the beach area, where the view is a big concern.
5. A form-based code would likely include a special district for the beach area for the coming county-wide plan. The flat-roof height limit there may be lower in the future, but we must move forward and fix the problems with the current code, and this measure will prevent many new problems from arising before the county-wide code is adopted.

Based on this joint study by members of this committee and members of the Plan Commission's tower committee, the Council's Planning and Zoning Committee recommends **APPROVAL** without amendment. With no other matters before the committee, the committee adjourned at 4:45 pm.

Councilman Meer requested the Utilities Committee (Chairperson Jankowski) schedule a meeting with the Sanitary District in regards to the sanitary sewer overflows and the investigation by IDEM.

Council President McKee asked Councilman Jankowski to move forward and schedule a Utilities Committee meeting.

Councilman Jankowski stated he concurred with Councilman Meer's position on this matter. Mr. Jankowski advised the Utilities Committee meeting will be held on Wednesday, May 27, 2009 addressing the issues that Councilman Meer identified along with a brief discussion of the possible impact of Striebel Pond on the flooding issues in the Village Green area.

Councilman Jankowski advised the Board of Directors and Superintendents of the Michigan City Water Department did sign the conflict of interest form (Appendix "A") of the Ethic Ordinance, but did not believe the other employees would need to sign it. Mr. Jankowski stated the Water Department intends to comply with the ordinance and asked the Council's Ethic's Committee to address this matter.

Councilman Jankowski advised at the next Water Department meeting, May 26, 2009 they would be voting on changing their office hours from 8:30 a.m. until 5:00 p.m. to 8:00 a.m. until 4:30 p.m.

Councilwoman Boy asked if the Utilities Committee would report back to the Council regarding if the location of the sewers being put in on Pahs Road are on the right side of the road and will they be sufficient for the three-hundred (300) apartments that eventually will be built.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Council President McKee requested the Finance Committee review the riverboat funds along with the 45% cap ordinance.

Council President McKee also requested the Finance Committee address additional appropriation ordinance procedures when bids are involved.

President McKee asked the Judiciary and Rules Committee to address Council rules relative to separation of issues within ordinances and amendments.

Council President McKee advised the Mayor and the Park Department to assemble a committee to begin looking at the struggles of the golf course in recent years, advising that \$190,000 was given to them to get them out of debt. President McKee stated the committee met this evening and will have a report to the Council within the next few months.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

There were no City Officers and Department reports.

PETITIONS

There were no petitions.

COMMUNICATIONS

There were no communications

RESOLUTIONS

The Clerk read the Resolution by title only, **RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA ADOPTING A WRITTEN FISCAL PLAN AND ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO THE AREA KNOWN AS 47.3487 ACRES ALONG COUNTY ROAD 600 WEST LAPORTE COUNTY, INDIANA, A PROPOSED ANNEXATION AREA**

INTRODUCED BY: Robert McKee
Joe Doyle

Councilman Doyle stated there were several unanswered questions regarding the resolution and asked Mr. McKee to present these facts.

Council President McKee presented information regarding the proposed resolution; advising the resolution deals with not having a written physical plan and that the cost estimates show as zero (0) and asked Attorney Meyer to address the legal issues surrounding an annexation. President McKee stated even if the resolution was adopted this evening it would not go into effect until January, 2010.

Attorney Meyer advised several legal issues that need to be done before adopting the Resolution/annexation.

Councilman Doyle made a motion to **TABLE** the resolution until the second Council meeting in June (June 16, 2009), second by Council Members Espar and Boy.

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

ORDINANCES

The Clerk read on first reading by title only, **APPROVING ADDITIONAL APPROPRIATIONS OF CASINO FUNDS TO THE PARK DEPARTMENT TO PROVIDE FUNDING FOR A SECOND CITY DAY CAMP**

INTRODUCED BY: Angie Nelson
Joe Doyle

Councilman Doyle advised that this Ordinance was a result of a meeting held with Jeremy Kienitz, Recreation Director, the Park Department and himself, stating there were enough applications to start another day camp and asked the Council to support this resolution.

Councilwoman Nelson advised there is a waiting list for the City Day Camp held at Washington Park and due to the economy several Day Camps in the area have closed. Ms. Nelson stated that adopting this ordinance would create sixty-five (65) additional openings for children in our community to participate this summer and not be at home alone.

