

## **REGULAR MEETING – December 15, 2009**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, December 15, 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, and Ron Meer (8).

**ABSENT:** Willie Milsap (1).

**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 December 1, 2009.

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

### **REPORTS OF STANDING COMMITTEES**

Councilman Jankowski advised the Council there had been another sewage spill on December 3rd at the Sanitation Treatment Plant. Mr. Jankowski stated that IOSHA conducted an inspection on November 20 due to employee safety concerns, and they found one serious violation and one non serious violation, addressing the problem in a timely manner.

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

There were no reports of special or select committees.

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

There were no reports of other city officers and departments.

### **PETITIONS**

There were no petitions.

### **COMMUNICATIONS**

There were no communications.

**RESOLUTIONS**

The Clerk read in it's entirety the following Resolution, there being no objections,

**MICHIGAN CITY COMMON COUNCIL****RESOLUTION NO. 4438****APPROVING THE FILING OF A PROPERTY TAX LEVY APPEAL**

**WHEREAS**, the City of Michigan City is expected to experience a shortfall in its property tax revenues for the budget year 2007 in the amount of \$2,772,622; and

**WHEREAS**, the anticipated shortfalls are the result of an arbitrary action by the La Porte County Auditor who has stated his intent to ignore 2006 assessed values that were approved by the Indiana Department of Local Government Finance (DLGF) and will instead use assessed values from 2005 when billing for 2006 pay 2007 property taxes; and

**WHEREAS**, the City of Michigan City received a maximum levy calculation and budget order based on 2006 assessed values issued by the DLGF for budget year 2007 and expended funds in accordance with that order; and

**WHEREAS**, the actions of the County Auditor to thereafter use the 2005 assessed values will require that the City refund the shortfall amount two years after it received and expended those funds unless the City receives relief from the DLGF regarding that requirement; and

**WHEREAS**, State law (IC 6-1.1-18.5-16) allows the City to appeal to the DLGF for relief when a property tax shortfall is caused by erroneous assessed valuations; and

**WHEREAS**, a property tax shortfall of this magnitude will require the City to drastically cut its workforce and the services it provides to its citizens, including police and fire protection.

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Michigan City, Indiana, that it approves the filing of a petition with the Department of Local Government Finance to increase the City's 2010 maximum levy in an amount of the anticipated property tax shortfalls for the tax year 2006 pay 2007 due to the actions of the DLGF and LaPorte County Auditor and authorizes the Mayor and Controller to proceed with the filing and prosecution of such petition.

INTRODUCED BY: /s/ Marc Espar, Member

Councilman Espar stated several reasons why this resolution was brought to the Council; asking the Council for their support.

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

John Schaefer, City Controller, addressed the Council advising the City is in legal action against the County Auditor stating the short fall appeal has to be filed by December 30, 2009.

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 Espar, Jankowski, McKee, Meer, Murphy, Nelson, Boy, and Doyle (8). NAYS: None (0).**

**ORDINANCES**

The Clerk read on second 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

Council President McKee stated there would be a Public Hearing regarding the proposed ordinance.

The formal public hearing was opened, with President McKee asking "is there anyone from the public who wishes to address the Council?"

The following individuals spoke on the proposed Ordinance: Carmella Weber (1602 Franklin Street), Jean Sliwa (1608 Franklin Street), Ron Hamilton (1605 Franklin Street), Brother Shawn (St. Stanislaus Church).

Council President McKee asked if there were any other comments by the general public, hearing none, the public hearing was closed.

Councilman Espar made a motion to **TABLE** the proposed Ordinance until the February 2, 2010 Council meeting, second by Councilwoman Boy. Mr. Espar asked President McKee to refer the ordinance to the Streets and Alleys Committee for further study.

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

Council President McKee stated the Ordinance would be **TABLED** until the February 1, 2010 Council meeting.

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

**MICHIGAN CITY COMMON COUNCIL**  
**ORDINANCE NO. 4080**  
**AN ORDINANCE EXTENDING AND**  
**MODIFYING TAX ABATEMENT**  
**WITHIN THE CITY OF MICHIGAN CITY, INDIANA**  
**2010 - 2014**

**WHEREAS**, the Michigan City Common Council, by Ordinance No. 2648, entitled AN ORDINANCE OF THE MICHIGAN CITY COMMON COUNCIL APPROVING AND CONFIRMING THE DECLARATION OF A TAX ABATEMENT AREA IN THE CITY OF MICHIGAN CITY, INDIANA, established a Tax Abatement Area in the City of Michigan City, Indiana, and a Tax Abatement Program under the terms of I.C. 6-1.1-12.1-1, et seq.;

