

REGULAR MEETING – July 20, 2010

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, July 20, 2010, at the hour of 6:30 p.m., local time, in the Common Council Chambers, located in the lower level of the City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana.

The meeting was called to order at 6:30 p.m. by Council President Marc Espar.

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

PRESENT: COUNCIL MEMBERS Patricia Boy, Joseph Doyle, Phillip Jankowski, Marc Espar, Robert McKee, Angie Nelson, Richard Murphy, and Willie Milsap (8).

ABSENT: Ron Meer (1).

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 July 6, 2010.

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

President Espar inquired whether there were any corrections, deletions, or additions to the minutes of the Executive Session of July 6 & 13, 2010.

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

RECOGNITION OF AWARDS

Councilwoman Boy read the following letter that Chief Lamb presented at the Fire Merit Commission meeting held on July 12, 2010:

Quote – “I have no ambition in this world but one, and this is to be a fireman. The position may, in the eyes of some, appear to be a lowly one; but we who know the work which the fireman has to do believe that his is a noble calling. Our proudest moment is to save lives”. – **Edward F. Croker**

In the fire service we use the words Merit, honor, and Integrity to help describe our profession. These two individuals being recognized tonight displayed all the qualities while providing life saving skills to an unknown person. On April 23rd, 2010, Firefighter Jeff Bruder and Firefighter Ryan Smith rendered emergency care without hesitation and because of their efforts they were able to sustain life and deliver the person alive to an advanced care provider. At this time we would like to read the following recommendation: “Mrs. Koss’s Letter”

Tonight we are proud to award Firefighter Jeff Bruder and Firefighter Ryan Smith with the Michigan City Fire Department Lifesaving Award. This award is given to a firefighter that has been involved in a lifesaving effort at an emergency scene or who has provided extraordinary assistance in a lifesaving effort. We are proud of these individuals and commend them for all of their efforts.

Deputy Chief Novak introduced Firefighters Jeff Bruder and Ryan Smith.

Councilwoman Boy asked Chief Ben Neitzel to make the following presentation:

Chief Neitzel read the following Exceptional Service Award that was presented to Officer Ronald Skibins at the Police Merit Commission meeting held on July 15, 2010:

On March 20th 2010 at approximately 5:45 pm you and other Officers were dispatch to Manhattan Street. Upon arrival a female stated her husband flipped out and came at her son with a machete when the son wouldn't do what he was told to do. She stated that he broke the glass to the gun cabinet to retrieve a shot gun to shoot her and her son. She stated that he was barricaded in the residence and would kill anybody that tried to get into the residence. You approached the entrance door and yelled into the residence and heard the subject say "if you enter he would shoot and kill you". You then asked several questions from cover and the subject threatened to kill you several times as well as cut you into pieces with his machete. You observed the subject stick out the blade of the Machete along the edge of the hallway wall in order to show you how he was going to cut you to pieces. You then made the decision to put away your duty weapon and take out a taser. You figured the subject could not properly hold a machete in one hand to show you the blade and still have a shot gun pointed at you in the other hand. You rapidly entered the residence and around the corner of the hallway observed the subject standing approximately 6 feet from you. The subject was holding a 2' long machete in his right hand and he began to raise it and stated "I'm going to kill you". You ordered the subject to drop his weapon and he took a step at you and you shot him with the taser in his chest area. The subject fell down to the floor and other Officers entered and the subject was placed into safe custody.

The following awards were also presented at the Police Merit Commission to the following Officers:

Officers Doug Samuelson and Officer Greg Radiger received a letter of Recommendation for outstanding service while on duty April 9, 2010.

Officers Michael Sliwa and Sgt. Jeff Loniewski received a Letter of Recommendation for outstanding service while on duty May 5, 2010.

Officers Justin Frever and Assistant Chief Mark Swistek received a Letter of Recommendation for outstanding service while on duty May 11, 2010.

Officers Kelley Kennedy and Officer Bret Darrell received a Letter of Recommendation for outstanding service while on duty May 12, 2010.

REPORTS OF STANDING COMMITTEES

There were no reports of standing committees.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Councilman Jankowski reported on the Finance Committee meeting held July 20, 2010

advising their recommendation was to approve the \$278,526.87 Claim Docket dated July 15, 2010.

Councilman Jankowski made a motion to approve the Claim Docket in the amount of \$278,526.87 and to authorize President Espar to sign on behalf of the Council, second by Councilman Murphy.

The motion was approved by the following vote: **AYES: Council Members Doyle, Espar, Jankowski, McKee, Milsap, Murphy, Nelson, and Boy (8). NAYS: None (0).**

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

Kevin Keift, Business Development Manager, Michigan City Economic Development Corporation, addressed the Council regarding the 2010 Tax Abatements received in the Clerk's Office.

