

# SPECIAL MEETING – April 13, 2020

The Common Council of the City of Michigan City, Indiana, met in a virtual Special session by means of ZOOM on Monday evening, April 13, 2020 at the hour of 5:00 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 5:09 p.m. by Council President Fitzpatrick.

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

**PRESENT:** COUNCIL MEMBERS Bryant Dabney, Sean Fitzpatrick, Michael Mack, Don Przybylinski, Angie Nelson Deutch, Paul Przybylinski, Gene Simmons, Dalia Zygas and Tracie Tillman (9).

**ABSENT:** COUNCIL MEMBER None (0).

**ALSO, PRESENT:** Jim Meyer – Council Attorney, Gale Neulieb City Clerk and Dawn Debald Deputy Clerk

**A QUORUM WAS NOTED PRESENT**

## **ORDINANCE**

The Clerk read the following proposed ordinance on 3<sup>rd</sup> Reading by title only,

### **MICHIGAN CITY COMMON COUNCIL ORDINANCE NO. 4542**

#### **AN ORDINANCE TO AMEND SECTION 2-399 OF THE MICHIGAN CITY MUNICIPAL CODE DESIGNATING THE COMMON COUNCIL AS THE CITY AGENCY WITH THE SOLE AUTHORITY TO APPROVE PURCHASE ORDERS FROM THE CITY'S RIVERBOAT FUND AND BOYD DEVELOPMENT FUND**

**WHEREAS**, on July 6, 2010, the Michigan City Common Council enacted Ordinance No. 4096, which was codified in Section 2-399 of the Michigan City Municipal Code, to establish the Common Council as the sole authority to approve any and all claims, expenditures and transfers from the City's Riverboat and Boyd Development Funds; and

**WHEREAS**, Sec. 2-399 currently reads as follows:

*"Sec. 2-399. - Riverboat fund; Boyd development fund.*

*The common council is designated as the city agency with the sole authority to approve any and all claims against, and any and all expenditures and transfers from, the city's riverboat fund and Boyd development fund.*

*(1) No expenditure or transfer from the city's riverboat fund or Boyd development fund shall be allowed or made without the written approval of the common council.*

*(2) The city controller shall timely prepare an appropriate claims/accounts payable vouchers for approval by the common council at a public meeting.*

*(3) The city controller, as he deems necessary, shall timely prepare an appropriate written request to transfer funds from the city's riverboat fund and Boyd development*

*fund, along with an appropriate resolution approving the transfer, for the common council's approval at a public meeting.*

*(4) The claims/accounts payable vouchers and requests transfers shall be prepared in a timely fashion so as to avoid the city incurring any late payment penalties or unnecessary delay or default in payment of any of the city's bills.*

*(5) The controller shall submit the appropriate supporting documentation, including that required by state law and the state board of accounts, to the common council for each claim/accounts payable voucher the common council is asked to approve;" and*

**WHEREAS**, on June 5, 2017, the Michigan City Board of Public Works & Safety enacted the City's Purchasing Policy, and Section 6.1(A) of the Purchasing Policy states that *"If a purchase is over \$00.01, prior to completing the purchase, the Purchasing Agent shall submit a purchase order to the City Controller's Office for approval to purchase;"* and

**WHEREAS**, the Michigan City Common Council has determined that the need exists to amend Sec. 2-399 to follow Section 6.1(A) of the City's Purchasing Policy and to grant the Common Council with authority to approve an expenditure from the City's Riverboat Fund and/or Boyd Development Fund prior to the actual purchase of goods or services by a City Department.

**NOW, THEREFORE, BE IT ORDAINED** that Section 2-399 of Chapter 2 of the Michigan City Municipal Code shall be amended to now read as follows:

**Sec. 2-399 – Riverboat Fund; Boyd Development Fund**

The Common Council is designated as the City agency with the sole authority to approve any and all claims against and any and all expenditures and transfers from the City's Riverboat Fund and Boyd Development Fund.