**WHEREAS**, under the terms of said program, tax abatement benefits were made available to owners of new manufacturing equipment and owners of property upon which new construction of any kind had occurred and owners of property who rehabilitated, remodeled or expanded any existing building and all of said benefits were made available to owners of any such property located anywhere within the city limits of Michigan City; and

**WHEREAS**, the Michigan City Department of Redevelopment and the Michigan City Plan Department have reported that the finding of an economic Revitalization Area for the City of Michigan City as determined by this Council in its current Resolution NO. 4373, remains effective and viable, and have recommended that the life of the Tax Abatement Program be extended for an additional two (2) years until December 31, 2014; and

**WHEREAS**, certain amendments to Chapter 12.1 of Article 1.1 of Title 6 of the Indiana Code (I.C. 6-1, 1-12.1) make it prudent for this Council to proceed under the above sections of said statute so as to ensure the proper basis in statutory authority for any action of this Council to extend Tax Abatement; and

**WHEREAS**, this Council is presently proceeding to extend the Tax Abatement Program now in effect through this Ordinance and it is also proceeding through the adoption of a Resolution under I.C. 6-1. 1-12.1-2.5 to find that area in its jurisdiction is an "Economic Revitalization Area" to comply with said sections of the relevant statute.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA:**

Section 1. That Ordinance Nos. 2648 and 4016 heretofore adopted by the Common Council of Michigan City establishing a Tax Abatement Program be and the same are hereby amended in the following respects:

- A. That the expiration dates set forth in Ordinance Nos. 2648 and 4016 are hereby amended to extend to the expiration date hereof to December 31, 2014;
- B. That all provisions of Ordinance No. 2648 and 4016 which are not consistent with Section 4 hereof are hereby rendered null and void effective on the date of adoption hereof.

Section 2. Be it further ordained that a property owner who submits a Statement of Benefits for a real estate project prior to December 31, 2014 shall be entitled to apply for a deduction prior to May 10 of a year in which an addition to assessed valuation is made on account of said project provided that this Council shall retain its right of approval of the qualification of said project for such deduction.

Section 3. Be it further ordained that a property owner who submits a Statement of Benefits for new manufacturing equipment prior to December 31, 2014 shall be entitled to apply for a deduction for tax abatement under the terms of the Ordinance listed in Section 1 above.

Section 4. That from and after the date of adoption hereof, the following provisions shall determine the eligibility of any property for tax abatement within the City of Michigan City, Indiana:

- A. That the deductions to be allowed for property tax abatement within the Economic Revitalization Area so designated shall be deductions allowed under Section 4, Chapter 12.1, Article 1.1, Title 6 (Real Estate) and deductions allowed under Section 4.5 of said Chapter (Manufacturing Equipment).
- B. That any person who wishes to claim a deduction under this Ordinance shall comply with the Statement of Benefits filing requirements of said Section 3 and 4.5 which statements shall be reviewed and approved or rejected by this Council as provided in said Section 3 and 4.5 of I.C. 6-1.1-12.1 and only those persons whose Statement of Benefits are approved shall be entitled to the deductions. The Statement of Benefits shall contain the information described in I.C. 6-1.1-12.1 and shall be submitted on confidential forms prescribed by the State Board of tax Commissioners.
- C. That the designation as a Economic Revitalization Area and the effectiveness of this Ordinance shall expire December 31, 2014.
- D. That owners of personal or real property whose Statement of Benefits applications are approved by Resolution of this Council shall be entitled to a property tax deduction for a maximum period of ten (10) years as this Council shall, on a case by case basis, determine. However, this section shall not be construed as prohibiting this Council from setting criteria which must be met before property could qualify for ten-year abatement. Nor shall this section be construed to prevent this Council from taking any action it may deem necessary and property, after public hearing, and taken under said Chapter 12.1 of Title 6, Article 1-1 of the Indiana Code, to revoke such property tax deduction, upon a finding of non-compliance by such an owner with this Ordinance, the Statement of Benefits filed by said owner, or the statutes of the State of Indiana. The Resolution adopted shall specify the number of years and period of deduction if the petition in the Statement of Benefits is granted.

