

REGULAR MEETING – June 01, 2021

The Common Council of the City of Michigan City, Indiana, met in Regular session on Tuesday evening, June 1, 2021 at the hour of 6:30 p.m., Hosted by “Zoom” and streamed live on “My Michigan City” Facebook Page.

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

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

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

ABSENT: NONE

A QUORUM WAS NOTED PRESENT

ALSO, PRESENT: Attorney Meyer and Dawn Debald Deputy Clerk.

President Mack advised that starting this evening that any item being voted on has to be done by roll call.

APPROVAL OF MINUTES

President Mack inquired whether there were any corrections, deletions, or additions to the minutes of the Regular “Zoom” Meeting of May 18, 2021; there was no response.

President Mack asked for a motion to approve the Regular Council “Zoom” meeting minutes from May 18, 2021.

Councilman Fitzpatrick made a motion to approve the regular “Zoom” meeting minutes of June 1, 2021; second by Councilman P. Przybylinski.

The minutes were approved were approved by the following vote: **AYES:** Council members Zygas, P. Przybylinski, Dabney, Fitzpatrick, Mack, Deutch, D. Przybylinski, Tracie Tillman, and Simmons (9). **NAYS:** None (0).

REPORTS of STANDING COMMITTEES

President Mack asked if there were any reports of Standing Committees.

Councilman D. Przybylinski reported on the Executive Session Labor Relations negotiating committee meeting held on May 24, 2021, discussing items for the upcoming Fire and Police Department for 2022; In attendance was Chairman D. Przybylinski, Councilman Dabney, Councilman P. Przybylinski, City Controller Hoffmaster, City Attorney Amber Lapaich-Stalbrink, Personnel Director Andrea Smith, and two representatives from General Insurance.

Councilman P. Przybylinski called a meeting for May 25, 2021 to address the following proposed ordinance **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND TO PROVIDE FUNDING FOR THE CITY’S LOCAL MATCH FOR THE COMMUNITY CROSSING LOCAL ROADS AND BRIDGES MATCHING GRANT 2021- 2 PROJECT AND FOR**

MISCELLANEOUS PAVING

(DECREASE Motor Vehicle Highway Restricted Fund #2003 Unappropriated balance \$590,000.00 INCREASE ACCOUNT#2003 000 443.030 - \$590,000.00 Capital Outlay – Streets) in attendance was Councilman P. Przybylinski, Councilwoman Zygus, Controller Yvonne Hoffmaster, Councilwoman Deutch was excused due to work); advising that they discussed different funding for local matches, and funding mechanisms for the Cleveland Avenue project. Discussion ensued between Councilman P. Przybylinski and Councilwoman Zygus agreeing that they feel this project would be an asset for our City. Councilman P. Przybylinski and Controller Hoffmaster discussed the Paser Study; with Councilwoman Zygus making a motion to recommend approval of the proposed appropriation with no one making a second and the motion died. There was a motion by Councilman P. Przybylinski, second by Councilwoman Zygus to adjourn with the meeting adjourning at 6:25 p.m.

Councilwoman Deutch stated that the Urban Enterprise met last week and approved some grants for the Blockers Supermarket coming to East Gate Plaza on Michigan Boulevard in the amount of \$40,000 and the Strip Mall owner received \$21,000 to upgrade lighting and landscaping in the parking lot. Councilwoman Deutch stated that more Board Members have been added and are meeting again, so the funding can start going back into our communities.

FINANCE REPORT

Councilman Fitzpatrick read the following Finance Committee Minutes held on Tuesday May 27, 2021 at 6:00 p.m. via “Zoom”.

The meeting was called to order by Chairman Fitzpatrick at 5:34 PM. Committee members P. Przybylinski and Chairman Fitzpatrick were present. Committee member Tillman was not in attendance.

Also, in attendance: Controller Hoffmaster

There was one claim for a total of \$600.00 for the Michigan City farmers market and one purchase order for \$100,000.00 for engineering services. A motion was made to approve these items by Committee Member P. Przybylinski and supported by Committee Chair Fitzpatrick, both items were unanimously voted on to recommend approval to the Council. The meeting was adjourned at 5:47 p.m.

CLAIMS DOCKET

President Mack asked if there was a motion to approve the claims for June 01, 2021; Councilman Fitzpatrick made a motion to approve the claims, second by Councilman P. Przybylinski.

President Mack asked Deputy Clerk to take the roll with the Claims being adopted by the following vote: **AYES:** Council members Zygus, P. Przybylinski, Tillman, Dabney, Fitzpatrick, Mack, Deutch, D. Przybylinski, and Simmons (9); **NAYS** None (0).

