

## **REGULAR MEETING – July 7, 2009**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, July 7, 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, Richard Murphy, Joe Doyle, Angie Nelson, Ron Meer, and 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 June 16, 2009.

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

### **REPORTS OF STANDING COMMITTEES**

Councilman Espar reported on the Local Advisory Task Force on Governmental Efficiency, Asset Management and Utilization Committee meeting that was held on June 23, 2009.

Councilman Jankowski stated that he distributed a draft copy of the Utilities Committee meeting minutes held on June 1, 2009 to Attorney Meyer and to each member of the committee for any corrections. Mr. Jankowski advised he would distribute a copy to each Council Member and the Clerk's Office after they have been reviewed.

Mr. Jankowski presented a copy of a letter to each Council Member that was received from IDEM to Mr. Bill Phelps, President of the Sanitary District Board, identifying a number of serious violations and concerns. Mr. Jankowski advised he would provide an electronic copy to each Council Member and Attorney Meyer which includes the entire report.

Councilman Jankowski requested financial information from John Schaefer, City Controller, regarding the Sanitary District Kayak activities. Mr. Jankowski advised the Council he would share that information after receiving it.

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

Councilman Joe Doyle reported on the annual parade and drum and bugle corp.; and invited everyone to participate and enjoy the upcoming Summer Festival Events.

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

There were no reports of Other City Officers and Departments.

### **PETITIONS**

There were no petitions.

### **COMMUNICATIONS**

There were no communications

### **RESOLUTIONS**

The Clerk read the Resolution by title only,

#### **MICHIGAN CITY COMMON COUNCIL**

#### **RESOLUTION NO. 4427**

#### **APPROVING AND AUTHORIZING THE SUBMITTAL OF 2009-2013 CONSOLIDATED AND CITIZEN PARTICPATION PLANS TO HUD**

**WHEREAS**, the City of Michigan City (City) is an entitlement community for the Community Development Block Grant (CDBG) from the U.S. Department of Housing and Urban Development (HUD); and

**WHEREAS**, HUD requires the City to prepare and submit a 2009-2013 Consolidated Plan and Citizen Participation Plan (Plans) that outlines a five-year strategy to address the City's goals for housing, jobs, and services, for lower income residents in order to be eligible to receive additional CDBG funds; and

**WHEREAS**, the City has disseminated information, received public input, and held at least one public hearing on the Plans; and

**WHEREAS**, adoption of the Plans by the City will make Michigan City eligible for receipt of \$726,019.00 of CDBG funds administered by HUD during 2009; and

**WHERAS**, the Common Council finds that the public interest will be served by the adoption and approval of the Plans and their submission to HUD in support of a request for CDBG funding for the City; and

**WHEREAS**, there is no match requirement for the City to receive the CDBG funds and upon approval of the Plans by the Common Council and their submission to HUD, the Redevelopment Commission will receive and administer any CDBG funds awarded to the City.

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

- Section 1.** That the Common Council approves the City's 2009-2013 Consolidated Plan and Citizen Participation Plan and supports and authorizes the Redevelopment Commission to submit them to the U.S. Department of Housing and Urban Development in support of the City's request for CDBG funds.
- Section 2.** That the Common Council supports and authorizes the use of the Consolidated Plan to allocate CDBG funds in the amount of \$726,019.00.

**Section 3.** That upon approval, the Mayor is authorized to execute any and all contracts and memoranda required for the award of the above-described CDBG grant from the United States Department of Housing and Urban Development.

**Section 4.** That the City Controller is authorized to open a fund and an account to receive the CDBG grant funds and make expenditures from said fund without further authorization from the Common Council.

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

Introduced By: /s/ Ron Meer, Member  
Michigan City Common Council

Councilman Meer stated several reasons to support this Ordinance advising that Judy Pinkston, Neighborhood Plan Director, was present to answer any questions the Council may have.

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

Ms. Pinkston advised Councilman Millsap that these funds will be used City wide.

Councilman Meer made an Author's amendment to the fourth paragraph to read as follows:

**WHEREAS**, adoption of the Plans by the City will make Michigan City eligible for receipt of \$726,019.00 of CDBG funds administered by HUD during 2009; and

Council President McKee asked if there were any other comments or questions by the general public or Council and hearing none, the Resolution 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 the Resolution by title only,

### **RESOLUTION NO. 4428**

A RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL REQUESTING THAT THE NATIONAL PARK SERVICE PRESERVE CHELLBERG FARM, RETURN THE ANIMALS, AND KEEP THE FARM OPEN TO THE PUBLIC AT THE INDIANA DUNES NATIONAL LAKESHORE

**WHEREAS** the Common Council of Michigan City has frequently expressed its interest in preserving and protecting places of historic interest through the establishment of Historic Districts, protection of historic brick streets; and preservation of historic places including the Barker Mansion, now known as the Barker Civic Center; and