Section 5. Be it further ordained that all property owners whose Statement of Benefits are approved shall file a report with the City Clerk containing information as to the extent of compliance with the Statement of Benefits by the property owner as result of the project described in the Statement of Benefits. Such reports shall be signed and dated in the same manner as the Statement of Benefits and shall be filed on the **Compliance with Statement of Benefits** form prescribed by the State Board of Tax Commissioners and within the time limits prescribed therein. This Council hereby reserves to itself the right to review said reports, conduct hearings thereon, make a determination of non-compliance and adopt a Resolution

terminating the deduction, all as provided in the 1991 and 2007 amendments to I.C. 6-1.1-12.1-1 et seq.

Section 6. Be it further ordained that the procedures, benefits and determinations described herein shall be effecting on the date of adoption hereof that from and after passage of this Ordinance, approval by the Mayor and publication, the portion of Michigan City, Indiana (to-wit, the entire corporate limits thereof), included in said Tax Abatement Program shall be included in this amendment and all amendments, supplements, charts, maps and plats relating thereto be, and they are hereby amended and revised accordingly.

Section 7. Be it further ordained that a property owner who (1) submits a Statement of Benefits for either a real estate project or for new manufacturing equipment, and (2) receives approval of said Statement of Benefits by the Common Council of Michigan City, shall notify the Common Council in writing immediately upon making a later decision to cancel the real estate project or equipment purchase for which such approval was granted.

Section 8. That this Ordinance, after its passage and approval by the Mayor, shall be published once each week for two (2) consecutive weeks in the Michigan City News-Dispatch, a daily newspaper of general circulation.

Section 9. If any part of this Ordinance is declared invalid, it shall not affect the remainder of the Ordinance.

**INTRODUCED BY:** /s/ PHILLIP JANKOWSKI  
**Co-Sponsored by:** /s/ ANGELA NELSON

Passed by the Common Council of the City of Michigan City, Indiana, this 15th day of December, 2009.

/s/ROBERT MCKEE, President  
Common Council of Michigan City

Ordinance approved by me this 16th day of December, 2009.

ATTEST: CHARLES OBERLIE, Mayor  
Of the City of Michigan City, IN

THOMAS F. FEDDER, Clerk of the  
City of Michigan City, Indiana (Seal)

Council President McKee stated there would be a public meeting held as advertised in the News Dispatch on December 4, 2009.

The formal public hearing was opened, with President McKee asking "is there anyone from the public who wishes to address the Council?"

Kevin Keift, Development Manager, Economic Development Corporation, addressed the Council regarding reasons to adopt the Ordinance.

Council President McKee asked if there were any other comments by the general public, hearing none, the public hearing was closed.

Councilman Jankowski stated that Councilwoman Nelson was a Co-Sponsor on the Ordinance.

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

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

### **UNFINISHED BUSINESS**

Councilman Meer addressed the Council regarding City Residents belonging to various trade unions and City jobs starting construction in 2010 making sure contractors are

following the City hiring ordinance. Mr. Meer commented on the four (4) letters sent to contractors of non compliance on November 16, 2009 by the Human Rights Commission in regards to EEO Ordinances and the City Hiring Ordinance.

Councilman Espar asked President McKee to refer the proposed ordinance regarding vacating the alley running through Zorn's addition between Franklin and Pine Streets be referred to the Council's Streets and Alley Committee.

### **NEW BUSINESS**

Council President McKee advised that Mayor Oberlie requests the advice and consent concerning the re-appointment of Mr. Martin Hernandez and Mr. James Guerrucci as members of the Michigan City Human Rights Commission. Mr. McKee stated the vote will take place at the January 5, 2010 Council Meeting.

### **COMMENTS FROM THE PUBLIC**

Tony Childers, 205 Douglas Street, presented a packet to the Council requesting a study to be done regarding the material he presented.

Bill White, Michigan City addressed the Council in regards to the non compliance letters sent to local contractors.

### **COMMENTS FROM THE COUNCIL**

Councilman Meer wished everyone a Merry Christmas, Happy Holidays and stated he was looking forward to working with the Council in 2010.

Councilwoman Boy thanked Councilman Meer for the research he did on City residents that belong to various trade unions.

Councilwoman Boy stated several winter safety driving tips she received from the Indiana Department of Transportation.

Councilwoman Boy wished everyone a Merry Christmas.

Council President McKee wished everyone a happy holiday season and reminded his fellow Council Members that at the next Council Meeting January 5, 2010 an election of officers would take place.

Council President McKee thanked the Council for the privilege of sitting in the Presidents seat during 2009. President McKee stated he looked forward to handing over the President's position.

Councilman Doyle commended the Council for a good group of hard working, dedicated people and is looking forward to the challenges of 2010.

### **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 7:05 p.m.).

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Thomas F. Fedder, City Clerk