June 01, 2021 Riverboat/Boyd Claim Docket

Fund #2042 – Riverboat – Claims	\$	0.00
EFT	\$	0.00
Fund #2031 – Boyd – Claims-	\$	600.00
TOTAL CLAIMS	\$	600.00

June 1, 2021 Riverboat/Boyd Development- Purchase Order

Riverboat Total -	\$100,000.00
Boyd Development Total -	\$ 0.00
TOTAL	\$100,000.00

REPORTS OF SPECIAL or SELECT COMMITTEES

President Mack asked if there were any reports of Special or Select Committees; there was no response.

REPORTS OF OTHER CITY OFFICERS and DEPARTMENTS

President Mack asked if there were any reports of other City Officers or Departments; there was no response.

PETITIONS

President Mack asked if there were any petitions; Deputy Clerk Debald advised there weren't any.

COMMUNICATIONS

Correspondence was received on May 13, 2021 from Controller Hoffmaster that she received from Skyler York, City Planner regarding the use of TIF funds for the CCMG Cleveland Avenue project.

Correspondence was received in the Clerk's Office on May 17, 2021 from Guy Della Valle, BLN regarding updated aerial maps for the NICTD Double Track project for demolitions.

Correspondence was received in the Clerk's Office on May 24, 2021 from Attorney, Jim Meyer regarding methods used for calculating MVH and Local Roads and Street funding.

Correspondence was received in the Clerk's Office on May 24, 2021 from Councilwoman Tracie Tillman regarding her absence.

Correspondence was received in the Clerk's Office on May 24, 2021 from Courtney Palmer, Franciscan Health regarding their new Social Impact Partnership Program (SIPP).

Correspondence was received in the Clerk's Office on May 26, 2021 from Patricia Harris, LaPorte County Convention & Visitors Bureau regarding (Resolution on our shot Covid-19 vaccine program).

Correspondence was received in the Clerk's Office on May 26, 2021 from Controller Hoffmaster regarding a M.C.P.D. vehicle accident exceeding \$1,500.00 (Ordinance No. 4538).

Correspondence was received in the Clerk's Office on May 26, 2021 from City Attorney, Amber Lapaich-Stalbrink regarding the Senate Enrolled Act No. 332 that goes into effect on July 1, 2021.

RESOLUTION**CITY OF MICHIGAN CITY, INDIANA
MICHIGAN CITY COMMON COUNCIL****RESOLUTION NO. 4808****A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE
COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF
COMMUNICATION**

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended IC 5-14-1.5-1 et seq. (Act), effective April 20, 2021 by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication;

WHEREAS, a member of the governing body may participate by any means of communication that:

- Allows all participating members of the governing body to simultaneously communicate with each other; and
- Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by I 5-14-1.5-3.5(d); and

WHEREAS, the Common Council (Council) is the governing body of the City of Michigan City, Indiana:

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

Section 1. (a) The provisions of the Act, including definitions, apply to this Resolution.

(b) This Resolution shall be known as the "Electronic Meetings Policy" of the Council and applies to the Council and any committee appointed directly by the Council or its presiding officer.

Section 2. (a) Subject to Sections 3 and 5, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

(b) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.

(c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3. (a) At least fifty percent (50%) (5) of the members must be physically present at a meeting at which at least (1) member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

(b) A member may not attend more than fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:

- (1) military service;

- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

Section 4. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
 - (A) was physically present at the meeting;
 - (B) participated in the meeting by electronic means of communication; and
 - (C) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members participated in the meeting; and
 - (B) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. No member of the Council may participate by means of electronic communication in a meeting at which the Council may take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) exercise the Council's power of eminent domain; or
- (7) establish, impose, raise or renew a tax.

Section 6. (a) If an emergency is declared by:

- (1) the governor under IC 10-14-3-12; or
- (2) the mayor under IC 10-14-3-29.

members are not required to be physically present for a meeting until the emergency is terminated.

(b) Members may participate in a meeting by any means of communication provided that:

- (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
- (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
- (3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.

(d) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 7. This resolution shall be effective from and after adoption by this Council and compliance with IC 36-4-6-14.

INTRODUCED BY: /s/ Angie Nelson Deutch, Member
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 1st day of June, 2021 by a vote of 9 to 0.