1. With the exception of an emergency purchase as defined in I.C. 5-22-10-4, no expenditure or transfer, at or above \$0.01 from the City's Riverboat Fund or Boyd Development Fund shall be allowed or made without the prior approval of a purchase order for the purchase by the Michigan City Common Council at a public meeting.
2. For each purchase order the Common Council is asked to approve, the City Controller shall prepare an appropriate purchase order, accompanied by the appropriate documentation, including that required by Indiana law, the Indiana State Board of Accounts, and by the City's Purchasing Policy, (ie: quotes, bids, etc... as outlined in the City's Purchasing Policy effective June 5, 2017, which may include the relevant documentation that had been submitted to the Michigan City Board of Public Works & Safety for approval prior to said purchase) and submit it to the Common Council prior to the meeting at which it is to be considered for approval by the Common Council.
3. The City Controller, as deemed necessary, shall timely prepare an appropriate written request to transfer funds to fund the purchase order from the City's Riverboat Fund or Boyd Development Fund, along with an appropriate resolution approving the transfer, for the Common Council's approval at a public meeting.
4. The City Controller shall submit a report detailing each payment against all previously approved purchase orders paid for from the City's Riverboat Fund and Boyd Development Fund. The report shall include vendor name, amount of payment, purchase order number, check number, date of payment, and balance, if any, remaining on said purchase order.
5. All claims/accounts payable vouchers and requests for transfers shall be prepared in a timely fashion to avoid the City incurring any late payment penalties or unnecessary delay or default in payment of any of the City's bills.

This Ordinance to be effective upon passage and approval by the Mayor.

**INTRODUCED BY:** /s/ Bryant Dabney, Member  
Michigan City Common Council  
**CO-SPONSOR** /s/ Tracie Tillman, Member  
Michigan City Common Council  
**CO-SPONSOR** /s/ Paul A. Przybylinski, Member  
Michigan City Common Council  
**CO-SPONSOR** /s/ Don Przybylinski, member  
Michigan City Common Council

President Fitzpatrick asked if any of the Authors had anything to add regarding the proposed ordinance.

Councilman Dabney stated there was a correction to Sec. 2-399 (1) that should read as follows (with a written amendment presented in the Clerk's Office):

1. With the exception of an emergency purchase as defined in I.C. 5-22-10-4, no expenditure or transfer, at or above \$0.01 from the City's Riverboat Fund or Boyd Development Fund shall be allowed or made without the prior approval of a purchase order for the purchase by the Michigan City Common Council at a public meeting.

Councilman D. Przybylinski addressed the Council regarding how the proposed amended process was going to take place regarding monies being spent from the River Boat and Boyd Development Funds; stating that if a department is wanting to purchase an item from one of these funds they will go out for bids/quotes first; choose the company that fits the specs of what they are wanting; then bringing what they are purchasing to the council with a P.O. to be approved before making any purchase; then after the purchase order has been received and approved by the Council the department can then process the P.O. for what they are asking for; the controller will pay the P.O. and amount will come back to the council on the regular claim Riverboat/Boyd Development docket for the council's approval of the payment; asking if this was correct.

Councilman Dabney answered Councilman D. Przybylinski that was correct; that this is the intent of this ordinance.

President Fitzpatrick asked if there were any other comments; asking for a motion.

Councilman P. Przybylinski questioned under the "NOW, THEREFORE, BE IT ORDAINED" Sec 2-399(4) The City Controller, as deemed necessary, shall timely prepare an appropriate written request to transfer funds to fund the purchase order from the City's Riverboat Fund or Boyd Development Fund, along with an appropriate resolution approving the transfer, for the Common Council's approval at a public meeting; that he understood that a department wanting to spend more \$.01 would have to come to the council for their approval before even going out for bids.

Councilman P. Przybylinski also questioned the timeframe regarding when the council receives the purchase order and the Council approving or denying the purchase order at a public meeting.

Discussion ensued between Councilman Dabney and Council members P. Przybylinski, D. Przybylinski and Deutch regarding the steps a department head would have to take to purchase a large money item that would have to go out to bid/quote; with City Controller Hoffmaster advising the purchase orders would be presented to the Finance Committee just like the regular Riverboat/Boyd Development dockets are now (8 days prior to the Council meeting) for their review and recommendation at the Finance Committee meeting prior to the regular council meeting.

Councilwoman Tillman stated this will give the Council time to look at the equipment if they are replacing it due to not functioning or outdated.

Discussion ensued between President Fitzpatrick and Councilman P. Przybylinski regarding inspecting the equipment/vehicle wanting to be replaced; questioning the time frame to do that, review the specs of the purchase order prior to receiving the proposed purchase order being proposed.