Councilman Jankowski made a motion to approve the forty-one (41) 2010 Tax Abatements filed, second by Councilwoman Nelson.

President Espar asked if there were any questions or comments by the general public or Council on the 2010/2011 Tax Abatements and hearing none, the motion was carried by the following vote: **AYES: Council Members Espar, Jankowski, McKee, Milsap, Murphy, Nelson, Boy, and Doyle (8). NAYES: None (0).**

PETITIONS

There were no petitions.

COMMUNICATIONS

President Espar advised that the following letters were received from the Mayor in the Clerk's Office on July 13, 2010:

Re: The position of MCFD Deputy Fire Chief of Administrative Services.

Re: The position of a full time Michigan City Transit Director.

Re: The position of a full time Zoo Keeper.

RESOLUTIONS

There were no resolutions.

ORDINANCES

The Clerk read on first reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR THE LAFAYETTE-BARKER TUNNEL PROJECT**

Introduced by: Marc Espar
Phil Jankowski

(DECREASE: Fund #9000, Riverboat Fund Unappropriated - \$2,500,000.00.

INCREASE: Account #9000 443 0000 04.002, Sewer Construction-Lafayette Barker Tunnel Project - \$2,500,000.00.)

Council President Espar advised there would be a Formal Public Hearing held at the next Council meeting (August 3, 2010).

President Espar referred the proposed ordinance to the Utilities Committee for Recommendation.

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 first reading by title only, **APPROVING ADDITIONAL APPROPRIATION FOR THE REINSTATEMENT OF THE POSITION OF MICHIGAN CITY TRANSIT DIRECTOR**

Introduced by: Marc Espar

(DECREASE: Fund #0101 unappropriated **\$20,006.00. INCREASE:** Account #0101-0304-411.001 – Salaries & Wages **\$13,620.00**, Account #0101-0304-413.004 – Health Insurance **\$3,777.00**, Account #0101-0304-413.001 – FICA **\$1,042.00**, Account #0101-0304-413.002 – PERF **\$1,567.00**).

Council President Espar addressed questions from Councilwoman Nelson regarding the continuation of grant monies for the position of Assistant Transit Director in 2011.

President Espar referred the proposed ordinance to the Finance Committee for their consideration and recommendation.

Councilwoman Boy stated a letter received from the Mayor advised that the grant monies for the extended hour grant would expire on October 1, 2010 and as a result the Assistant Director and secretary's full time positions would be eliminated.

President Espar asked the Clerk's Office to advertise the Formal Public Hearing in "The News Dispatch", advising the public of the Formal Public Hearing being held at the next Council meeting (August 3, 2010).

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 first reading by title only, **APPROVING ADDITIONAL APPROPRIATION FOR THE REINSTATEMENT OF THE POSITION OF DEPUTY FIRE CHIEF OF ADMINISTRATIVE SERVICES**

Introduced by: Patricia Boy
Angela Nelson

(DECREASE: Fund #0101 unappropriated **\$3,434.09. INCREASE:** Account #0101-0362-411.001, Salaries & Wages - **\$3,434.09**).

President Espar referred the proposed ordinance to the Public Health and Safety Committee of the 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. President Espar stated there would be a Formal Public Hearing held at the next Council meeting (August 3, 2010).

The Clerk read on first reading by title only, **APPROVING ADDITIONAL APPROPRIATION FOR THE REINSTATEMENT OF THE POSITION OF FULL-TIME ZOO KEEPER**

Introduced by: Joseph Doyle
Robert McKee

(DECREASE: Zoo Fund #1301 unappropriated **\$15,969.00**. **INCREASE:** Account #1301 0804 01 411.001 Payroll - **\$9,506.00**, Account #1301 0804 01 413.001 FICA – **\$727.00**, Account #1301 0804 01 413.002 PERF- **\$1,069.00**, Account #1301 0804 01 413.004 Insurance - **\$4,667.00**).

President Espar referred the proposed ordinance to the Parks and Recreation Committee.

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. President Espar stated there would be a Formal Public Hearing held at the next Council meeting (August 3, 2010).

Councilman McKee asked if the last four (4) proposed ordinances that were referred to different committees could be scheduled one evening close to the same time so that everyone could attend.

President Espar asked each Chairperson to work out an agreeable date and time.