/s/ Michael Mack, President
Michigan City Common Council

President Mack is the Author had anything to add this evening;

Councilwoman Nelson Deutch shared with the Council the correspondence from the Governor about Indiana State Code 10-14-3-12 on how to handle business moving forward with “Hybrid” meetings and adopting state code and putting the state code into place locally. The Code also states that any Council member joining the meeting electronically cannot vote if adopting a budget or making deductions in personal; stating that every “Hybrid” meeting must take a “Roll Call” vote; There also has to be 50% council members in attendance in order to have a “Hybrid” meeting; reasons for Council members to utilize electronic means of communication during a meeting can be illness, military, death, or medical condition.

President Mack asked if there were any comments from the public; there was no response.

President Mack asked if there were any comments from Council.

Councilman Fitzpatrick asked if there is an expiration date on Indiana Code 10-14-3-12 and should this be added to the rules at some point.

Attorney Jim Myer stated there is no expiration date on Indiana Code 10-14-3-12; this should be added to the rules.

President Mack advised that our Council needs to learn how to use this IC code.

Discussion ensued between Attorney Meyer, President Mack, Council members D. Przybylinski, P. Przybylinski, Fitzpatrick, Nelson Deutch, regarding I.C. 10-14-3-12 and the Governor’s Orders.

President Mack asked if there were any other questions or comments from the Council; there was no response, asking for a motion.

Councilwoman Deutch made a motion to adopt the proposed resolution; second by Councilman D. Przybylinski.

President Mack asked Deputy Clerk Debald to take the vote, **AYES:** Council members P. Przybylinski, Tillman, Dabney, Fitzpatrick, Mack, Deutch, D. Przybylinski, Simmons, and Zygus (9); **NAYS** None (0).

ORDINANCE

Deputy Clerk read the following proposed Ordinance on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND TO PROVIDE FUNDING FOR THE CITY’S LOCAL MATCH FOR THE COMMUNITY CROSSING LOCAL ROADS AND BRIDGES MATCHING GRANT 2021- 2 PROJECT AND FOR MISCELLANEOUS PAVING**

Introduced by: Angie Nelson Deutch
Dalia Zygus

(DECREASE Motor Vehicle Highway Restricted Fund #2003 Unappropriated balance \$590,000.00 INCREASE ACCOUNT#2003 000 443.030 - \$590,000.00 Capital Outlay – Streets)

President Mack asked if the Authors had anything to add this evening; there was no response.

President Mack asked if there were any comments from the Public; there was no response.

President Mack asked if there were any comments from anyone attending via “Zoom” Hybrid”; there was no response.

President Mack stated that there will be a formal public hearing this evening repeating three times; “Are there any comments or questions from the public”; there was no response and the public hearing was closed.

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

Councilman P. Przybylinski stated that he feels more money should be put into this fund from the Redevelopment Commission, asking for the list of names that are being proposed for this second grant; questioning Skyler York, City Planner about the paving of Mayfield Drive.

Discussion ensued between Attorney Meyer, City Engineer Wright, Council members Deutch, Zygas, Dabney, and Mack regarding Paser ratings throughout the city, names of street each council member would like repaired and paved in their wards, scheduling what is going to be done the rest of 2021.

Councilwoman Deutch asked City Engineer Wright to do a three-year plan for streets he proposing to repair and pave and forward it to each council members.

Councilman P. Przybylinski stated the City Engineer Jeff Wright is doing a fantastic job as the Engineer; Going back to Mayfield Ave, I was told by Mr. Wright that it is on the schedule and will be done next year, so I believe that anything we are trying to do here is not going to have an effect on Mayfield Ave. as far as finance goes.

Councilman Fitzpatrick stated he appreciates the sentiment of the Paser Rating but feels he should be able to fight for his Ward or streets his Constituents are telling him about.

Councilman Fitzpatrick thanked Engineer Jeff Wright for attending the Council Meeting and for giving a statement on what the plans are on this project, but asked if Mr. Wright could present a workshop to show how this operation will take place and how these plans work.

City Engineer Jeff Wright stated that yes, they can present a workshop.

Councilman P. Przybylinski stated he appreciates Engineer Jeff Wright is in attendance and would like to ask Mr. Wright which Ward has the worst Paser Rating on roads and Do you Mr. Wright believe that with the discussions that have taken place concerning Mayfield Ave. that we should wait until people put in their tabs before we do any work

City Engineer Jeff Wright stated that looking at the Paser Map overall I believe it is the 2nd Ward that needs the most work; I do not know the history of Mayfield Ave., but I do know that there is a developer coming and that the developer wants to put taps in which needs to be completed before the roads get paved.