**WHEREAS** the Indiana Dunes National Lakeshore, although not a part of our city, contains such an historic landmark in Chellberg Farm; and

**WHEREAS** historic Chellberg Farm is an example of the progression of human activities that took place as Northwest Indiana was settled, and was established in 1863 at this site where three generations of Chellbergs made their living on this farm; and

**WHEREAS** Chellberg Farm has been a treasure in Northwest Indiana since it became part of the Indiana Dunes National Lakeshore in 1981, and is one of the only two Living History Farms in Indiana which are part of the National Park Service; and

**WHEREAS** Chellberg Farm has been used since 1981 not only for visits by the general public, but also as an educational tool for many schools in Indiana and the greater Chicago area, teaching students today how animals were kept for hundreds of years before they lived in Confined Feeding Lots, and how one in four Americans lived on such farms in the time period from 1890 through 1910; and

**WHEREAS** Chellberg Farm demonstrates sustainable farming practices and hosts two major events each year, the Fall Harvest Festival and Maple Sugar time which enable the visitor to experience 1900's era agricultural life first-hand; and Chellberg site's resources, including its historic buildings, provide a reference for Indiana's place in United States' settlement and agricultural history., and many of our own children have benefited from this experience; and

**WHEREAS** during the last few months, all the animals have been removed from the Farm; plans have been written to close the farm; and no crops were planted this year and thus there will be no plants to harvest;

**NOW THEREFORE BE IT RESOLVED** that this Council requests the National Park Service to return farm animals to Chellberg Farm and make a commitment to keep Chellberg Farm as a Living History Farm in the Indiana Dunes National Lakeshore, open to the public.

Introduced by: /s/Patricia Boy, member

Councilwoman Boy stated several reasons to support the resolution and made a motion to adopt the resolution, second by Councilman Jankowski.

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

The Clerk read the Resolution by title only,

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA APPROVING AN ORDER OF THE CITY OF MICHIGAN CITY PLAN COMMISSION APPROVING THE ACQUISITION OF CERTAIN REAL ESTATE WITHIN THE BOUNDARIES OF THE URBAN REVEAL AREA BY THE CITY OF MICHIGAN CITY REDEVELOPMENT COMMISSION**

**Introduced by:** Patricia Boy

John Pugh, Planning and Inspection Director, addressed Councilwoman Boy's concerns and questions regarding the time frame and language of the resolution.

Discussion ensued among Attorney Meyer, Attorney Bergerson, John Pugh, and Council Members Boy, Espar, Nelson, Murphy and McKee.

Councilwoman Boy made a motion to **TABLE** the resolution, second by Councilwoman Nelson.

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

**ORDINANCES**

The Clerk read on second reading by title only, **AMENDING ORDINANCE NO. 3943 SO AS TO REQUIRE SPENDING FROM THE RIVERBOAT FUND FOR CAPITAL EXPENDITURES**

**Introduced by:** Marc Espar  
Bob McKee  
Phil Jankowski

**(NOTE: This Ordinance was TABLED at the December 6, 2008 Council Meeting)**

Councilman Espar made a motion to un-table the proposed ordinance, second by Councilman Jankowski.

Councilman Espar stated reasons to bring the Ordinance back to the Council.

Councilman Espar made a motion to adopt the following amendments, second by Councilman Jankowski,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. \_\_\_\_\_

AMENDING ORDINANCE NO. 3943 SO AS TO REQUIRE SPENDING FROM THE RIVERBOAT FUND FOR CAPITAL EXPENDITURES

WHEREAS, it is in the best interest of the citizens of Michigan City that the revenues from the casino boat be spent for capital improvements and development projects instead of operating expenses in order to improve the opportunities for economic development and the quality of life in Michigan City; and

WHEREAS, the Legislature's express purpose for authorizing casino gaming in Indiana was to provide funds for economically distressed municipalities, such as Michigan City, to use to fund capital improvements and development projects to promote economic development in those municipalities and not to subsidize operating expenditures of those municipalities; and

WHEREAS, the Common Council previously limited expenditures from the Riverboat Fund for "normal and routine operating expenses" to not more than 45% of the revenues for that Fund; and

WHEREAS, the Common Council believes that it is in the best interest of the citizens of Michigan City that the amount of Riverboat Fund revenue that should be reserved for capital improvements and development projects should be increased so as to more quickly accomplish the goal of supporting and causing economic development in Michigan City with those funds.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City (City) that:

SECTION 1. Beginning with the revenues, including from investments, received by the Riverboat Fund in the year 2009, at least 55% shall be reserved for capital expenditures for capital improvements and development projects. That percentage shall be increased to 65% of funds received in 2010; 75% of funds received in 2011; and 80% of funds received in 2012 and each and every year thereafter. Those funds not reserved for capital expenditures may be used for any lawful purpose. Furthermore, in the event that any of the funds not reserved for capital improvements and development projects by the terms of this Ordinance are not spent in the calendar year they are received by the City, all of said funds, including income from investment thereof, shall be reserved for capital improvements and development projects to the extent they are not encumbered as of the beginning of the year succeeding the year they are received.