The Clerk read on first reading by title only, **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA RESCINDING AND DELETING ORDINANCE NO. 4050, AND ALL SUBSEQUENTLY ENACTED AMENDING ORDINANCES THERETO AND SUBSTITUTING AND ADDING PROVISIONS REGARDING THE RULES AND PROCEDURES OF THE MICHIGAN CITY COMMON COUNCIL.**

Introduced by: Marc Espar
Ron Meer
Robert McKee

President Espar referred the proposed ordinance to the Judiciary and Rules Committee of the 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, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE CREDIT FUND FOR AUTOMATED WEATHER OBSERVATION SYSTEM, WILDLIFE ASSESMENT, AND BEACON.**

Introduced by: Joseph Doyle
Robert McKee
Marc Espar
Phil Jankowski

(DECREASE: fund #0227, CREDIT, unappropriated **\$118,000.00**. **INCREASE:** Account #0227 0000 04 443.013, Airport project - **\$118,000.00**.)

Councilman Doyle stated the Aviation Commission along with Jessica Ward, Airport Manager were present to answer any questions the Council may have.

President Espar asked if there were any questions or comments by the Council or

general public and hearing none, President Espar opened the formal public hearing, repeating three times “Any questions or comments by the general public at this time?”

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

The Clerk read on second reading by title only, **AMENDING THE CODE OF THE CITY OF MICHIGAN CITY ADDING REQUIREMENTS REGARDING THE HIRING OF CITY RESIDENTS, MINORITIES AND WOMEN IN CERTAIN PUBLIC WORKS CONSTRUCTION PROJECTS PAID FOR BY MICHIGAN CITY**

Introduced by: Richard Murphy
Co-Sponsor: Bob McKee
Ron Meer

Councilman Murphy reported on the Local & Minority Hiring Oversight Committee meeting held on Wednesday, July 14, 2010.

Councilman Murphy made a motion to adopt the following amendments by substitution to the proposed ordinance, second by Councilman McKee:

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. _____

AMENDING THE CODE OF THE CITY OF MICHIGAN CITY ADDING REQUIREMENTS REGARDING THE HIRING OF CITY RESIDENTS, MINORITIES AND WOMEN IN CERTAIN PUBLIC WORKS CONSTRUCTION PROJECTS PAID FOR BY MICHIGAN CITY

WHEREAS, the Common Council has determined that the 2009 and 2010 Michigan City residents’ unemployment rates have consistently led the national and state averages; and

WHEREAS, the Common Council has determined that the high rate of unemployment among City residents is a detriment to the economic viability of the City and its residents; and

WHEREAS, the City of Michigan City possesses a powerful competitive advantage versus other communities in that it is able to fund large capital projects through use of its Riverboat and Boyd Development Funds; and

WHEREAS, the Common Council finds that the expenditure of the monies in these funds will provide the most positive economic impact on the City of Michigan City and its residents if they are used to create and maintain jobs for City residents, including minorities and women; and

WHEREAS, the Indiana legislature authorized Michigan City to host a casino because it found the City to be economically depressed and the monies the City derived from the casino would be used to help relieve that economic distress; and

WHEREAS, the City of Michigan City is a diverse and talented community of skilled workers, crafts persons and laborers available for work in the construction trades; and

WHEREAS, THE Common Council finds that residents are more likely to spend their money in the City on rent, groceries, and services thus improving our local economy, and

WHEREAS, due to the multiplier effect resulting from the expenditure of funds in the City, every dollar paid to a City resident has an economic improvement effect of the amount paid compared to very little, if any, economic improvement from monies paid to non-residents; and

WHEREAS, the City of Michigan City annually expends considerable public funds from the Riverboat and Boyd Development Funds on capital projects which regularly exceed several million dollars in cost and the expenditure of those funds as wages to City residents would benefit the local workforce of Michigan City residents, minorities and women and, as a result, improve the economic conditions in the City as was intended by the Indiana legislature; and

WHEREAS, the purpose of this Ordinance is to encourage the hiring of City residents, including minorities and women of City funded construction projects for which more than one hundred fifty thousand dollars (\$200,000.00) of public funds are expended; and

WHEREAS, this Ordinance is further intended to establish a quota for the hiring of City residents on City funded construction projects for which more than one hundred fifty thousand dollars (\$150,000.00) of public funds are expended; and

WHEREAS, the purpose of this Ordinance is further intended to provide the means by which the City may enforce and monitor compliance with the requirements of this Ordinance and monitor and report the degree to which residents, minorities, and women are hired into such construction projects of the City of Michigan City.

NOW, THEREFORE BE IT ORDAINED by the Common Council of the city of Michigan City that, for all of the aforesaid reasons, the following is to be substituted for Chapter 22, Section 5 of the Michigan City Code:

A. Short Title. This Chapter shall be known as the “Michigan City Local Hiring program”.

B. Purpose. The purpose of this Chapter shall be to increase employment opportunities for qualified residents, minorities and women; to encourage the hiring of such qualified persons; to require the hiring of a certain percentage of City residents; to enforce compliance with this Ordinance; and to monitor, record, and report compliance herewith and the rate of employment of such persons on qualified construction projects of the City of Michigan City.