President Mack asked if there were any other comments or questions from the council; there was no response advising the proposed ordinance will be held over to third reading until June 15, 2021 Council meeting.

Deputy Clerk DeBald read the following proposed ordinance on second reading by title only, **APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE RIVERBOAT FUND FOR LOCAL MATCH OF THE COMMUNITY CROSSINGS MATCHING GRANT FOR THE CLEVELAND AVENUE PROJECT**

**Introduced by: Angie Nelson Deutch
Dalia Zygas**

(DECREASE Riverboat Fund 2042 Unappropriated balance \$350,000.00 INCREASE ACCOUNT#2042 114.443.030 - \$350,000.00 Capital Outlay – Streets)

President Mack asked if either of the authors had anything to add at this time.

Councilwoman Deutch stated this is in reference to the Cleveland Avenue Project that initially wanted \$400,000 from the MVH Fund; advising the Redevelopment Commission appropriated \$350,000 additional monies toward the match for the Cleveland Avenue project, so this \$350,000 is an additional appropriation from the Riverboat Fund is to complete that Project.

President Mack asked if there were any comments from the author; there was no response.

President Mack asked if the public had any comments or questions; there was no response.

President Mack asked if the Council had any comments or questions.

Councilman P. Przybylinski stated that he believes the TIF District is sitting on enough money that they could pay this \$350,000 stating that if we take this \$350,000 out of the Riverboat we can put it into paving in the areas over the entire City; advising that South end TIF fund has over \$5 million dollars in tax payers revenue we could be using.

Councilman D. Przybylinski agreed with Councilman P. Przybylinski that the \$700,000 TIF monies should be used for the paving of all City streets, with \$5 million in the South end TIF that Cleveland Avenue was put in by the Redevelopment and Mayfield Ave. has been in horrible condition for years so who's responsibility is it to fix that street, does it fall back on the tax payers or should it fall back on the TIF who has the funds.

President Mack stated that he had read an article in the Northwest Indiana Times today that Lake County is allowing their residence to visit Community Centers or Athletic Facilities for free, we have had the Bule Chip Casino for quite some time which has funded things, but what needs to be done with these funds is a Community Center and a Recreation Center; somewhere where these children can develop and grow into stronger and better people.

Councilwoman Deutch stated the reason why the \$350,000 from the Riverboat happened was because the Cleveland Ave Project originally requested \$490,000 from the MVH Fund and the concern was utilizing that MVH Fund in the South End and that is why this appropriation came about; this is a Grant that has already been awarded to us and we have to match it, so we had to find the money to do so and it had to come from somewhere; This was not something that was originally laid out to take priority over any other function in the City this is specifically to get this Project done because it is before us and that is it.

Councilman Fitzpatrick stated that he agrees about getting this Project done that if we need to use Riverboat Funds to get it done right now then so be it, but I also want it known for the record that I introduced the Ordinance to create a "rainy day" fund that would give us more than money to fund these types of projects and any other Projects like a Community Center or more public development, but the Council voted to water the funding down in favor of letting the administration use more of the Riverboat funds for operations; Where can we get the actual balance of the South end TIF from and what will the actual process be to request that the Redevelopment Commission contribute more monies even if it is not for this specific project.

Councilman P. Przybylinski stated in response to Councilman Fitzpatrick comments that he believes the Mayor is the one who controls the Redevelopment Commission and he could suggest to the Chair of the Redevelopment Commission to get things done; How did we even get to Cleveland Ave Project when this Council never even took a vote and days later we find out a Grant was sent.

President Mack asked if there were any other comments or questions from the Council; there was no response advising this ordinance will be held over the third reading at the June 15, 2021 Council meeting.

Deputy Clerk Debald read the following proposed ordinance on second reading by title only, **AUTHORIZING ORDINANCE NO 4398 TO BE CODIFIED AS SEC.98-33 OF CHAPTER 98 OF THE MICHIGAN CITY MUNICIPAL CODE & APPROVING REVISED BOUNDARY MAP**

Introduced by: Sean Fitzpatrick
Paul A. Przybylinski

President Mack asked if there were any comments from the authors this evening.

Councilman Fitzpatrick advised he had no comment at this time.

Councilman P. Przybylinski stated this is something that should have been during the last administration.

President Mack asked if there were any comments from the public or “Hybrid” public; there was no response.

President Mack asked if there were any other Council comments, there was no response; stating that the proposed ordinance will be held over to third reading at the June 15, 2021 Council meeting.