Councilman D. Przybylinski questioned how the Council is going to review the proposed purchase orders prior to the Council meeting and is the proposed purchase orders going to be added as an item on the Council's agenda to be approved or denied; asking if there is piece of equipment being replaced how long will the council have to go look at what they are wanting to replace.

President Fitzpatrick referred Councilman D. Przybylinski's question to Attorney Meyer and Controller Hoffmaster to clarify for the record.

(Councilwoman Deutch asked everyone to mute)

Attorney Meyer stated once the proposed purchase order is approved by the Council, it will be sent to the vendor so you can't go back and reverse the P.O.; unless you want to pay a financial penalty; that the Council will get a docket with the proposed purchase orders from the Controller's office that will look similar to the dockets they receive now; advising if the Council wishes they can add a specific number of days required or deadline prior to the regular council meeting that they receive the proposed P.O.'s into this the ordinance.

Controller Hoffmaster stated that she agreed with Attorney Meyer's comments; that the council can make due as many days as they like; that at the present time the deadline to get on the Council agenda is eight (8) days before a regular council meeting; stating she doesn't know if that is enough time for someone to look at quotes, specs, bids, equipment or vehicles being replace, etc.

President Fitzpatrick asked if there were any other comments from the Council.

Councilwoman Deutch made a motion to adopt the proposed ordinance.

Councilman D. Przybylinski stated he wants to make sure that eight days is enough time for this council to review and move forward on any proposed purchase order; to be able to go out and look at a truck, car, backhoe, or piece of equipment to make the right decision.

Councilwoman Zygus stated that when the original proposed purchase order is presented to the council; whatever department generated that's where you discuss; why do you need to buy this, justification, price etc.; stating that we don't need to be micromanaging and need to lean on the expertise of each department head.

Councilman Dabney commented on Councilman D. Przybylinski inspecting cars being replaced and purchasing them from out of state; would he want to inspect the vehicle at where they are being purchased from; asking to please clarify.

President Fitzpatrick clarified if someone wants to take a road trip and take a look at what is being proposed as a city purchase and they have the resource and time that is aplus for the city; that before we make a decision we need all the information in front of us to move forward on our decision.

There was a motion by Councilwoman Deutch, second by Council members Dabney and Tillman.

Councilman D. Przybylinski commented on a vehicle that Vector Control wanted to replace; with Council members Hamilton, Fitzpatrick, and himself went to inspect before ordering a new truck learning that there was no need to replace the truck that it needed a few safety items fixed and repairs done; advising they are still using this truck today; saving the city \$50,000 for one more year.

Councilman P. Przybylinski asked if approved if this is going to apply to professional services; also stating there isn't a time frame in the proposed ordinance; asking if everyone agrees with the eight (8) day deadline prior to the regular Council meeting agenda deadline

President Fitzpatrick advised if the monies would be coming out of Riverboat or Boyd Development funds; yes, it would.

President Fitzpatrick advised due to him changing the Council meeting deadline to the Monday prior to the Council meeting; that the deadline for agenda items before was only two days; which now is giving us more time to look at what is being brought in front of the Council.

President Fitzpatrick asked if there were any other comments from the Council regarding the proposed ordinance, hearing none; the ordinance was approved by the following vote: **AYES:** Council members P. Przybylinski, Tillman, Dabney, Fitzpatrick, Mack, Deutch, D. Przybylinski, Simmons, and Zygas (9). **NAYS:** None (0).

## **NEW BUSINESS**

President Fitzpatrick read the following proposed resolution in its entirety

### **MICHIGAN CITY COMMON COUNCIL**

### **RESOLUTION NO. 4779**

#### **APPROVING THE EXTENSION OF THE MAYOR'S EXECUTIVE ORDER 04-2020 DECLARING A PUBLIC HEALTH EMERGENCY DUE TO THE COVID-19 VIRUS**

**WHEREAS**, both the President and the Governor have declared a public health emergency for the Novel Coronavirus Disease 2019 (COVID-19) pandemic outbreak; and

**WHEREAS**, on April 7, 2020, Mayor Duane Parry issued his Executive Order 04-2020, Declaring A Public Health Emergency Due To The Coronavirus Pandemic & Implementing Certain Public Health And Safety Measures (Executive Order) specifying actions to be taken to contain and control the spread of COVID-19 in Michigan City, a copy of which Executive Order is attached hereto as Exhibit A; and