Councilman Doyle advised Councilwoman Boy, the Day Camp would be held at Memorial Hall and stated that Jeremy Kienitz, Recreation Director was present to answer any questions.

Jeremy Kienitz, Recreation Director, addressed the Council with several reasons to support the resolution.

Discussion ensued among Mr. Kienitz, Council members Boy, Nelson, McKee and Milsap.

Councilwoman Boy requested that 2nd and 3rd reading be done at the next Council meeting (June 2, 2009).

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 AMENDING THE LICENSE AND RESIGTRATION REQUIREMENTS FOR ELECTRICAL AND/OR MECHANICAL CONTRACTORS AND AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 22-691, SECTION 22-692, SECTION 22-695, AND SECTION 22-698 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

INTRODUCED BY: Pat Boy

Councilwoman Boy questioned if telephone and cable companies would have to have a license and follow the requirements of this proposed ordinance.

Councilwoman Boy addressed Councilwoman Nelson's questions regarding this matter.

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 AMENDING THE REGISTRATION FEE AND RENEWAL FEE FOR BUILDING CONTRACTORS, PLUMBERS, ELECTRICAL CONTRACTORS AND MECHANICAL CONTRACTORS AND AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION 50-138, SECTION 50-140, SECTION 50-141, AND SECTION 50-142 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA**

AND

AN ORDINANCE AMENDING THE REGISTRATION FEE AND RENEWAL FEE FOR MASTER CONTRACTORS 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: Pat Boy

Councilwoman Boy stated there currently is a penalty fee, which has been removed from the proposed ordinance. Ms. Boy advised that in the proposed ordinance, if you don't apply for the renewal fee that is required every year, then you have to re-register, costing the contractor an additional fee.

Council President McKee asked if there were any questions or comments from 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 AMENDING THE REGISTRATION REQUIREMENT FOR BUILDING CONTRACTORS AND/OR PLUMBING CONTRACTORS, AND AMENDING ORDINANCE NO. 2053 AND ALL SUBSEQUENT AMENDING ORDINANCES THERETO ALSO KNOWN AS SECTION**

22-661 AND SECTION 22-663 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA

AND

AN ORDINANCE AMENDING THE MASTER CONTRACTOR REGISTRATION FOR PERSONS MAINTAINING AN APARTMENT COMPLEX AND/OR RESIDENTIAL RENTAL PROPERTY 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: Pat Boy

Councilwoman Boy made an Author's amendment removing **AN ORDINANCE** in the second paragraph of this ordinance and the previous ordinances title.

Council President McKee asked if there were any questions or comments from 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 OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA ANNEXING 47.3487 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**

INTRODUCED BY: Robert McKee
Joseph Doyle
Marc Espar

Councilman Doyle made a motion to **TABLE** the ordinance until the second Council meeting in June (June 16, 2009), second by Councilman Espar. The motion was carried by the following vote: **AYES: COUNCIL MEMBERS Milsap, Murphy, Nelson, Boy, Doyle, Espar, Jankowski, McKee, and Meer (9). NAYS: None (0).**

Council President McKee advised that this ordinance will be **TABLED** until June 16, 2009 Council meeting.

Councilwoman Boy made a motion to bring back the following ordinance that was **TABLED** at the April 21, 2009 Council meeting, putting it on the June 2, 2009 Council agenda, Councilman Espar objected.

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

Council President McKee agreed with Councilman Espar, bringing this Ordinance back on second reading on the June 2, 2009 Council agenda.

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE 4056

APPROVING ADDITIONAL APPROPRIATIONS FOR THE PURPOSE OF CREATING AN ADDITIONAL FULL-TIME POSITION WITHIN THE STREET DEPARTMENT

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the purpose of creating an additional full-time position in the street department as a result of the City's assumption of the maintenance responsibilities for Michigan Boulevard;

NOW, THEREFORE, BE IT ORDAINED by the City 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 funds named and for the purpose specified, subject to the laws governing the same:

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Fund #0708, MVHF Unappropriated	\$14,000.00	

INCREASE Account # 9000 0000 04 444.011 (Park truck, two (2) quad cab trucks, two (2) 72" mowers, gator, and bunker rake)	\$112,700.00
INCREASE Account # 9000 0000 02 423.002 Repair Parts (to convert sanitary truck for forestry use)	\$14,000.00
INCREASE Account # 9000 0000 06 460.100 Transfer of Funds to MVHF	\$14,000.00
INCREASE Account # 9000 0000 03 436.005 Other Repair & Maintenance - Salt	\$150,000.00
TOTAL FOR RIVERBOAT FUND	\$455,700.00

This Ordinance shall 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, Member
Michigan City Common Council

Councilman Espar advised the proposed ordinance is to purchase equipment needed in the Park and Street Departments, and to purchase de-icing salt for the upcoming winter. Mr. Espar stated the Finance Committee recommends the passage without amendment.

