

REGULAR MEETING – December 1, 2009

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, December 1, 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 November 17, 2009.

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

REPORTS OF STANDING COMMITTEES

Councilman Jankowski stated that all members of the Council received copies of the Sanitary District's response to the Utilities Committees request of October 30, 2009. Mr. Jankowski addressed the Council regarding their response.

Mr. Jankowski congratulated Al Walus on receiving the "Joe Wright Recognition of Excellence Award."

REPORTS OF SPECIAL OR SELECT COMMITTEES

There were no reports of special or select committees.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

Stacey Mickelson and Wendy Holmes, representing "ARTSPACE", Minneapolis, Minnesota, did a presentation for the Council regarding an Artspace Tannery Loft project proposal for the City's downtown area.

Ms. Holmes and Mr. Mickelson addressed Councilman Meer's questions regarding using local architects and contractors on their projects whenever possible.

Councilman Murphy thanked "ARTSPACE" for doing their presentation, stating that he looked forward to working with them.

Ms. Holmes addressed the Council in regards to what the next steps the Council would have to take to start the proposed project.

Mr. Mickelson answered Councilman Milsap's questions regarding when choosing Michigan City for this project if our Lake Front had any impact on their decision.

PETITIONS

The Clerk presented the following petition, by title only:

Petition of the Diocese of Gary (St. Stanislaus Council) to the Michigan City Common Council to vacate an alley running through Zorn's Addition between Franklin and Pine Street located within Michigan City, LaPorte County, Indiana.

COMMUNICATIONS

There were no communications.

RESOLUTIONS

The Clerk read by title only, there being no objections,

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. [4434](#)

RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL AUTHORIZING THE SUBMISSION OF COASTAL ZONE MANAGEMENT APPLICATIONS FOR LAND ACQUISITION

WHEREAS, the City of Michigan City, Indiana has been invited to submit a final applications for coastal zone management funds to the Indiana Department of Natural Resources; and

WHEREAS, the grants requires a fifty percent (50%) local match of funds, and the Controller has advised that said funds are available in the unappropriated balance of the Riverboat Fund; and

WHEREAS, the City has caused the Pawloske property and the Lin See property to be appraised and the owners are willing to sell at the appraised value; and

WHEREAS, the Pawloske property is located on the waters of Trail Creek and fronts on US 35 and once acquired will form a contiguous public property from US 35 to Springland Avenue and can therefore provide public access to the Creek as well as a staging area for water activities; and

WHEREAS, the Lin See property is located on the waters of Trail Creek and adjoins land owned by the City of Michigan City.

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

Section 1. That the Michigan City Common Council supports and authorizes the submission of coastal zone management grants in the amount of twenty-seven thousand five hundred and fifty dollars (\$27,550.00) for the acquisition of the Pawloske property, and seven

thousand six hundred and fifty dollars (\$7,650.00) for the acquisition of the Lin See property; and

Section 2. That the Michigan City Common Council states its intent to appropriate the required matching funds of Twenty-Seven Thousand Five Hundred Fifty and 00/100 Dollars (\$27,550.00) for the Pawloske property and seven thousand six hundred fifty and 00/100 dollars (\$7,650.00) for the Lin See property should the State of Indiana approve the City of Michigan City's applications; and

Section 3. That the Michigan City Controller is authorized to create a fund to receive and distribute grant funds upon the approval of the City's coastal zone management applications.

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

Councilman Murphy addressed the Council with several reasons to support the resolution.

Councilman Murphy made an Author's amendment to Section 1 to read as follows:

Section 1. That the Michigan City Common Council supports and authorizes the submission of coastal zone management grants in the amount of twenty-seven thousand five hundred and fifty dollars (\$27,550.00) for the acquisition of the Pawloske property, and seven thousand six hundred and fifty dollars (\$7,650.00) for the acquisition of the Lin See property; and

President McKee stated the Author's amendments stands as read.

Councilman Meer addressed the Council stating reasons he would be supporting the resolution.