C. Definitions:

1. “City” means the Civil City of Michigan City and all of its agencies, districts, and departments.
2. “City Construction Agreement” means any written contract between a contractor and the City for a Construction Project.
3. “Construction Project” means any City public works project for which the estimated cost is more than two hundred thousand dollars (\$200,000.00).
3. “Non-Qualifying Construction Project” means any public works project with the City which does not meet the definition of a Construction Project as herein above defined.
4. “Contractor” means a person, association, partnership, corporation, limited liability company or other legal entity that proposes to undertake a Construction Project.
5. “Construction Site” means the primary geographic location of construction activity for a Construction Project.
6. “Local Hiring Agreement” means an agreement entered into between a Contractor and the City that implements the Local Hiring Program provisions set forth in this Chapter.
7. “Local Hiring Program” means the provisions of this Chapter and any guidelines or policies adopted by the City to implement this chapter.

- 8. “Local Hiring Registry” means the list of City residents and their trade qualifications that have responded to the City of Michigan City local Hiring Program Notice for City Residents.**
- 9. “Local Hiring Oversight Committee” means a committee of the Michigan City Common Council appointed by the Council President to review Contractor compliance with the requirements of this Chapter.**
- Proof of residency must be secured with**
- (a) Indiana driver’s License**
 - (b) Indiana State ID**
 - (c) Utility bill of Michigan City residence with the name of Michigan City resident**
- 10. “City Resident” means any person whose primary residence is within the incorporated municipal boundaries of the City of Michigan City at the time of commencement of work on the Construction Project.**
- 11. “Minority” means a member of a minority group as specified in Indiana Code 4-13-16.5-1.**
- 12. “Minority Business Enterprise” shall have the meaning set forth in Indiana Code 4-13-16.5-1.**
- 13. “Minority Business Enterprise/Woman Business Enterprise Goal” means five percent (5%) of the Construction Project costs paid by the City are paid to a Minority Business Enterprise and/or a Woman Business Enterprise.**
- 14. “Proof of Compliance” means**
- (a) Documentation, including names and addresses of City residents demonstrating that the requirements of this Chapter have been met.**
 - (b) If the Resident Hiring Quota is no met, a letter addressed to Michigan City Human Rights Department from a union business agent or contractor stating that Michigan City residents were not available to fulfill the resident hiring quota.**
 - (c) A letter from the Michigan City Human Rights Department confirming that there are no City residents available to fulfill the hiring quota or goal.**
- 15. “Resident Hiring Quota” means fifty percent (50%) of the total hourly wages paid for a Construction Project for labor performed at the Construction Site by City Residents.**
- 16. “Woman Business Enterprise” shall have the meaning set forth in Indiana Code 4-13-16.5-1.3.**

D. Applicability to City Construction Projects.

- 1. Mandatory Participation. All Contractors entering into a City Construction Agreement for a Construction Project are required to participate in the Local Hiring Program and enter into a Local Hiring Agreement as developed by the Mayor of the City of Michigan City.**
- 2. Contractor Non-Compliance. The failure of a Contractor to comply with any of the requirements of the Local Hiring Program or the Local Hiring Agreement may be considered as the Contractor not being responsible and used as a factor against granting the offending Contractor any future Construction Project.**
- 3. Penalty for Non-compliance. The failure of a Contractor to comply with any of the requirements of the Local Hiring Program or the Local Hiring Agreement will result in the following:**
 - (a) Upon the first offense, Contractor will be prohibited from bidding on Construction Projects and from participating as a subcontractor on awarded City Construction Agreements for six months from the date in which the Contractor was deemed non-compliant.**
 - (b) Upon the second offense, Contractor is prohibited from bidding Construction Projects and from participating as subcontractor on awarded City Construction Agreement for one year from the date in which Contractor was deemed non-compliant.**

(c) Contractor cannot be penalized due to non-compliance with any of the requirements of this ordinance caused by the termination, resignation, illness, or injury of any employee. If such incident does occur that forces contractor to be non-compliant to this ordinance, contractor must act to hire to replace Michigan City resident with another Michigan City resident if available until the local hiring quota is met.