Deputy Clerk Debald read the following proposed ordinance on third reading by title only, **PROHIBITING THE USE OF MVP FUNDS FOR CONSTRUCTING OR REPAIRING STREETS WITHIN THE BOUNDRIES OF A CITY TIF DISTRICT**

Introduced by: Paul Przybylinski
Don Przybylinski
Sean Fitzpatrick

President Mack asked if the Authors had anything to add this evening:

Councilman P. Przybylinski stated he wanted to read an email that was sent to Council from Attorney Jim Meyer and after reading the email has decided to remove his sponsorship of this proposed Ordinance.

President Mack asked if there were any other comments from the authors

Councilman D. Przybylinski and Councilman Fitzpatrick both are in agreement with Councilman P. Przybylinski; removing their sponsorship

President Mack asked if any other Council member that would like to sponsor the proposed ordinance; there was no response and the ordinance was removed from the Council.

Deputy Clerk Debald read the following proposed ordinance on third reading by title only,

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4585

CREATING ARTICLE V IN CHAPTER 26 OF THE MICHIGAN CITY MUNICIPAL CODE TO REQUIRE A PERMIT FOR SHORT TERM RENTALS & CREATING SEC 50-167 IN CHAPTER 50 OF THE MICHIGAN CITY MUNICIPAL CODE TO CREATE A FINE

WHEREAS, the City of Michigan City, Indiana, due to its' proximity to Lake Michigan, has seen an increase in owners utilizing residential properties as short term rentals and advertising the same on such sites as AIRBNB and VRBO; and

WHEREAS, I.C. 36-1-24, et seq., provides that a municipality may require an owner of a short term rental to obtain a permit for each property utilized as a short term rental in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property; and

WHEREAS, the Common Council finds that it would be in the best interest of the City and its residents to establish a permitting process for short term rentals within the City.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property, that:

- I. Article V shall be created in Chapter 26 of the Michigan City Municipal Code to read as follows:

Article V. Short Term Rentals.

Sec. 26-325. Definitions.

The definitions as set forth by I.C. 36-1-24, et. seq., shall apply to this Article:

Owner means a person that has an interest in title or a present possessory interest in property that is offered to the public as a short term rental.

Owner occupied short term rental property means property that is the owner's primary residence and is offered to the public as a short term rental.

Permit means a short term rental permit issued by the City of Michigan City, Indiana.

Permitted property means a property that is subject to a valid, unexpired, unrevoked permit issued under this Chapter. A permitted property may contain one (1) or more dwelling units offered as short term rentals.

Short term rental means the rental of:

- (1) a single family home;
- (2) a dwelling unit in a single family home;
- (3) a dwelling unit in a two-family or multifamily dwelling; or
- (4) a dwelling unit in a condominium, cooperative, or time share;

for terms of less than thirty (30) days at a time through a short term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single family residential use. The term does not include property that is used for any nonresidential use.

Short term rental platform means an entity that:

- (1) provides a platform through which unaffiliated parties offer to rent a short term rental to an occupant; and
- (2) collects consideration for the rental from the occupant.

Sec. 26-326. Short Term Rental Permits.

- (a). **Permits Required.** An owner must obtain a permit for each property utilized as a short term rental in Michigan City, however, only (1) permit is required for each single family home, two-family or multifamily dwelling, condominium, cooperative, or time share that an owner rents in whole or in part. A permit covers all:
- (1) dwelling units; and
 - (2) detached accessory structures;
- located on the permitted property that the owner offers to the public as a short term rental.

All owners utilizing a property as a short term rental at the time of adoption of this Ordinance, shall obtain the necessary permit(s) required by this Article by July 1, 2021.

- (b). **Permit Application(s).** An owner must submit a permit application for each property for which a permit is sought to the Michigan City Planning & Inspection Department. If the owner is a corporation, partnership, or other legal entity, the permit application must be made by an officer or agent of the owner. The permit application shall require the owner to provide only the following information for each property:
- (1) The owner's name, street address, mailing address, electronic mail address, and telephone number. If the owner is a corporation or partnership, the application must require the:
 - (A) Owner's state of incorporation or organization; and
 - (B) Names, residence addresses, and telephone numbers of the owner's principal officers or partners.
 - (2) If a property manager is used, the property manager's name, street address, mailing address, electronic mail address, and telephone number.
 - (3) A short description of how each of the owner's short-term rentals on the property are marketed or advertised, including the following:
 - (A) The advertised occupancy limits of each short-term rental.
 - (B) Whether the short-term rental is:
 - (i) A single family home.
 - (ii) A dwelling unit in a single family home;
 - (iii) A dwelling unit in a two-family or multifamily dwelling; or
 - (iv) A dwelling unit in a condominium, cooperative, or time share.
- (c). **Permit Fee & Expiration of Permit.**
- (1) A permit expires one (1) year after the date the permit is issued.
 - (2) The fee for an initial permit (and reissuance if the permit is revoked) is established as set forth in Sec. 50-167(a). The permit must be renewed annually with updated information with no fee for renewal.
- (d). **Issuance of Permit.** Subject to subsection (e) below, if an owner submits a permit application under this Article that meets the requirements set forth in this Article, the Michigan City Planning & Inspection Department shall issue a permit to the owner within thirty (30) days of receipt of the application.