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

Council President McKee asked if there were any questions or comments 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).**

Councilman Murphy read the following resolution in it's entirety,

MICHIGAN CITY COMMON COUNCIL

RESOLUTION No. 4435

RECOMMENDING CONTINUOUS PUBLIC INPUT OPPORTUNITIES, FACTORS TO BE CONSIDERED, AND FAIR AND OPEN MINDED SELECTION PROCESS FOR IDENTIFYING THE APPROPRIATE NEW ROUTE FOR THE NEW SOUTH SHORE RAIL CORRIDOR THROUGH MICHIGAN CITY

WHEREAS, the Northern Indiana Commuter Transportation District (referred to hereinafter as NICTD) has proposed to terminate its existing South Shore street-running railroad operations and two station locations in Michigan City and to replace them with a new route and station near the existing 11th Street corridor for the following expressed reasons:

- to comply with a federal mandate to upgrade to Positive Train Control which NICTD has asserted cannot be accomplished with the current in-street track configuration,

- to improve safety by eliminating several grade crossings,
- to reduce maintenance costs by eliminating the current maintenance-intensive configuration of tracks embedded in asphalt and catenary wire mounted on utility poles,
- to invest in new station facilities with the goal of attracting new, additional passengers,
- to increase South Shore passenger train speeds, thus reducing travel time and, thereby, attracting new, additional passengers;

and

WHEREAS, NICTD has proposed establishing a new right-of-way and track route primarily within the 10th/11th Street corridor which NICTD proposal includes the permanent closing 17 of 34 existing at-grade track crossings; and

WHEREAS, this NICTD proposal would require the acquisition and removal of over 100 private homes, businesses, and other privately owned buildings in order to establish the new right-of-way, station facilities, and related railroad operations; and

WHEREAS, an Economic Impact Study commissioned by the Michigan City North End Advocacy Team (MCNEAT), a grassroots organization of business and community leaders, was released in June, 2009 and concluded that new South Shore track and station improvements either within and/or near the existing South Shore route or in or adjacent to the existing Amtrak corridor along Lake Michigan would catalyze significant economic development in the form of "transit oriented development" (TOD), downtown revitalization, and new jobs; and

WHEREAS, on the other hand, the Economic Impact Study concluded that relocation of the South Shore Line to the CSX Railroad alignment, approximately one mile south of the current location would not have the potential to create and capture the kind of significant economic benefits that would be realized by the other above described alternatives; and

WHEREAS, a series of public forums initiated by the City of Michigan City with the cooperation of NICTD were recently held in order to engage citizens of Michigan City in a discourse regarding the proposed improvements in which citizens identified significant community concerns regarding potential negative effects of the NICTD 10th/11th Streets proposal; and

WHEREAS, there has been a substantial outcry from citizens for NICTD to study the feasibility of the "northern Amtrak corridor " option as part of a comprehensive alternatives analysis, particularly as part of a Federally required environmental impact analysis, before it is officially eliminated from consideration by NICTD.

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

1. The Council recognizes the need for NICTD to comply with the Federal mandate for Positive Train Control.
2. The Council recognizes the need for NICTD to make reasonably necessary improvements to the South Shore Line in Michigan City in order to maximize the efficiency of its South Shore rail operations.
3. The Council recognizes that service improvements and new investment in the South Shore Line in Michigan City could provide significant economic benefits for Michigan City if the South Shore Line is either retained at or near its current location or moved to the Amtrak corridor.
4. The Council supports and will cooperate with efforts by NICTD to secure Federal funding to undertake an environmental impact assessment, investigation, route selection, planning, and preliminary engineering, including the study of NICTD's

proposed location of the new South Shore Line track and facilities within the 10th/11th Street corridor and a similar analysis of the northern Amtrak corridor option in order to establish a baseline level of feasibility for each alternative.

5. Whichever route is ultimately selected and implemented, the Council supports efforts by NICTD to develop a preferred design for the new South Shore Line track and facilities that enhances safety and efficiency, while minimizing acquisitions, and building an aesthetically attractive corridor that will enhance adjacent properties and Michigan City as a whole.

6. The Council believes the design of the new facilities must incorporate the following elements:

- Sensitivity to quality of life in terms of noise, vibration, and visual impacts;
- Sensitivity to the Historic District including minimizing impacts to historic structures and/or relocation/re-use of historic structures wherever possible;
- Developing attractive streetscape designs;
- Maintenance of the corridor;
- The construction of a full service train station with amenities with appropriate architecture;
- Minimizing street closures while prioritizing the need for maintaining adequate vehicular and pedestrian circulation through Michigan City;
- Providing attractive fencing (i.e. "wrought iron look" instead of chain link) along the right of way wherever fencing is required, as well as attractive landscaping and vegetative buffers;
- Pursuing a funding strategy for construction of multi-story parking structures rather than surface parking in order to maximize economic development potential and minimize property acquisition and displacements; and
- Developing an inter-modal bus transfer center at the new South Shore station that is compatible with the nearby streetscape, surrounding neighborhood, and land uses in the area.