SECTION 2. For the purpose of this Ordinance, "capital expenditures" and "operating expenditures" shall be defined as stated in Exhibit 1 which is attached hereto and incorporated herein by reference.

INTRODUCED BY: \_\_\_\_\_

Marc Espar

\_\_\_\_\_  
Bob McKee

\_\_\_\_\_  
Phil Jankowski

\_\_\_\_\_  
Richard Murphy

**EXHIBIT 1**

**DEFINITIONS APPLICABLE TO RIVERBOAT EXPENDITURE LIMITATIONS**

**Capital expenditures** are expenditures providing benefits extending for more than one year. A capital expenditure is incurred when the City spends money either to buy a fixed asset with a useful life that extend beyond the fiscal year in which it is purchased or to add to the value of an existing fixed asset with a useful life that extends beyond the fiscal year by repair or improvement which repair or improvement either increases the useful life of the fixed asset by a year or more or significantly increases the value of the fixed asset. Capital expenditures are used by the City to acquire or upgrade physical assets such as equipment, utility facilities, property, or buildings.

For Riverboat Fund expenditure purposes, capital expenditures are costs that cannot be deducted per IRS regulations in the year in which they are paid or incurred and must be capitalized. The general rule is that if the property acquired has a useful life longer than the fiscal year, the cost must be capitalized. As stated above, capital expenditures create or add basis to the asset or property.

Included in capital expenditures are amounts spent on:

1. acquiring fixed assets
2. fixing problems with an asset that existed prior to acquisition
3. preparing an asset to be used in business
4. legal costs of establishing or maintaining one's right of ownership in a piece of property
5. restoring property or adapting it to a new or different use

An operating expense, operating expenditure, operational expense, operational expenditure is an on-going cost for operating a product, business, or system. Its counterpart, a capital expenditure, is the cost of developing or providing non-consumable parts for the product or system. For example, the purchase of a photocopier is a capital expenditure, and the annual paper and toner cost is an operating expenditure. Operating expenditures also include the cost of workers and facility expenses such as rent and utilities.

An operating expense is a day-to-day expense. Operating expenses also include depreciation of equipment, property, and buildings.

Operating expenses are costs associated with the operation and maintenance of the City and departments. Operating expenses include:

- accounting expenses
- license fees
- corrective maintenance and repairs, such as snow removal, trash removal, janitorial service, pest control, and lawn care
- preventative and predictive maintenance such as lubrication, as oil changes, routine inspections, filter changes, meter calibrations, equipment adjustments
- advertising
- office expenses
- supplies
- attorney fees, consultant fees, and litigation expenses
- utilities, such as telephone
- insurance
- property management, including a resident manager
- travel and vehicle expenses
- leasing commissions
- salary and wages
- raw materials

Pursuant to Michigan City capitalization policies, capital expenditures do not include an expenditure that would otherwise meet the definition of being a capital expenditure if it is an expenditure of less than:

\$100,000 for Infrastructure

\$50,000 for Buildings and Structures

\$20,000 for Building or Land Improvements

\$5,000 for all other types of expenditures

These expenditures are deemed to be, and are accounted for as, operating expenditures in City records and reports and shall be considered such for the purposes of the definitions herein.

Councilman Espar advised Councilwoman Nelson that these amendments were discussed during budget meetings, stating the amendments will bring the amount levels to where they were in the 2008 budget.

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

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

**UNFINISHED BUSINESS**

Council President McKee opened nominations to the Commission on the Social Status of African-American Males representing H.O.P.E. Councilman Milsap nominated Gerry Jones, representing H.O.P.E. to replace Mr. Michael Lark, second by Councilwoman Boy.

President McKee asked if there were any other nominations and hearing none, the vote was held over to the July 21, 2009 Council Meeting.

**NEW BUSINESS**

There was no new business

**COMMENTS FROM THE PUBLIC**

There were no comments from the public

**COMMENTS FROM THE COUNCIL**

Councilman Milsap invited everyone to “ Coffee with the Council,” to be held on Saturday, July 25, 2009 at 10:00 a.m. at the Fifth Ward Office located at 1401 E. Michigan Boulevard. Mr. Milsap stated if anyone has any questions you can call 861-0221.

Councilman Murphy commented on the final report that was released regarding the economic impact of the location of the South Shore rails and is currently available to be viewed on the City of Michigan City’s web site ([emichigancity.com](http://emichigancity.com)).

Councilman Meer addressed the investigation happening at the Sanitary District and comments made in a speech recently made by Mayor Oberlie in regards to quotes from our second President John Adams.

Councilman Meer addressed the issue regarding the maintenance contract of Franklin Square and the hiring of a landscape company not located in our City.

**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 7:20 p.m.).

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Thomas F. Fedder, City Clerk