- (e) **Re-Application for Permit Previously Revoked.** An owner may apply for a permit for a short-term rental for which a previous permit of the owner was revoked by the unit. However, a new permit may not be issued until any outstanding fines are paid for ordinance violation citations issued to the owner with regard to use of the short-term rental.
- (f) **Duty of Owner to Update Application Information.** If any information provided by an owner to the City in the permit application changes, the owner shall provide updated information to the Planning & Inspection Department in writing within thirty (30) business days after the change.
- (g) **Non-Transferrable.** If an owner sells all or part of a permitted property, the permit may not be transferred to the new owner. The new owner must submit an application for a new permit and pay the initial permit fee.

Sec. 26-237. Revocation of Permit.

- (a) **Ordinance Violations.** If three (3) or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the Michigan City Planning & Inspection Department may revoke the permit for that permitted property for a period of not more than one (1) year after the date the permit is revoked.
- (b) **Notice & Hearing.**
 - (1) **Written Notice.** Whenever the Michigan City Planning & Inspection Department determines that there are reasonable grounds to believe that a permit should be revoked, the Department shall give notice of the alleged violation and of the revocation to the owner. The notice shall be in writing, including the statement of the reason(s) why it is being issued and be served upon the owner. The notice shall be deemed to be properly served upon the owner if a copy thereof is sent by registered or certified mail to the owner at the address of the owner as listed on the permit application.
 - (2) **Hearing.** The owner may request and shall be granted a hearing on this matter before the Michigan City Board of Public Works and Safety. The owner 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 owner written notice thereof. At the hearing, the owner shall be given an opportunity to be heard and to show why the notice should be denied. The hearing shall be open to the public.
 - (3) **Decision and Order.** After the hearing, the Michigan City Board of Public Works & Safety shall either sustain or deny the revocation. The Board's decision shall be deemed to be an order and final. 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 City Clerk within ten (10) days after the notice is served. The Michigan City Planning & Inspection Department shall not sit as a member of the Board at the hearing on the petition, but shall be allowed to be present, present evidence, cross examine witnesses, and be cross examined by the Petitioner. The Board of Public Works & Safety shall make findings of facts relative to a decision under this Section, which shall be reduced to writing.

Sec. 26-238. Violations of this Article.

- (a) **Failure to Obtain Permit.** Pursuant to I.C. 36-1-24-18, an owner who rents a short-term rental without first obtaining a valid permit from the

Michigan City Planning & Inspection Department commits a Class C infraction. Each short-term rental transaction that the short term rental provider completes without a short term rental permit constitutes a separate violation of this Article.

- (b) **Failure to Comply with this Article.** With the exception of the violation stated in subsection (a) above, failure to comply with the other terms and conditions of this Article shall be deemed to be a violation of this Article and subject to a fine as set forth in Sec. 50-167(b).

II. Sec. 50-167 shall be created in Chapter 50 of the Michigan City Municipal Code to read as follow:

Sec. 50-167. Initial Permit Fee Short Term Rental & Fine.

- (a) The fee for an initial permit (and reissuance if permit is revoked) as set forth in Sec. 26-326(c) is \$ 0.
- (b) The fine as established by Sec.26-238(b) shall be as follows:
 1st offense: \$250.00;
 2nd offense \$500.00; and
 3rd offense & continuing offenses thereafter: \$750.00.

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

INTRODUCED BY: /s/Dalia Zygas, Member
 Michigan City Common Council

/s/Bryant Dabney, Member
 Michigan City Common Council

/s/Angie Nelson Deutch, Member
 Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 1st day of June, 2021 by a vote of 5 to 4.

/s/ Michael Mack, President
 Michigan City Common Council

(Note: the proposed ordinance was TABLED indefinitely at the May 4, 2021 meeting)

President Mack asked if there were any comments from the authors this evening;

Councilman D. Przybylinski stated he would like to have his name taken off as a sponsor.