7. The Council supports creation of an overall transit oriented development (TOD) strategy around the proposed new train station in conjunction with the proposed South Shore Line improvements that maximizes economic development potential, neighborhood revitalization, creation of an inviting pedestrian-friendly environment, and increased passenger numbers.

8. The Council supports efforts to manage a fair and equitable process for any acquisitions and relocations that will ultimately be required, including a commitment from the City to help residents in hardship situations.

9. The Council supports the creation of a Community Advisory Council (CAC) consisting of civic and business leaders as well as a representative sample of affected property owners that will work closely with the City of Michigan City and NICTD throughout the investigative, assessment, selection, planning, design, and implementation of the project.

10. The Council recognizes the need for the City of Michigan City and NICTD to continue their mutual participation in a continuing public process with the citizens of Michigan City in which citizens have the opportunity to express viewpoints, offer ideas and suggestions, and ask questions in order to gain a better understanding of the proposed project and the pros and cons of the alternative routes, and upon the selection of the new route, the Council recognizes the need to continue this public process throughout the planning, design, and implementation stages of the project in order to achieve a successful project that will have the full support of the City's citizens and officials and maximize the benefits to Michigan City.

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

Introduced By: /s/Richard Murphy, Member
Michigan City Common Council

/s/ Robert McKee, President
Michigan City Common Council

Councilman Murphy addressed the Council in regards to moving forward on this project and stated several reasons the Council should support the resolution.

Discussion ensued among Council Members Murphy, McKee, Meer, Milsap, Espar, Dennis Metheny (6757 W. 450 N.), John Vail (8 Constitution Drive), Louis Hapke (142 Concord Dr.), Mark Yagelski (125 Boyd Circle) regarding the resolution.

Councilman Murphy made a motion to adopt the resolution, second by Councilman Espar.

Council President McKee asked if there were any questions or comments by the general public or Council and hearing none, the Resolution was adopted by the following vote: **AYES: COUNCIL MEMBERS , McKee, Murphy, Boy, Doyle, Jankowski and Espar (6). NAYS: Meer, Milsap, and Nelson (3).**

There being no objections the Clerk read the following resolution by title only,

MICHIGAN CITY COMMON COUNCIL

RESOLUTION No. 4436

RECOMMENDING THE USE OF VOLUNTARY FURLONGHS FOR CITY EMPLOYEES AS AN ALTERNATIVE TO LAY-OFFS AND REDUCTION OF EMPLOYEE BENEFITS FOR THE PURPOSE OF SAVING CITY REVENUES

WHEREAS, the City of Michigan City and its various departments and agencies are suffering financial hardship due to decreased revenues resulting from both delayed property tax collections and newly implemented tax caps; and

WHEREAS, certain budget cuts and decreases in spending by the City, its department, and agencies are necessary due to the decrease in revenues; and

WHEREAS, there are various methods for decreasing spending that include laying off current City employees; and

WHEREAS, the Council believes that, in order to minimize the financial hardship to City employees, a better alternative to employee lay-offs would be to allow those City employees who wish to do so to volunteer to take unpaid furloughs to the extent their financial conditions allow and the quality of City services provided to its citizens is not significantly diminished; and

WHEREAS, unpaid, voluntary employee furloughs have been used successfully by other municipalities in Indiana and by businesses across the country as a viable alternative to the often devastating result of a mandated lay-off as a means to address temporary revenue shortfalls; and

WHEREAS, unpaid voluntary employee furloughs are a less harmful and more employee friendly alternative to having to decrease employee benefits due to revenue shortfalls; and

WHEREAS, employees accepting unpaid voluntary furloughs in order to prevent one or more co-employees from being laid off will increase the *esprit de corps* among City employees.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Michigan City that it recommends to the Mayor of Michigan City that he direct that before any employee of any department or agency of the City is laid off due to revenue shortfall, the employees of that department or agency offer their employees the opportunity to accept unpaid, voluntary employee furloughs as a means to address the revenue shortfall. In addition, the City should use unpaid, voluntary furloughs as a means to avoid reductions in employee benefits that may otherwise be necessary due to revenue shortfalls. However, in no event should any such furloughs be permitted to the extent they would substantially compromise the City department or agency's ability to fulfill its duties and responsibilities to the citizens of Michigan City.

