

# REGULAR MEETING – November 4, 2020

The Common Council of the City of Michigan City, Indiana, met in a Regular session on Wednesday evening, November 4, 2020 at the hour of 6:30 p.m., local time, at the Michigan City Senior Center, 2 on the Lake, Michigan City, IN.

The meeting was called to order at 6:30 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, Angie Nelson Deutch (called into the meeting) Don Przybylinski, Paul Przybylinski, Gene Simmons, Dalia Zygas and Tracie Tillman (9).

**ABSENT:** None (0).

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

Councilwoman Deutch was not able to participate in the votes.

## **A QUORUM WAS NOTED PRESENT**

### **APPROVAL OF MINUTES**

President Fitzpatrick inquired whether there were any corrections, deletions, or additions to the minutes of the Regular meeting of October 20, 2020.

President Fitzpatrick asked for a motion to approve the minutes of the Regular meeting October 20, 2020; with a motion from Councilman P. Przybylinski, second by Councilman D. Przybylinski. The minutes were approved as printed 8– 0.

### **REPORTS of STANDING COMMITTEES**

Chairman Dabney presented the following Finance Committee minutes;

The Finance Committee meeting was called to order at 6:09 p.m. by Chairman Dabney to review claims filed since the last meeting. Committee member Tillman was present as was present as well as Council members Zygas and Simmons. City Controller Yvonne Hoffmaster was in attendance as well as City Attorney Jim Meyers. Claims reviewed totaled \$2,283.50 from the Riverboat Fund, and \$0.00 from the Boyd Development Fund, for a total docket of \$2,283.50.

There were no other issues discussed in the meeting. Councilwoman Tillman moved to recommend approval of the docket, and with a second by Councilman Dabney, the motion was approved unanimously 2-0. On a motion made by Councilman Dabney and a second by Councilwoman Tillman, the meeting was adjourned at 6:19 p.m.

The summary of claims are as follows:

#### **From the Riverboat Fund:**

Ace Auto Body Service - \$175.00

Cloverleaf Garage, Inc - \$150.00  
 Enterprise Rent-a-Car - \$1,209.10  
 Haas & Associates - \$749.40

**TOTAL from Riverboat Fund: \$2,283.50**

**From Boyd Development:**

**TOTAL from Boyd Development: \$0.00**

**TOTAL CLAIMS DOCKET - \$2,283.50**

### **CLAIM DOCKET**

President Fitzpatrick read the claims dockets as follows:

<b>November 4, 2020</b>	<b>Riverboat/Boyd Claim Docket</b>		
	<b>Fund #2042 – Riverboat – Claims-</b>	<b>\$</b>	<b>2,283.50</b>
	<b>EFT</b>	<b>\$</b>	<b>0.00</b>
	<b>Fund #2031 – Boyd – Claims-</b>	<b>\$</b>	<b>0.00</b>
	<b>TOTAL CLAIMS</b>	<b>\$</b>	<b>2,283.50</b>

President Fitzpatrick asked if there was a motion to approve the claims from November 4, 2020; Councilman Dabney made a motion to approve the claims; second by Councilwoman Tillman.

President Fitzpatrick asked all in favor to pay the claims signify by saying “AYE” all responded “AYE” those opposed; NAY: Councilman P. Przybylinski (1). Claims were approved (7-1).

### **REPORTS of SPECIAL or SELECT COMMITTEES**

President Fitzpatrick asked if there were any Reports of Special or Select Committees;

President Fitzpatrick advised the Public Health and Safety Committee met this evening to review and discuss the proposed ordinance **REPEALING ORDINANCE NO. 4546 ENTITLED “ESTABLISHING RULES FOR ATTENDANCE AT AND THE USE OF WASHINGTON PARK AND PENALTIES FOR VIOLATING SAME FOR VIOLATING PARK DEPARTMENT RULES CONCERNING THE USE OF WASHINGTON PARK AND THE ZOO”**

Councilwoman Deutch presented the following minutes from the November 4, 2020 Public Health and Safety committee meeting;

The Public Health and Safety committee meeting was called to order on Wednesday, November 4<sup>th</sup> at 3:30 p.m. by Chair Angie Nelson Deutch. Committee members Mack and Fitzpatrick were present. Council members Dabney, P. Przybylinski and Tillman were present. Park Superintendent, Ed Shinn and Assistant Superintendent, Shannon Eason were both present. A. Deutch shared the conversation she had with the Park department on a plan moving forward and possible policy changes. Councilman Fitzpatrick commented on the need to govern and step in when needed and not repeal until a plan is in place. Councilman Mack commented on starting with a clean slate and seeing a plan.