Councilman Espar moved to adopt the ordinance, second by Councilman Milsap.

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?" There was no response and the public hearing was closed.

Mayor Oberlie addressed Councilman Meer's questions regarding the additional cost of salt to maintain Michigan Boulevard.

Councilman Espar asked how many lane miles there were in Michigan City that need to be maintained.

Mayor Oberlie addressed President McKee's questions regarding the additional lane miles throughout the City, snow removal and the priority of the secondary process.

Councilwoman Boy stated she received several complaints this past year regarding the secondary roads not being plowed, advising that by adopting the proposed additional appropriation should help with the plowing of the secondary roads.

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

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4058

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**

WHEREAS, the Michigan City Parks and Recreation Board, in Resolution No. 669, and the Michigan City Port Authority Board, in Resolution No. 2009-1, (hereinafter referred to collectively as "Boards") copies of which were submitted to the Michigan City Common Council for review, have petitioned the Michigan City Common Council to adopt an ordinance prohibiting the feeding of wildlife in public parks or on property and waterways under the jurisdiction of the Michigan City Port Authority, the Michigan City Department of Parks and Recreation, and the Michigan City Sanitary District property, Striebel Pond; and

WHEREAS, the Michigan City Common Council agrees with the Boards' findings that feeding wildlife in those areas increases the amount of fecal matter in water which causes harmful bacteria in numbers exceeding the Indiana Water Quality Criteria for Human Health to get into the water; and

WHEREAS, the Michigan City Common Council agrees with the Boards' findings that feeding wildlife causes the wildlife to defecate and trample on personal and real property causing a nuisance and damage thereto; and

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's parks, Port Authority properties and Striebel Pond, constitutes a nuisance and safety hazard and is detrimental to the health and general welfare of the public; and

WHEREAS, the Michigan City Common Council also finds that artificial feeding is actually harmful to water fowl by causing poor nutrition, increased hybridization, water pollution, delayed migration, concentrations at unnatural sites, overcrowding, spread of disease, costly management efforts, unnatural behavior, and a devaluation of the species.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City that Sec. 14-13, which shall be entitled "*Feeding of Wildlife Prohibited*" is added to *Article 1 of Chapter 14* of the *Michigan City Municipal Code* and shall read as follows:

(a) *Purpose*: It has been established that the feeding of wildlife in any public park or on any other property or waterway under the jurisdiction of the Michigan City Port Authority and the Michigan City Department of Parks and Recreation causes a public nuisance, safety hazard and is detrimental to property and the health and general welfare of the public.

(b) *Definitions*:

(1) *Food* shall mean any solid or liquid material edible to wildlife.

(2) *Waterfowl* shall mean any bird that frequents the water, or lives about rivers, lakes, or other bodies of water, which shall include but not be limited to ducks, geese, and swans.

(3) *Wildlife* shall include any animal, which is not normally domesticated in this state, including but not limited to coyotes, deer, turkeys, foxes, raccoons, skunks, crows, pigeons, sparrows, starlings and any other land birds, squirrels, gophers, ground hogs, muskrats and waterfowl. An animal owned by or under the care and control of any person, which shall include but not be limited to the animals under the care and supervision of the Washington Park Zoo, shall not be included in the definition of *wildlife*.

(c) *Prohibited Conduct*: It shall be unlawful for any person to feed or to leave food for wildlife in Washington Park, on any property or waterway under the jurisdiction of the Michigan City Port Authority, or on any park, playground or property under the jurisdiction of the Michigan City Department of Parks and Recreation. All areas designated as non-feeding areas by the Michigan City Port Authority and the Michigan City Department of Parks and Recreation shall be posted advising of the prohibited conduct and potential fine.

(d) *Fine*: Any person who violates this section shall be punished by a fine not to exceed \$50.00 for the first violation, \$100.00 for the second violation in the same calendar year, \$150.00 for the third violation in the same calendar year, with incremental increases of \$50.00 for every subsequent violation in the same calendar year, not to exceed total fines of \$7,500.00 in any calendar year. Each day a violation continues shall constitute a separate violation.