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

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

Councilman Meer stated several reasons the Council should adopt the resolution.

Dennis Metheny (6757 W. 450 N.) addressed the Council regarding the previous resolution that was adopted and the proposed resolution.

Councilwoman Boy stated the proposed resolution suggests the Mayor have each Department Head offer their employees the opportunity to accept the furloughs, that they aren't mandating anything.

Councilman Espar addressed the Council with his concerns regarding the resolution, stating this would not preclude the possibility of having to lay-off employees or have mandatory furloughs.

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

There being no objections the Clerk read the following resolution by title only,

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4437

**RESOLUTION OF THE MICHIGAN CITY COMMON COUNCIL
AUTHORIZING THE SUBMISSION OF AN ENERGY EFFICIENCY
AND CONSERVATION BLOCK GRANT APPLICATION**

WHEREAS, the City of Michigan City, Indiana is eligible to apply for a not to exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) energy efficiency and conservation block grant to convert its City-owned traffic and pedestrian signals to a low-energy use system; and

WHEREAS, the grant requires no local match of funds, unless the cost of the actual conversion exceeds the grant maximum; and

WHEREAS, the City has included in its 2009 Riverboat Budget One Hundred Thousand and 00/100 Dollars (\$100,000.00) to begin a traffic signal conversion program; and

WHEREAS, the Americans with Disabilities Act ("ADA") will require pedestrian traffic signals to include an audio element beginning July 1, 2010.

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

Section 1. That the Michigan City Common Council supports and authorizes the submission of energy efficiency and conservation block grant application in the amount of One Hundred Thirteen Thousand Fifty-Nine and 50/100 Dollars (\$113,059.50) for the purpose of converting City-owned traffic/pedestrian signals to a low energy use system; and

Section 2. That the Controller of the City of Michigan City, Indiana is authorized to create a fund to receive and distribute the grant funds upon the approval of the energy efficiency and conservation block grant application by the Indiana office of energy development; and

Section 3. That the Michigan City Common Council supports the Administration's effort to meet the ADA requirements as part of the conversion of the existing traffic controls to a more efficient energy efficient system.

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

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

Councilman Espar stated the resolution authorizes the City to submit an application to upgrade the emergency City-owned traffic and pedestrian signals to a low energy use system.

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

ORDINANCES

There being no objections, the Clerk read on first reading by title only, **AN ORDINANCE VACATING AN ALLEY RUNNING THROUGH ZORN'S ADDITION BETWEEN FRANKLIN AND PINE STREET IN MICHIGAN CITY, INDIANA**

INTRODUCED BY: Marc Espar

Councilman Espar addressed the Council advising where the location of the proposed vacation was located. Mr. Espar stated that there was representation from Saint Stanislaus School to answer any questions the Council may have.

Hesham Khalil, PLS, Global Engineering and Land Surveying representing Saint Stanislaus School addressed the Council regarding the Ordinance.

Mr. Khalil addressed Councilwoman Boy's question.

Gale Neulieb, Deputy Clerk advised the Clerk's Office provided a copy of the petition to each specified department requested in Ordinance No. 4009 asking them to review and provide their recommendation regarding this matter and return their recommendations back to the Clerk's Office on or before December 15, 2009.

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

There being no objections, the Clerk read on second reading by title only, **AN ORDINANCE EXTENDING AND MODIFYING TAX ABATEMENT WITHIN THE CITY OF MICHIGAN CITY, INDIANA 2010 – 2014**

INTRODUCED BY: Phillip Jankowski
Angela Nelson

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

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

MICHIGAN CITY COMMON COUNCIL

ORDINANCE 4076

APPROVING ADDITIONAL APPROPRIATIONS TO TRANSFER MONIES INTO THE BUDGET OF THE RIVERBOAT FUND FOR THE MICHIGAN CITY POLICE DEPARTMENT DATA TRANSFER CANOPY STRUCTURE PROJECT

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the Michigan City Police Department Data Transfer Canopy Structure Project.