4. Requirements. All requirements for compliance with the Local Hiring Program for Construction Projects shall be set forth in a Local Hiring Agreement between the Contractor and the City. These requirements shall include the following:
- (a). The Resident Hiring Quota;
 - (b). The Minority Business Enterprise/Woman Business Enterprise Goal;
 - (c). The procedures which the Contractor must follow in order to comply with the Local Hiring Program;
 - (d). The schedule within which above referenced procedures must be completed.
 - (e). The required record-keeping and documentation for demonstrating a Contractor's proof of compliance with the Local Hiring Agreement including:
 - (1). Documentation including names and addresses of Michigan City residents showing resident hiring quota is met.
 - (2). If the Resident Hiring Quota or the Minority/women hiring goal is not met, a letter addressed to Michigan City Human Right Department from a union business agent or Contractor stating that City Residents were not available to fulfill hiring goal.
 - (3). A letter from the Michigan City Human Rights Department confirming that there are no City residents available to fulfill he hiring quota.
 - (f). Any other matters that the Mayor deems appropriate to include the Local Hiring Agreement.
 - (g). Michigan City Local Hiring Program Notice Contractor is responsible for the funding and placement of a Michigan City Local Hiring Program Notice advertisement in our local newspaper requesting that City residents respond to contractor and to the Michigan City Human Rights office with their union and trade qualifications and availability to work on the City project. Advertisement must be published per rules and requirements of Michigan City Local Hiring Program Notice template. See attached Exhibit "A".
 - (h). Solicitation for Bids. All solicitations for bids by the City for Construction Project shall include in the Notice to Bidders and its specifications that any successful bidder shall be subject to the provisions of the Local Hiring Program.
 - (i). Bid Package. A copy of this Chapter and a copy of the "Local Hiring Registry will be included in the bid package give to prospective bidders.
 - (j). Pre-bid conference. At least seven (7) business days before a bid for a Construction Project is due, the City will hold a mandatory pre-bid conference that all prospective bidders must attend to be considered eligible to be awarded the bid. The Local Hiring Program and the necessary proof of compliance with its requirements and penalties for non-compliance are explained in detail to the prospective bidders.

E. Applicability to Non-Qualifying Construction Projects

1. Voluntary Participation. The Local Hiring Program may be made applicable to Non-Qualifying Construction Projects on a voluntary basis. The City encourages all construction contractors to participate in the Local Hiring Program.
2. Requirements for Voluntary Participation. At the time of entering into a construction contract with the City, a contractor who wished to voluntarily participate in the Local Hiring Program shall enter into the prescribed Local Hiring Agreement for the non-qualifying project.

F. City Assistance in Local Hiring Program.

- A.** The City shall assist Contractors in complying with the Local Hiring Program by:
- (1) Providing referral information for Contractors and Resident Employees, including the Local Hiring Registry which is the list of Michigan City residents and their union/trade qualifications that the City's Human Rights Department will maintain and make available as a resource to contractors;
 - (2) Monitoring the progress of Resident Employees, Minority Business Enterprise and/or a Woman Business Enterprise in the Local Hiring Program;
 - (3) Developing effective outreach and education for, and recognition of, contractors who participate in the Local Hiring Program; and
 - (4) Promoting the Local Hiring Program throughout the City.
- B.** Failure of the City to implement any of the activities described in this Section shall not excuse the performance by a Contractor of obligations set forth in the applicable Local Hiring Agreement.

G. Administration.

1. Generally. The Mayor, through the Department of Human Rights or such other designated department chosen or established by the Mayor for purposes stated herein, is hereby authorized and assigned the duty to implement and monitor all aspects of the Local Hiring Program.
2. Contract Specific Administration. The Board, Department District, or political subdivision of the City which awards any qualified or non-qualified Construction project shall designate the human Rights Department as being responsible for monitoring compliance with the provisions of the Local hiring Program. The Human Rights Department shall have the following responsibilities:
 - (a). Gathering the all relevant data and preparing monthly statistical reports documenting proof of Contractor Compliance with the Local Hiring Agreement;
 - (b). Review of documented measures taken by Contractors to comply with the provisions of the Local Hiring Agreement;
 - (c). The Human rights Department shall conduct periodic visits to job site of Construction Projects to determine whether the Resident Hiring Quota is being met.
3. Local Hiring Oversight Committee. The President of the Michigan City Common Council will appoint a committee of council members who will be a liaison and provide oversight for compliance with this Chapter. The Committee may meet as necessary with the Mayor and Human Rights Department representatives to review contractor compliance and discuss additional methods for enforcing compliance with this Chapter and increasing City Resident, Minority and Women employment.

H. Exception of Designated Construction Projects.

If the Mayor, in coordination with the City Engineer, project architect and appropriate City Board, Department, District or Commission responsible for an otherwise qualifying Construction Project, determines that special skills not available within the Michigan City workforce are necessary for the efficient completion of the Construction Project, the appropriate City body may declare those parts of the Construction Project for which qualified City Residents are not available exempt from the provisions of this Chapter. The appropriate City body shall provide advance notice to the Mayor, Common Council, Board of Public Works and Safety and the Department of Human Rights of its desire to declare such a Construction Project exempt.