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

INTRODUCED BY: /s/ Joseph Doyle, Member
Michigan City Common Council

/s/ Marc Espar, Member
Michigan City Common Council

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

Paul Przybylinski, 1716 Washington Street, addressed the Council regarding the proposed ordinance.

Councilman Espar called a point-of-order asking Mr. Przybylinski to address the Chair only.

Council President McKee stated he requested at the last Council meeting (May 5, 2009) a study by the Sanitary District be done to identify what kind of E-coli there actually is at the Washington Park Beach.

Discussion ensued among President McKee, Jan Orlich, Park Superintendent, Councilman Espar and Mr. Przybylinski.

Rich Harding, 510 Bies Street, addressed the Council regarding who was going to enforce the proposed ordinance and if there was a penalty.

Mayor Oberlie stated the water testing is contracted with the Indiana Department of Environmental Management and the LaPorte County Health Department advising IDEM access is federal funded and DNA sampling is not permitted.

Councilman Espar presented the following report regarding the proposed ordinance,

Mr. President, I rise in support of this ordinance because it just makes sense,

No one is deluded to believe this will end our problems with E-coli on our beaches, but it is a good first step in our fight to eradicate the problem, as Racine Wisconsin has done. Other measures the Park Department is taking include modifying sand raking, and flow studies to track from where the E-coli is coming. These are low, to no cost approaches to the problem. Beaches all over the country frequently close due to fecal contamination; a day at the beach can be ruined if septic systems overflow or malfunction, or if a lot of birds happen to be in the neighborhood. I am aware that some people enjoy feeding the birds. They visit Washington Park, or other parks within Michigan City to toss bread, corn, popcorn, or table scraps to the ducks and geese that congregate there. They say it makes them feel good to help the ducks, it brings the ducks closer for their kids to see, or that it's just an escape. Unfortunately, artificial feeding can actually be harmful to the wildlife, and too our beachgoers. As stated in the ordinance, artificial feeding is harmful because it can cause poor nutrition, water pollution, overcrowding, the spread of disease, and costly management efforts.

Aside from the reasons cited above, the only other argument I've heard why we shouldn't adopt this ordinance is that it intrudes into our residents' lives. I can assure you, adopting this ordinance would be the least intrusive ordinance we've adopted to date. This ordinance is basically saying, we don't have a problem if you choose to feed the wildlife on your property. We don't believe it's in the bird's best interest, but we don't want it done in or parks where our children play and expect a healthy environment.

As silly as it sounds, by voting against this ordinance you're saying it's alright to harm our children, so long as it's done in public. Feed the birds if you must, but do it in your backyard, or better yet, do it at the zoo where proper diet is controlled.

Councilwoman Boy stated that it has already been established that the feeding of birds at the park is not the only cause of E-coli, but it is one part and even eliminating one part will help avoid some beach closing.

Councilwoman Boy requested suspension of the rules to allow amendments on third reading. There were no objections.

Councilwoman Nelson made the motion to adopt the following amendments, second by Councilwoman Boy,

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

WHEREAS, the Michigan City Parks and Recreation Board, in Resolution No. 669, and the Michigan City Port Authority Board, in Resolution No. 2009-1, (hereinafter referred to collectively as "Boards") copies of which were submitted to the Michigan City Common Council for review, have petitioned the Michigan City Common Council to adopt an ordinance prohibiting the feeding of wildlife in public parks or on property and waterways under the jurisdiction of the Michigan City Port Authority, **the Michigan City Department of Parks and Recreation, and the Michigan City Sanitary District property, Striebel Pond; and**

WHEREAS, the Michigan City Common Council agrees with the Boards' findings that feeding wildlife in those areas increases the amount of fecal matter in water which causes harmful bacteria in numbers exceeding the Indiana Water Quality Criteria for Human Health to get into the water; and

WHEREAS, the Michigan City Common Council agrees with the Boards' findings that feeding wildlife causes the wildlife to defecate and trample on personal and real property causing a nuisance and damage thereto; and

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's parks, Port Authority properties and Striebel Pond**, constitutes a nuisance and safety hazard and is detrimental to the health and general welfare of the public; and

Paul Przybylinski, 1716 Washington stated his concerns regarding the amendments to the proposed ordinance.