WHEREAS, there are unappropriated funds in the riverboat Fund #9000 that are Available for that purpose.

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 #9000 Riverboat Unappropriated	\$100,000.00	
INCREASE Account #9000 0000 04 443.005 Other projects-MDT Canopy		\$100,000.00
TOTAL FOR FUND	\$ 100,000.00	

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

Council President McKee addressed Dennis Metheny (6757 W. 450 N.) questions regarding language in the title of the ordinance.

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

There being no objections, the Clerk read on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4077

AN ORDINANCE REQUIRING THE INSTALLATION OF A KEY BOX EMERGENCY ACCESS SYSTEM FOR USE BY THE MICHIGAN CITY FIRE DEPARTMENT DURING AN EMERGENCY OR ANY OTHER ACTION DEEMED NECESSARY BY THE MICHIGAN CITY FIRE DEPARTMENT AND ADDING ARTICLE V TO CHAPTER 54 OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA

WHEREAS, many buildings are equipped with automatic systems that may cause the Michigan City Fire Department to be summoned at a time of emergency when the building or business is not occupied or when the occupant is not available to provide the Michigan City Fire Department entry into the building; and

WHEREAS, the health, safety, and welfare of the citizens of Michigan City are promoted by requiring a building equipped with automatic systems to have a key box emergency access system installed on the exterior of the structure to provide the Michigan City Fire Department rapid entry into the building during a time of emergency; and

WHEREAS, the key box emergency access system will eliminate costly damage from forcible entry into buildings equipped with automatic systems by the Michigan City Fire Department checking for fire or other dangerous conditions; and

WHEREAS, the Michigan City Fire Department can reduce the potential for rapid extension of fire and other hazardous conditions by quick access and decreasing dangers for firefighters; and

WHEREAS, the key box emergency access system has been adopted by Section 902.4 of the Indiana Fire Code, and the key box emergency access system will operate on a controlled master key basis by the Michigan City Fire Department.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City that Article V, which shall be entitled "Key Box Emergency Access System" is added to Chapter 54 of the Michigan City Municipal Code and shall read as follows:

Sec. 54-271. Definitions.

Automatic Dialer shall refer to a device that automatically dials and relays a prerecorded message to a central station or the fire department.

Automatic Fire Suppression System refers to a system or assembly of piping, valves, controls, and sprinklers, which are designed and installed to comply with the National Fire Protection Association (NFPA) standards, which utilize water, foam, carbon dioxide, or other gas to automatically react to suppress fire.

Fire Official shall refer to the Fire Chief or his designee.

Central Station shall refer to an office of a private company to which remote alarm and supervisory signaling devices are transmitted and where personnel are in attendance at all times to supervise the circuits and investigate signals.

Knox Box (Lock or Key Box) – A high security key vault, which shall refer to a UL type box, standards, size, and style approved by the Fire Official.

Responsible Party shall refer to the property owner of a building subject to this Ordinance.

Standpipe System shall refer to a wet or dry system of piping, valves, outlets and related equipment designed to provide water at specified pressures and installed exclusively for the fighting of fires.

Sec. 54-272. Mandatory Key Boxes for Fire Suppression and Standpipe Systems.

Each building protected by an automatic fire suppression and/or standpipe system and not manned during a 24 hour, 7-day a week operation, shall be equipped with a key box. The key box shall be a Knox Box type and size approved by the Fire Official.

Sec. 54-273. Mandatory Key Boxes for Fire Alarm System.

Each building protected by an automatic fire alarm system (automatic dialer, central station, external audible/visual alarm) and not manned during a 24 hour, 7-day a week operation, shall be equipped with a key lock box. The key lock box shall be a Knox Box type and size approved by the Fire Official.

Sec. 54-274. Non-Applicability to Certain Dwellings.

This Ordinance shall not apply to owner occupied one and two family dwellings.

Sec. 54-275. Key Lock Boxes.