Councilwoman Zygas stated we need to remove this off the TABLE because it was TABLED indefinitely; we need to have six (6) Council members to vote in favor to remove it from being TABLED.

Councilwoman Deutch stated she moves to have this ordinance removed off the TABLE, second by Councilman Dabney.

Councilwoman Deutch advised that if the proposed ordinance is taken off the TABLE the Ordinance will have to be amended.

Councilwoman Zygas stated that she had already given Council the Amended Ordinance and the Amendments were made with the suggestions by the Council to

remove the fee and that no sticker identifying the property, so it is just a registration with the police department so that they can contact the owner if there is a problem with the property and repeated offences at the short term rental property; this is a proactive measure.

Councilwoman Deutch asked Councilwoman Zygas if she was making a motion on her amendment.

Councilwoman Zygas made a motion on the amendment; second by Councilwoman Deutch.

President Mack advised there has been a motion by Councilwoman Zygas and a second by Councilwoman Deutch

Councilwoman Zygas made a motion to remove the proposed ordinance from being TABLED, second by Councilwoman Deutch with the proposed ordinance being removed from being TABLED by the following vote: **AYES:** Council members Tillman, Dabney, Mack, Deutch, D. Przybylinski, Simmons and Zygas (7). **NAYS:** Council members Fitzpatrick, and P. Przybylinski (2).

Councilman P. Przybylinski stated that to remove this from being TABLED; you must have a unanimous vote on a third reading.

Councilwoman Deutch stated that the rule had been changed to two thirds vote, you can ask for unanimous consent, but because of the change in rules you must do a roll call.

Attorney Jeff Meyer agreed with Councilman Deutch that due to the new rules roll call must be taken and Council only needs two thirds vote and if amendments should be allowed on third reading.

President Mack advised Councilwoman Zygas made a motion for amendments, second by Councilwoman Deutch asking Deputy Debald to take the roll call.

President Mack stated there is a motion and a second with the ordinance allow amendments with the motion being approved to make amendments on third reading by the following vote: **AYES:** Council members Dabney, Mack, Deutch, D. Przybylinski, Simmons and Zygas (6). **NAYS:** Fitzpatrick, P. Przybylinski, and Tillman (3).

President Mack asked if there was anyone from the public who comments or questions this evening; there was no response.

President Mack asked if there are any Council comments.

Councilman Fitzpatrick stated this is a discriminatory ordinance; advising if the Council wants to vote on this it is their right but I am going to make sure that the public knows how he feels; that amendments should be made to this proposed ordinance about long term rentals and having to register if you are a landlord regarding the proposed penalties and fines.

Councilman Dabney stated there is an Indiana State Law that put these regulations in place about Short Term Rentals being discriminatory, so I do not know how this Council is being discriminatory when we are following a State Law.

Councilman D. Przybylinski advised that he doesn't feel there is a need for this ordinance and that is why he took his name off as a co-sponsor; stating several reasons why he doesn't support what is being proposed this evening.

Councilman P. Przybylinski stated that he agrees with both Councilman Fitzpatrick and Councilman D. Przybylinski; asking if anyone can advise how many tickets were written

if any for loud noise violations in past few years or is this Council just trying to pass an Ordinance to make a few people feel better.

Councilman Dabney advised that private owned homes in many residential areas are turning homes next to them into a business renting them for short periods of time; and these residents are dealing with violation being made, and having to call the Police for assistance; with someone coming outside of the house that is being rented challenging that person for calling the police on them which in return is making these citizens scared to call the police. Stating sometimes it takes a Legislative Body to put something into place to help protect our community and have peace in the neighborhoods this just needs to be regulated because Air B & B's are happening all over Michigan City.

Councilwoman Zygus stated that this is not going to be a burden on the Michigan City Police because they will be registering in the Planning Department and when the address goes into a database the Police report address goes in that way they can keep track and hopefully they can notify the owners of the property while those people are still renting so they can be fined; I want the Air B & B's because it keeps a lot of people visiting our city and will bring money to our local businesses.

President Mack stated he agrees with Councilwoman Zygus on a lot of points that she made and regulating traffic and businesses through taxes is normal in the United States.

Councilwoman Deutch stated that she did not have any constituents come to her about the Air B & B, but would like to say lets' not penalize anyone or chastise anyone; this is happening everywhere and it needs to stop let's just vote on stuff or take it off the TABLE.