I. Severability of Provisions

If any section subsection, sentence, clause, portion, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Chapter. The City Council hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Chapter would be subsequently declared invalid or unconstitutional.

J. Effective Date

This Ordinance shall be effective upon passage and approval by the Mayor and applicable to all Construction Projects for which the City thereafter solicits for bid.

Introduced by: Richard Murphy

Co-Sponsor: Bob McKee

Co-Sponsor: Ron Meer

Tim Janatik, 155 N. Homesville Road, thanked the Clerk's Office for retaining the existing Ordinance No. 3974 and addressed the Council regarding his concerns of the language in the proposed ordinance.

Discussion ensued between Councilmen Murphy, McKee and Mr. Janatik.

Council President Espar asked if there were any other comments or questions by the general public or council and hearing none, the amendments were approved by the following vote: **AYES: Council Members Jankowski, McKee, Milsap, Murphy, Nelson, Boy, Doyle, and Espar (8). NAYS: None (0).**

Councilwoman Boy thanked Mr. Janatik for addressing the \$150,000 amount that needed to be changed to \$200,000.

Councilwoman Boy made a motion to adopt the following amendment, second by Councilman McKee.

D. Applicability to City Construction Projects.

(g). Michigan City Local Hiring Program Notice Contractor is responsible for the funding and placement of Michigan City Local hiring program Notice advertisement in our local newspaper requesting the City residents respond to contractor and to the Michigan City Human Rights office with their union and trade qualifications and availability to work on the City project. Advertisement must be published **in the classified section of the local newspaper per rules and requirements of Michigan City Local Hiring Program Notice template. See attached Exhibit "A"**

Council President Espar asked there were any questions or comments by the general public or Council on the proposed amendment and hearing none the amendment was approved by the following vote: **AYES: Council Members McKee, Milsap, Murphy, Nelson, Boy, Doyle, Espar, and Jankowski (8). NAYS: None (0).**

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

The Clerk read on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE CUMULATIVE CAPITAL DEVELOPMENT FUND TO PURCHASE BODY ARMOR FOR THE MICHIGAN CITY POLICE DEPARTMENT**

Introduced by: Marc Espar
Co-Sponsor: Robert McKee

(**DECREASE:** Fund #2391, Cumulative Capital Development Fund, unappropriated balance - \$56,000.00. **INCREASE:** Account #2391 0000 04 444.008, Police Equipment - \$56,000.00.)

President Espar asked if there were any questions or comments by the Council or general public and hearing none, President Espar 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.

Councilwoman Boy stated that in the second Whereas it should read acquisition of ballistic vests.

President Espar made the following Author's Amendment:

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 Cumulative Capital Development Fund for the acquisition of ballistic vests for the Police Officers: and

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 ordinance was laid over for third reading.

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

Introduced by: Marc Espar

(**DECREASE:** Fund 0227, CREDIT, unappropriated - \$13,318.00 **INCREASE:** Account #0227 0000 04 444.001, Furniture & Fixtures - \$4,420.00, **INCREASE:** Account #0227 0000 04 444.005, Other Machinery & Equipment - \$8,898.00.)

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

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

Councilwoman Boy addressed the Council regarding the \$4,420.00 to be appropriated to purchase thirteen (13) chairs asking to just purchase the four (4) chairs that are needed. Ms. Boy stated she would make a motion to change the \$4,420.00 to the amount of the cost of four (4) chairs, second by Councilman Jankowski.

Discussion ensued between Council President Espar and Councilwoman Boy.

Councilwoman Boy changed her motion to strike the \$4,420.00 from the proposed ordinance changing the appropriation to \$8,898.00, second by Councilman Jankowski.

Mayor Oberlie addressed the Council regarding his concerns on the motion that was made.

President Espar asked if there were any other questions or comments by the general public or Council on the proposed amendment and hearing none, the amendment was approved by the following vote: **AYES: Council Members Milsap, Murphy, Boy, Doyle, Espar, Jankowski, and McKee (7). NAYS: Nelson (1).**

President Espar stated the amendment was approved making the additional appropriation \$8,898.00 for other machinery & equipment.

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

Dennis Boy, 218 Southwood Drive, stated that he agreed with the Mayor's comments.