Councilwoman Boy advised the email received from Mr. Walus states that the Sanitary District approved the amendments regarding Striebel Pond to the proposed ordinance.

Councilman Meer questioned Councilwoman Boy regarding if the Sanitary District Commission did approve it.

Councilwoman Boy addressed Councilman Meer's concerns.

Councilwoman Nelson made a motion to adopt the following amendment to section (c),

(c) *Prohibited Conduct.* It shall be unlawful for any person to feed or to leave food for wildlife in Washington Park, on any property or waterway under the jurisdiction of the Michigan City Port Authority, or on any park, playground or property under the jurisdiction of the Michigan City Department of Parks and Recreation **and Striebel Pond**. All areas designated as non-feeding areas by the Michigan City Port Authority and the Michigan City Department of Parks and Recreation shall be posted advising of the prohibited conduct and potential fine.

The motion was second by Councilman Doyle.

President McKee directed the clerk to call the vote: **AYES: COUNCIL MEMBERS Boy, Doyle, Espar, Jankowski, McKee, Murphy, Nelson (7). NAYS: COUNCIL MEMBERS Meer and Milsap (2).** The amendment was adopted.

Councilman Murphy commented on the proposed ordinance.

Councilman Meer stated his concerns regarding polluted water coming from Trail Creek.

Councilman Jankowski advised the Council how Resine, Wisconsin addressed their pollution control issues by treating their storm water. Mr. Jankowski stated that this needs to be addressed in our community if we plan to try and stop some of the pollution problems in Lake Michigan.

Councilwoman Nelson stated that in their Committee meeting with the Park Department Superintendent, the park is working on a beach management program with the Sanitary District.

Councilman Doyle commented on public feeding of the wildlife in our community, Stating he supports the amended ordinance.

Councilwoman Boy stated that she believes this is just a small piece of the pollution problem, agreeing with Councilman Meer, that the run off and overflows need to be looked at and addressed.

Councilman Meer agreed with Councilman Jankowski statements, stating that the City's priorities should be concentrating on time/efforts and focusing on more serious issues that need to be addressed.

Council President McKee agreed with Councilwoman Boy that you do what you can to help when you can, and stated reasons to support the proposed ordinance.

Council President McKee asked if there were any comments or questions by the general public or Council and hearing none, the ordinance was passed by the following vote: **AYES: COUNCIL MEMBERS Doyle, Espar, Jankowski, McKee, Murphy, Nelson, and Boy (7). NAYS: COUNCIL MEMBERS Meer and Milsap (2).**

The Clerk on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4059

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

WHEREAS, the LaPorte County Solid Waste District provides the manner, method, frequency of collection, and the container for the disposal of recyclable material for the City of Michigan City; and

WHEREAS, for purposes of promoting the attractive physical qualities of neighborhoods and protecting the health, safety, and welfare of its citizens, the City of Michigan City desires to establish the time, in coordination with the days and times scheduled by the LaPorte County Solid Waste District, for residents to set out and remove recycling containers prior to and after collection of their recyclable material by the LaPorte County Solid Waste District.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City that Sec. 98-146, which shall be entitled "Recyclable Material" is added to Chapter 46 of the Michigan City Municipal Code and shall read as follows:

Sec. 98-146. Recyclable material.

The LaPorte County Solid Waste District provides the manner and method of disposal of recyclable material in Michigan City. *Recyclable Material* shall mean any material defined by the LaPorte County Solid Waste District as being acceptable for curbside recycling. Any container provided by the LaPorte County Solid Waste District for purposes of disposing of recyclable material shall be placed at the curbside for collection on the day and time scheduled by the LaPorte County Solid Waste District. All containers shall be set out no more than 24 hours prior to the usual time of collection and shall be removed within 24 hours after collection.

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

INTRODUCED BY: /s/ Phillip Jankowski, Member
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 20th day of May, 2009 by a vote of 9 to 0.

/s/ Robert McKee
President, Common Council

Councilman Jankowski moved to adopt the ordinance, second by Councilmen Meer and Espar.

Councilman Jankowski addressed Paul Przybylinski, 1716 Washington Street, questions and concerns regarding the proposed ordinance.

Councilwoman Boy stated that the containers can not be left at the curbside.