The responsible party is required at all times to keep a key(s) in the lock box that will allow access to the structure. The key box shall contain, but not be limited to, the following items as designated by the Fire Official:

- a. Labeled keys to locked points of egress, whether in interior or exterior of such buildings;
- b. Labeled keys to the locked mechanical rooms;
- c. Labeled keys to locked elevator rooms and controls;
- d. Labeled keys to any fence or secured areas;
- e. Labeled keys to areas of the building where fire alarm panels and fire protection systems are located;
- f. Labeled keys to any other areas that may be required by the Fire Official;

- g. A card containing the emergency contact people and phone numbers for such buildings
- h. Floor plans of the rooms within the building showing locations of shut offs;
- i. Hazardous materials information; and
- j. An inventory of the keys is to be placed inside all lock boxes.

The responsible party shall notify the Michigan City Fire Department when any or all of the locks or keys have been changed and shall keep the immediate area of the key lock box free and clear of any and all obstructions.

Sec. 54-276. Registration and Installation of Key Lock Boxes.

The responsible party shall apply for a registration for a lock box on forms provided by and obtained from the Fire Official of the Michigan City Fire Department. A registration is required prior to the installation of a key lock box in order to verify the proper mounting location and installation of said key lock box. The key lock box shall be installed on the front exterior of the building near the main entry door at a location approved by the Fire Official. No key lock box shall be installed, voluntarily or otherwise, without first obtaining the approval of the Fire Official of the Michigan City Fire Department. The responsible party shall be responsible for the cost to purchase, install, and maintain the key lock box.

Sec. 54-277. Compliance.

All existing buildings shall comply with this Ordinance one (1) year from its effective date. All newly constructed buildings not yet occupied or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy shall comply immediately upon passage of this Ordinance. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be born by the responsible party.

Sec. 54-278. Penalty.

The responsible party shall be subject to a fine of \$50.00 for each day of non-compliance with this Ordinance and said total fines shall not exceed \$2,500.00.

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/ Willie Milsap, Member
Michigan City Common Council**

Councilman Milsap stated the amendments have been made and the Ordinance is ready for passage.

Council President McKee and Councilwoman Nelson addressed Tony Childers, Tony's Outboard Westside, questions regarding installation of a key box emergency access system and what businesses have to have them installed.

Councilwoman Boy stated each building protected by an automatic fire suppression or stand-pipe system and not manned during a twenty-four/seven day a week operation shall be equipped with a key box.

Councilman Milsap made a motion to adopt the Ordinance, 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 Ordinance was adopted by the following vote: **AYES: Council Members Nelson, Boy, Doyle, Espar, Jankowski, McKee, Meer, Milsap, and Murphy (9). NAYS: None (0).**

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

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO: 4078

AN ORDINANCE ESTABLISHING A FIRE INSPECTION FEE AND A NON-EMERGENCY MEDICAL ASSISTANCE FEE AND ADDING SECTION 50-283 TO CHAPTER 50 AND ADDING SECTION 54-5 AND SECTION 54-6 TO CHAPTER 54 OF THE MUNICIPAL CODE FOR THE CITY OF MICHIGAN CITY, LAPORTE COUNTY, INDIANA

WHEREAS, pursuant to the International Fire Code, as adopted by the State of Indiana, the Michigan City Fire Department is required to annually conduct a fire code compliance inspection for buildings and premises; and

WHEREAS, the Michigan City Fire Department incurs administrative time and expense in connection with the performance of fire code compliance inspection for buildings and premises and providing non-emergency medical assistance to private ambulance services within the City of Michigan City; and

WHEREAS, the Michigan City Fire Department has studied the aforementioned costs and expenses associated with the performance of fire code compliance inspection for businesses and providing non-emergency medical assistance to private ambulance services within the City of Michigan City; and

WHEREAS, the Michigan City Fire Department has made certain recommendations to the Common Council of the City of Michigan City to establish a fire code compliance inspection fee and a non-emergency medical assistance fee; and

WHEREAS, the Michigan City Common Council is desirous of implementing the recommendations of the Michigan City Fire Chief and doing so by adding Section 50-283, Section 54-5, and Section 54-6 to the Michigan City Municipal Code to establishing a fire code compliance inspection fee for businesses and a non-emergency medical assistance fee.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City that Section 50-283, Section 54-5, and Section 54-6 should be and are hereby added to the Michigan City Municipal Code to read as follows:

Sec. 50-283. Fire Code Compliance Inspection Fee and Non-Emergency Medical Assistance Fee.

- (a) The fire code compliance inspection fee as required by Section 54-5 shall be \$30.00 annually.
- (b) The non-emergency medical assistance fee as required by Section 54-6 shall be \$342.00 per incident.