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

President Espar asked if there were any other questions or comments by the general public or Council on the amended proposed ordinance 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. 4100

APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR THE CONSTRUCTION OF CHARLES R. WESTCOTT PARK

WHEREAS, it has been demonstrated to the Common Council of the City of Michigan City that it is necessary to appropriate more money than was appropriated in the 2010 Annual Budget for the Riverboat Fund for the construction of Charles R. Westcott Park at the location of the former Harborside Homes; 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	\$ 1,047,393.00	
INCREASE Account # 9000 0000 04 443.002 Park Projects		\$ 1,047,393.00
TOTAL FOR FUND	\$ 1,047,393.00	

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/ Richard Murphy, Member
Michigan City Common Council

CO-SPONSOR: /s/ Patricia Boy, Member
Michigan City Common Council

President Espar stated that there was a Formal Public Hearing held at the July 6, 2010

Council meeting.

Councilman Rich Murphy addressed the Council with the following comments:

In November 2007, architecture and design firm Lohan Anderson put forth the Trail Creek Reuse plan, an exciting plan that incorporated public access to waterfront, enhanced marina, mixed used development, public plaza space and a beautified corridor that would transform the area from a underutilized industrial area to a vibrant boulevard, neighborhood, and waterfront destination to be enjoyed by Michigan City residents and visitors alike.

In March 2008, this City Council unanimously approved the adoption of the Lohan Anderson Trail Creek Plan as the land use plan for the Trail Creek corridor.

A last minute amendment called from the floor on the night we adopted the plan stated, "That this approval is meant to be a call to action and implementation. It should be viewed as a working document to be accomplished." This amendment was unanimously approved by the Council.

The Lohan Anderson reuse plan took a major step toward implementation in summer of 2008 when the state of Indiana turned over control of Michigan Boulevard to the City of Michigan City in return for funding of the boulevard beautification project. Several public committee meetings were conducted by the City Council to gather feedback on the design of the new boulevard. Engineering, architecture, and design was completed in accordance to principles put forth in the Lohan Anderson and Andrew University north end plan.

Another major feature of the Lohan Anderson plan was in the planning stage, the planning of Gateway Park. On June 29, 2009 a public presentation overview the Gateway Park project was given by Lohan Anderson at City Hall, where the public listened to the concept and offered feedback. It was during this meeting that a Michigan City resident first proposed the idea for naming the park after Charles Westcott.

In December 2009, this Council by a vote of 8-1 supported to approve the appropriation of \$125,000 for the architecture and design of Westcott Park.

On January 20, 2010 – The Charles Westcott Park kick off meeting was held at City Hall, facilitated by Basil Souder of Lohan Anderson and attended by City Officials and City Council members, and for the last six months, the City team has been working with Lohan Anderson to design the Charles Westcott Park. Great care was taken in the detail of the design and the quality grade of materials were specified. Throughout the project, the team of doing it right or not doing it at all. The design of Michigan Boulevard and the park would set the tone for all developments that followed and that success needed to be achieved on these projects. There will be a community art display and porcelain tiles made by area children set into the rotunda and on the dune, thus achieving, "Bringing the Dune to Downtown," a concept that we know can drive economic development.

The design of the park is beautiful and incorporates all the concepts put forth in The Lohan Anderson and Andrews University North End plans. These plans that were created by citizens of Michigan City who put hundreds of hours into their creation, by citizens who believe in a revitalized North End of Michigan City.

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

Councilwoman Boy addressed the Council regarding the proposed ordinance:

When the area near Blocksom was declared “blighted” and the Youth Center and Housing were torn down, there was an agreement between HUD and the city that this area would be reserved for public use. A park is just about the most public use I can think of. A simple grassy area can also be called a park, but the people who might use the area deserve better – the city deserves better – and it’s a fitting tribute to Charlie Westcott.

The Riverboat fund was established for capital improvements. This is most definitely a capital improvement. The Patch Reunion won’t happen this summer because of construction. In the years to come, however, the new stage; the public art, the trees for shade; and the grassy areas for cooking, dancing, and enjoying the park will be enhanced by this capital improvement, and the Reunion will go on. The power lines over the area will be buried, as well, eliminating a potential safety issue. And not EVERYTHING can happen in Washington Park.

The City had done many studies of the north end, and I believe all of them in one way or another dealt with the Trail Creek waterway. Development of the River Walk has been an ongoing project for a very long time. We are considering a Master Developer for the entire area. We are redesigning Michigan Boulevard. We need to bring in new business for more jobs and a great tax base from new real estate. Tourism is a major part of business in this city, and development will also bring greater tourism.

We need to make a statement with this park. We need to do this right to attract new development. We can ALL benefit from this. And the cost of not doing it right could be much higher than the price tag for not doing it.