**WHEREAS**, IC 10-14-3-29 requires the Council's consent for the Executive Order to remain in effect for more than seven (7) days; and

**WHEREAS**, the Council finds that the COVID-19 virus pandemic emergency will exist for an extended period of time beyond seven (7) days from the issuance of the Executive Order the precise length of which is not determinable at this time; and

**WHEREAS**, the Council supports the issuance of the Executive Order and finds that it is in the best interest of the citizens of Michigan City that the Executive Order be extended beyond seven (7) days for a total of thirty (30) days from the date of issuance of the Executive Order or until such time as the Mayor determines that the spread of COVID-19 no longer poses a threat to the citizens of Michigan City, whichever period is shorter.

**NOW, THEREFORE, BE IT RESOLVED**, by the Michigan. City Common Council that it approves Mayor Duane Parry's issuance of his Executive Order 04-2020 Declaring A Public Health Emergency Due To The Coronavirus Pandemic & Implementing Certain Public Health And Safety Measures (Executive Order) and consents to it being effective and in full force and effect for a total of thirty (30) days from the date of issuance of the Executive Order or until such time as the Mayor determines that the spread of COVID-19 no longer poses a threat to the citizens of Michigan City, whichever period is shorter.

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

**INTRODUCED BY:** /s/ Sean Fitzpatrick, President  
**CO-SPONSOR:** /s/ Don Przybylinski, Member  
**CO-SPONSOR:** /s/ Bryant Dabney, Member  
**CO-SPONSOR:** /s/ Angie Nelson Deutch, Member  
**CO-SPONSOR:** /s/ Dalia Zygas, Member  
**CO-SPONSOR:** /s/ Tracie Tillman, Member  
**CO-SPONSOR:** /s/ Michael Mack, Member  
**CO-SPONSOR:** /s/ Gene Simmons, Member  
**CO-SPONSOR:** /s/ Paul Przybylinski, Member

President Fitzpatrick stated that this is necessary to adopt this resolution so that the City moves forward with the quarantine; that our country isn't out of the woods regarding COVID-19; that we want to make sure that the safety measures the Mayor put in his 04-2020 Executive Order are in place and continue until we are out of an immediate threat.

President Fitzpatrick asked if there were any other comments from any other Authors of the proposed resolution.

City Clerk advised Councilman P. Przybylinski that he was added to the resolution as a Co-sponsor as well as Councilman Simmons; all nine (9) council members are on this resolution.

Councilwoman Deutch made a motion to adopt the proposed resolution, second by Councilman P. Przybylinski.

Councilman Dabney stated that he has been getting telephone calls and emails being for or against the Mayor's Executive Order 04-2020; expressing that he supports the executive order and that this council has to come together for the greater good of our City putting us on the safest path so we can start to heal and move forward; supporting this resolution 100%.

Councilman P. Przybylinski agreed with Councilman Dabney totally.

Councilman D. Przybylinski agreed with Councilman Dabney, stating that this is the only right thing to do as a council is to protect the citizens of Michigan City; that we are trying to protect our neighbors, children, adults, the elderly from getting this virus and spreading it.

President Fitzpatrick asked if there were any other comments from the Council, there being none, the ordinance was adopted by the following vote: **AYES:** Council members Tillman, Dabney, Fitzpatrick, Mack, Deutch, D. Przybylinski, Simmons, Zygas and P. Przybylinski (9). **NAYS:** None (0).

### **COMMENTS FROM THE COUNCIL**

President Fitzpatrick asked if there were any comments from the Council.

Councilwoman Deutch commented on rentals assistance during this time and residents running into some issues getting their money to pay rent; stating that she is hoping and encouraging landlords to work with their tenants having some kind of moratorium; giving their tenants some time to get their unemployment and seek assistance to help pay their rent.

Councilman D. Przybylinski commented on the sign the owners of Leeds Pub Restaurant put on top of their building that says "TOGETHER" with a heart. Thanking them for their positive thoughts.

**ADJOURNMENT**

A motion by Councilwoman Deutch, supported by Councilwoman Tillman and Councilman D. Przybylinski and there being no further business to transact, President Fitzpatrick declared the meeting **ADJOURNED** (approximately 5:49 p.m.)

---

Gale A. Neulieb