Sec. 54-5. Fire Code Compliance Inspection; Inspection Fee Established; Posting of Fire Inspection Certificate; Penalty.

(a) *Authority to Enter.* The Fire Marshall is authorized to enter and inspect, or cause to be inspected, all buildings and premises for the purpose of conducting an annual fire code compliance inspection. This section shall not apply to the residential dwelling units, which are governed by Sec. 22-281, et seq, and hotels, motels, and roominghouses, which are governed by Sec. 22-511, et seq.

(b) *Annual Inspection Fee.* The Fire Marshall or his or her designee shall charge an annual inspection fee for each fire code compliance inspection as set forth by Section 50-283, except when such building or premise is owned by state or local government. It shall be the duty of every person maintaining or operating the business or premise to pay the City Controller's Office the annual inspection fee. Equipment requiring periodic testing or operation shall be tested or operated as specified by the International Fire Code, as adopted by the State of Indiana, and the equipment testing fees shall be included in the fire inspection fee schedule as set forth in Section 50-283.

(c) *Required Posting of Fire Inspection Certificate.* Each building or premise shall post their Fire Inspection Certificate in plain view and each Fire Inspection Certificate will be updated upon the completion of the annual fire inspection.

(d) *Finding of Dangerous or Hazardous Conditions; Notice of Violation.* Whenever the Fire Marshal or his or her designee determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, he or she shall give notice of the alleged violation to the persons responsible. The notice shall be in writing, include a statement of the reasons why it is being issued, allow a reasonable time, not less than ten (10) days, for the performance of any act it requires, be served upon the owner or his agent, or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner, agent or occupant if a copy thereof is sent by registered or certified mail to his last known address, or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice. The notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(e) *Appeal.*

(1) *Hearing.* Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article, or of any rule or regulation adopted pursuant to this article, may request and shall be granted a hearing on the matter before the Michigan City Board of Public Works and Safety. The person shall file in the Office of the City Clerk a written petition requesting the hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of the petition the Board shall set a time and place for the hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The hearing shall be commenced no later than ten (10) days after the day on which the petition was filed. Upon application of the petitioner, the Board may postpone the date of the hearing for a reasonable time beyond the ten-day period, if in its judgment the

petitioner has submitted a good and sufficient reason for the postponement. All the hearings shall be open to the public.

(2) *Decision and order.* After the hearing, the Board of Public Works and Safety shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this article have been complied with. If the Board sustains or modifies the notice, it shall be deemed to be an order. Any notice served pursuant to this section shall automatically become an order if a written petition for a hearing is not filed in the Office of the City Clerk within ten (10) days after the notice is served. The Fire Marshal or his or her designee serving the notice upon which a petition for review is filed shall not sit as a member of the Board at the hearing of the petition, but shall be allowed to be present, cross examine witnesses, and be cross examined by the petitioner.

(3) *Records.* The Board of Public Works and Safety shall make findings of facts relative to a decision under this section, which shall be reduced to writing. The decision and all orders of the Board shall also be reduced to writing. The Board shall prepare a record consisting of the notice, the petition for a hearing, the statement of finding of facts, and all decisions and orders of the Board and deposit it in the Office of the City Clerk for public inspection.

(4) *Emergency orders.* Whenever the Board of Public Works and Safety or Fire Marshal finds that an emergency exists which requires immediate action to protect the public health, the Board or the Fire Marshal may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding other provisions of this article, the order shall be effective immediately. The Fire Marshal shall also have the authority to cause all public utilities serving the business, building, or premises where the violation takes place to be terminated, and to affect the closing of the business, building, or premises until such time as the violation is completely corrected, or the imminent hazard to life removed. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Board of Public Works and Safety shall be afforded a hearing as soon as possible. After the hearing, depending upon the finding as to whether the provisions of this article have been complied with, the Board shall continue the order in effect, modify it, or revoke it.

Sec. 54-6. Rendering Medical Assistance to Private Ambulance Service for Non-Emergency Call; Medical Assistance Fee Established.

When the Michigan City Fire Department provides medical non-emergency assistance to a private ambulance service, to assist in the transport of a patient, a fee as set forth in Section 50-143 will be charged to the private ambulance service and collected by the City Controller's Office for each request for transport assistance. (Example: Lift assist for a doctor appointment.)