The following citizens addressed the Council regarding the proposed ordinance, Bob Bailey (311 Kenwood Place), Doug Waters (Board Member – LaPorte County Convention & Business Bureau), Brett Kelley Sr. (330 N. Calumet Ave.), Bob Smith (Michigan City), Mark Sherman (Elston Grove Resident), Jane Dailey (Human Relations Manger – LaPorte County Convention & Business Bureau), Bryant Dabney (Michigan City), Maggie Brooks (Karwick Road), Carolyn Brown (Lubeznik Center For The Arts), Wesley Scully (President – LaPorte County NAACP), Tim Bietry (3211 Cleveland Ave), Janet Block (Education Director – Lubeznik Center For the Arts), Al Whitlow (1010 E. Coolspring Ave.), Johnnie Martinez (M.C. Zoo Director), Donnita Scully (508 Pinetree Drive), Melvin Meriweather (616 Monroe St.), Leslie Meriweather (previous resident of Michigan City), Ed Merrion (Merrion & Associates Realtor), Louise Hapke (142 Concord Dr.)

Basil Souder, Lohan Anderson addressed the general public and Council regarding the proposed appropriation for Charles Westcott Park.

President Espar thanked Mr. Souder for his presentation.

Councilwoman Nelson stated that she appreciated everyone’s comments advising the North End has always been a development issue for many years. Ms. Nelson commented on reasons she would be supporting the proposed ordinance.

Councilman McKee thanked everyone for coming out and stating their comments regarding the proposed ordinance. Mr. McKee stated that the proposed ordinance is a vote to follow through on an agreed upon vision and subsequent plan to transform a rundown/ abandoned corridor in a high profile gateway. Mr. McKee commented on reasons to adopt the proposed appropriation.

Council President Espar addressed the Council with the following comments;

I noticed in The News Dispatch today and on the radio over the past two days, Mr. Milsap’s comments that our money is better spent on the neighborhood parks and we shouldn’t be investing our resources in the Westcott Park. I can’t help but agree with him that we should be investing in our neighborhoods. In fact, in

discussions with the Mayor, I do know that the Mayor has definite plans to do just that. However, I also cannot help but notice that less than a year ago Councilmen Jankowski, Murphy, and I introduced a budget ordinance that began to reign in wasteful government spending. I mention this because Mr. Milsap submitted a budget ordinance that provided \$2,000,000 more in government spending than our ordinance. If the council did not have the fortitude and courage to vote down his ordinance, we may very well be wondering today how we could fund this key and integral project to the development of the Trail Creek corridor, while honoring our commitment to the US Dept. of Housing and Urban Development. The bottom line is this, had we followed Mr. Milsap's lead, we would not have the \$1,000,000 for Westcott Park, and we would also not be able to draw upon our financial reserves to fund the proposed projects for Adams park and other park improvements that are in the making.

I don't want to drone on with comments why we should be investing in Westcott Park. Suffice it to say I agree with Council members Murphy, McKee, and others and I don't want to take up time reiterating what they have already said. I do want to say however, that we need to stay focused on what this project is, and what it is not. It is about us investing in ours and our children's future; and it is not, and should not be considered Westcott Park versus neighborhood parks.

Thank you.

President Espar asked if there were any other questions or comments by the general public or Council on the amended proposed ordinance and hearing none, the ordinance was adopted by the following vote: **AYES: COUNCIL MEMBERS Murphy, Nelson, Boy, Doyle, Espar, Jankowski, McKee (7). NAYS: Councilman Milsap (1).**

UNFINISHED BUSINESS

President Espar opened nominations for the Commission of the Michigan City Social Status of African-American Males. Councilman Murphy nominated Mrs. Gerry Jones. President Espar asked if there any other nominations and hearing none, nominations were closed advising a vote would take place at the Council meeting (August 3, 2010).

NEW BUSINESS

Councilman Jankowski stated that the Claim Docket in the amount of \$582.70 was not signed and will be addressed at the next Council meeting (August 3, 2010).

COMMENTS FROM THE PUBLIC

There were no comments from the public.

COMMENTS FROM THE COUNCIL

Council President Espar thank Chief Neitzel for the many years of service to the residents and visitors, leaving Michigan City a safer place for our children and are confident your successor would build on his efforts on the years to come. President Espar wished him well on his retirement.

Councilwoman Boy echoed President Espars' sentiments to Chief Neitzel stating that he would be missed and congratulated Mark Swistek on his new position as "Chief".

Councilwoman Boy thanked Deputy Chief Randy Novak for attending the meeting, congratulating their team for doing a good job.

Councilman Milsap addressed the applicants that took the first portion of the forklift training certification class, advising the operational portion will be held July 30, 2010 at 9:00 a.m. at the 5th Ward Office, 1401 E. Michigan Blvd.

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 8:45p.m.).

Thomas F. Fedder, City Clerk