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

Councilman P. Przybylinski stated we don't need to have this regulation and why aren't people getting ticketed for disturbing the peace or being a nuisance; if we need to have someone registered on noise violations; the noise issues should be in place and regulated in all neighborhoods.

Councilman D. Przybylinski stated in response to Councilwoman Deutch that he just wants everyone to be able to look at the facts, numbers, etc. and at the end of the 2021 season bring the proposed ordinance back to the council and take another look at what may need to be amended.

Councilwoman Deutch stated that just because this is an Ordinance on Air B & B does not mean we are belittling other crime issues in the City and when constituents bring forth an issue, we try to address it without demeaning each other.

Councilwoman Deutch made a motion to approve the amendments; second by Councilman Dabney.

President Mack stated the amendments were approved by the following vote: **AYES:** Council members Mack, Deutch, Simmons, Dabney and Zygus (5). **NAYS:** Council members Fitzpatrick, P. Przybylinski, D. Przybylinski, and Tillman (4).

A motion was made by Councilwoman Zygus to adopt the proposed amended ordinance; second by Councilwoman Nelson Deutch.

The proposed ordinance was adopted by the following vote: **AYES:** Council members Mack, Deutch, Simmons, Zygus, and Dabney (5). **NAYS:** Council members D. Przybylinski, Tillman, P. Przybylinski, and Fitzpatrick (4).

NEW BUSINESS

FYI: Minority Health Partners of LaPorte County, Inc. has re-appointed to the Michigan City Commission for Woman (term expired on December 21, 2019) Incumbent Ms. Albertine Allen.

UNFINISHED BUSINESS

NOMINATIONS: The Council has one (1) appointment to the Youth Leadership Commission representing “Marquette High School” (term expires 06-01-21) Incumbent: Travon Moore

President Mack stated the Mayor is requesting the advice and consent of the members of the Michigan City Common Council regarding his appointment of Mr. James Mellowitz as member of the Michigan City Tree Board (term begins immediately and expires July 1, 2024).

President Mack asked if Mr. Mellowitz was present and wanted to speak.

Mayor Parry stated he has Mr. Mellowitz on the phone and stated he zoomed into the link but has no audio, can I hold up the phone so he can speak if acceptable to the Council.

President Mack stated that Mayor Parry could hold up his phone so Council can speak to Mr. Mellowitz.

James Mellowitz advised that he would be happy to answer any questions the Council may have.

Discussion ensued between Mr. Mellowitz and Council members, Dabney, D. Przybylinski, P. Przybylinski and Fitzpatrick regarding his qualifications and interest he has serving on the Tree Board.

Councilman D. Przybylinski made a motion to appoint Mr. Mellowitz to serve on the Tree Board, second by Councilwoman Nelson Deutch; with his appointment approved by the following vote: **AYES:** Council members Deutch, D. Przybylinski, Simmons, Zygas, Fitzpatrick, and Mack (6). **NAYS:** Council members P. Przybylinski, Tillman, and Dabney (3).

COMMENTS FROM THE MAYOR

President Mack asked if Mayor Parry had any comments.

Mayor Parry stated he did not have any comments at this time.

COMMENTS FROM THE PUBLIC

President Mack asked if there were any Public comments:

Tommy Kulavik from 1316 Ohio Street stated he had a couple of special announcements; The Michigan City Track team is heading to Indianapolis for the ISHA State Finals at Ben Davis High School; and that the Michigan City Soul Steppers Drill Team will be celebrating their 21st anniversary by hosting the 14th annual Show Up and Show Out on June 19, 2021.

President Mack asked if there were any other public comments, there was no response.

COMMENTS FROM THE COUNCIL

President Mack asked if there were any Council comments.

Councilman P. Przybylinski addressed the email sent by Attorney Meyers about the Motor Vehicle Highway Fund (MVH); thanked the Veterans for serving our Nation; commented on the information he sent out regarding the street closures that are happening due to the double track project and hoping to have a special meeting/workshop.

Councilman Fitzpatrick stated he wanted to share the Suicide Hotline 1-800-273-8255 which is a 24-hour helpline; Councilman Fitzpatrick stated that it is June 1, 2021 and that he still has zero confidence in Mayor Parry.

President Mack asked if there were any other Council comments.

President Mack thanked all the retail workers in Michigan City for all their hard work and good service.

ADJOURNMENT

A motion by P. Przybylinski, second by Councilwoman Nelson Deutch and there being no further business to transact, President Mack declared the meeting **ADJOURNED** (approximately 8:52 p.m.)

Gale A. Neulieb