This Ordinance shall take effect on January 1, 2010, after the same has been passed by the Council, approved by the Mayor, and any necessary publication.

INTRODUCED BY: /s/ Willie Milsap, Member
Michigan City Common Council

Tony Childers, (205 Douglas Street), Dennis Metheny (6757 W. 450 N.) and Mike Palmer, Elston Zip Foods, addressed the Council regarding the \$30.00 fire inspection fee to all businesses in Michigan City.

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

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 Boy, Doyle, Espar, McKee, Milsap, Murphy and Nelson (7).** **NAYS; Council Members, Jankowski and Meer (2).**

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

MICHIGAN CITY COMMON COUNCIL

ORDINANCE 4079

APPROVING ADDITIONAL APPROPRIATIONS TO TRANSFER MONIES INTO THE BUDGET OF THE RIVERBOAT FUND FOR PROFESSIONAL SERVICES FOR THE DESIGN AND CONSTRUCTION ADMINISTRATION OF THE GATEWAY PARK PROJECT

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for professional services for the design and construction administration of the Gateway Park Project.

WHEREAS, there are unappropriated funds in the Riverboat Fund #9000 available to be appropriated for that purpose.

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 #9000 Riverboat Unappropriated	\$125,500.00	
INCREASE Account #9000 0000 04 443.005 Other projects-Gateway Park		\$125,500.00
TOTAL FOR FUND	\$ 125,500.00	

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/Richard Murphy, Member
Michigan City Common Council

Councilman Murphy addressed the Council regarding the proposed ordinance.

Councilman Meer agreed that Lohan Anderson was a replicable firm out of Chicago, stating his concerns regarding Michigan City residents not being hired on the Gateway Park project along with the Michigan Boulevard project. Mr. Meer stated that he would not be supporting the ordinance.

Gale Neulieb, Deputy Clerk advised the Council that the amendment was made to the final proposed ordinance that would be signed if adopted.

Councilman Murphy made a motion to adopt the ordinance, second by Council Members Milsap and Espar.

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

UNFINISHED BUSINESS

Council President McKee opened nominations for (2) appointments to the Redevelopment Commission;

Councilwoman Nelson nominated Lynn Kaser, second by Councilwoman Boy.
Councilman Murphy nominated Lynn Kaser and Neil Kienitz, second by Councilman Espar.

Council President McKee closed nominations asking if there were no objections to hold the vote. There was no objections.

There being no objections, Lynn Kaser and Neil Kienitz were nominated for re-appointment by the following vote: **AYES: Lynn Kaser and Neil Kienitz: Council Members Espar, Jankowski, McKee, Meer, Milsap, Murphy, Nelson, Doyle and Boy (9). NAYS: None (0).**

Councilman Jankowski commented on the public access issues/government channels.

Councilman Espar addressed the \$120,000.00 removed from the budget that is was not a cost factor. Mr. Espar stated the monies could be appropriated at a later date, providing the Mayor an opportunity to solicit competitive bids with other companies.

NEW BUSINESS

Council President McKee stated that in January 2009 the Council had a meeting to set forth goals and issues to pursue and get accomplished during 2009. Mr. McKee advised that almost all the goals and issues have moved forward with the exception of the Westside Lake Access project. Mr. McKee assigned Councilman Murphy, Councilman Meer and himself to form a committee which will start meeting at the beginning of 2010 to move the Westside Lake Access closer to becoming a reality.

COMMENTS FROM THE PUBLIC

Dennis Metheny (6757 W. 450 N.) stated his concerns on the presentation presented to the Council by ARTSPACE regarding the proposed project and the economy.

John Jones, Michigan City stated the Council meeting was more exciting and very Positive; addressed Mr. Metheny's comments.

COMMENTS FROM THE COUNCIL

Councilman Espar invited everyone to attend the Annual Festival of Lights Committee's Chili Cook Off, Saturday, December 5, 2009 from 4:00 p.m. to 6:00 p.m., and stated the Council would have the best chili there.

ADJOURNMENT

A motion by Councilman Doyle, supported by Councilman Meer, and there being no further business to transact, President McKee declared the meeting ADJOURNED (approximately 9:10 p.m.).

Thomas F. Fedder, City Clerk