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

The Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4060

AMENDING ORDINANCE NO. 4037 SETTING SALARIES AND WAGES FOR APPOINTED OFFICIALS AND EMPLOYEES OF THE CITY OF MICHIGAN CITY FOR THE CALENDAR YEAR 2009

WHEREAS, the Indiana State Board of Accounts has noted deficiencies in the City's system of internal controls that would be resolved by shifting some of the duties currently performed by the Assistant Controller to another employee; and

WHEREAS, for the past several years the Controller's office has engaged a consultant, by contract, to assist the staff on a part-time basis; and

WHEREAS, changing the status of the consultant to an employee of the City would allow the Controller to address the internal control issues noted by the Indiana State Board of Accounts; and

WHEREAS, this change in status would require no additional funding to the Controller's budget;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, La Porte County, Indiana, that the part-time position of Accountant/Internal Auditor is established in the Controller's office with compensation to be at the rate of \$22.00 per hour.

NOW, THEREFORE, BE IT FURTHER ORDAINED that funds in the amount of \$12,790.00 previously appropriated in the Controller's General Fund budget to compensate the consultant in line #0101 0040 03 439.011 by \$12,790.00 (Contractual Services), be transferred to increase the appropriate payroll items in the Controller's General Fund budget in lines #0101 0040 01 411.014 by \$11,880.00 (Part Time Wages), and #0101 0040 01 413.001 by \$980.00 (FICA Taxes).

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

Councilman Espar stated that this ordinance is to convert a contractual arrangement for services in the Controller's office to a part-time employee position. Mr. Espar reported the Finance Committee recommended adoption as amended.

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

Councilman Espar, addressed Paul Przybylinski, 1716 Washington Street, questions and concerns advising that this job will be posted.

John Schaefer, City Controller stated that it is an individual that has been with the Controllers Office for several years and she will be able to do job duties as a City employee that she couldn't do as a contractor.

Mr. Schaefer addressed Councilman Meer's questions regarding the proposed position and duties that will take place in the Controller's office. Mr. Schaefer advised that duties will be changing and stated salaries of each person in the Controller's Office.

Council President McKee 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 Jankowski, McKee, Milsap, Murphy, Nelson, Boy, Doyle, and Espar (8). NAYS: COUNCIL MEMBER Meer (1).**

UNFINISHED BUSINESS

John Schaefer, City Controller addressed Councilman Jankowski stating the procedures that take place to either trade in or purchase a vehicle for the City. Mr. Jankowski asked Mr. Schaefer if the Central Maintenance supervisor purchased the vehicle he was using under the City policy in 2008. Mr. Schaefer stated that he would have to get back to the Council regarding this matter.

NEW BUSINESS

There was no new business

COMMENTS FROM THE PUBLIC

Rich Harding, 510 Bies Street, addressed the Council regarding dead trees at Striebel Pond, Washington Street and Wabash Street. Mr. Harding stated his concerns regarding the landscaping, sand sweeper and concession trailers at Washington Park.

Paul Przybylinski, 1716 Washington Street, stated his concern regarding the landscaping and standing water on Washington Street.

Mr. Przybylinski commended Councilman Meer for his comments regarding the ordinance passed prohibiting the feeding of wildlife and stated his concerns regarding storm waters throughout the city.

Mr. Przybylinski stated concerns he had regarding the career center, the early learning center, title one and our school system.

Mr. Przybylinski asked the Council to request a report from the Sanitary District for him regarding how much rain water is being purged out throughout our community.

COMMENTS FROM THE COUNCIL

Councilwoman Boy addressed Mr. Harding's concerns regarding the trees that have died at Striebel Pond, Washington Street Wabash Street and the Concession Trailers at Washington Park.

Councilwoman Boy commented on the ordinance prohibiting the feeding of wildlife.

Councilwoman Nelson agreed with Mr. Przybylinski regarding the Title One dollars.

Councilwoman Nelson thanked the voters for coming out to show their support for or against the Career Center and that she was pleased that it was a referendum vote.

Councilman Meer addressed the general public and Council regarding issues between the Sanitary District and himself.

Councilwoman Boy thanked Councilman Meer for what he is doing and asked Mr. Meer if IDEM responded to his questions.

Councilman Milsap stated that the next Coffee with the Council will be sponsored by the 4th Ward Saturday, June 20, 2009. Councilwoman Boy advised that it will be held at the Laporte County Visitors Center at Marquette Mall from 9:00 a.m. until 11:00 a.m.

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 8:35 p.m.).

Thomas F. Fedder, City Clerk