The author of the amendment, Councilman Bryant Dabney, shared his thoughts on the impact of having a restrictive ordinance in place and encouraged using policy instead of legislation to allow the Park Department the flexibility to manage operations. He also read a statement from co-author, Councilwoman Zygus, which shared some the same sentiments.

The Park Department shared their concerns and also would like to see the ordinance repealed to allow them the flexibility to manage operations. He also read a statement from co-author, Councilwoman Zygas which shared some of the same sentiments. The Park Department shared their concerns and also would like to see the ordinance repealed to allow them the flexibility to manage day to day activities. E. Shinn shared that the plan he shared was a preliminary plan to start dialogue. Councilman P. Przybylinski spoke about the reason for the initial ordinance. He reached out to Police Chief Campbell to discuss strategies for the park. He stated we can make amendments to make the ordinance better versus repealing. He mentioned the crowds and the shooting that took place during the summer. He expressed his concerns about the operations and the plan. Councilwoman Tillman expressed she agrees with many of the comments. She believes a resolution or something specific to the Pandemic should be in place. Councilman Mack stated data is needed to make a future plan. The committee decided to not make a recommendation on the repeal since this is a contentious issue. Committee wrapped up with comments from the Council members Dabney and P. Przybylinski.

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

President Fitzpatrick asked if there were any Reports of Other City Officers and Departments; there was no response.

### **PETITIONS**

President Fitzpatrick asked if there were any petitions; there was no response.

### **COMMUNICATIONS**

President Fitzpatrick asked if there were any communications;

Clerk Neulieb stated correspondence was received in the Clerk's Office on October 22, 2020 regarding a Notice of Tort Claim from Kenneth J. Allen Law Group, LLC.

Correspondence was received in the Clerk's Office on October 22, 2020 from Mayor Parry addressing his Veto to Ordinance No. 4548 **AMENDING MUNICIPAL CODE SECTION 2-457 COMMISSION ON THE SOCIAL STATUS OF AFRICAN AMERICAN MALES**

Clerk Neulieb read the follow correspondence received from Mayor Parry in its entirety;

Dear Members of the Council,

After review of subject Ordinance 4548 I am saddened to inform you that I have vetoed this ordinance for the following reasons:

First, the ordinance identified one of its appointees to come from the Welfare to Work Program, an entity that no longer exists, clearly documented in Ordinance 3914 and placed into effect March 4, 2014.

Secondly, there are two (2) agencies listed in the Ordinance that are incorrectly identified, Minority Health Coalition and Michigan H.O.P.E. Minority Health Coalition in 2018 changed its name to Community Advocates of Northern Indiana, as documented in Ordinance 4472 and placed into effect April 9, 2018. There is no organization by the name Michigan H.O.P.E., its legal name is Helping our People Excel, which goes by the simple abbreviation H.O.P.E.

Also, my review of all documents related to the Commission on the Social Status of African-American Males since its inception indicate the intention of Michigan City Government has been to maintain as close as possible an equal number of Commission members appointed by each entity, the Mayor and Council. This ordinance amendment violates that intention, having nine (9) members appointed by the Council and only six (6) from the Mayor.

Finally, if the Council increases the membership of the Commission from thirteen (13) to fifteen (15), which is not reflected in the approved 2021 budget, it will be responsible for the first budgetary over expenditure in 2021.

Please consider my comments before you proceed with this ordinance. Thank you.

Mayor Duane Parry

Councilwoman Tillman made a motion to override the veto; second by Councilman P. Przybylinski.

President Fitzpatrick asked if there were any comments or concerns from the Council;

Councilman Dabney questioned if the organizations that is in this and doesn't exist in; will it be overridden.

President Fitzpatrick advised the corrections the Mayor pointed out in his letter will be corrected by the proposed amended Ordinance and will be read on 1<sup>st</sup> reading this evening.

Councilwoman Deutch explained there are two (2) proposed ordinances on the agenda this evening; one will be used if the veto is overridden and one if it is not; advising the one that is not used she will withdraw.

President Fitzpatrick stated Ordinance No. 4548 language was amended by Councilwoman Tilman and then adopted by the Council with a 9-0 vote; advising the budgetary over expenditure the Mayor was referring to in his letter is additional monies for the additional member in Ordinance 4548.

Discussion ensued between Councilman P. Przybylinski and Councilwoman Tillman advising that there wasn't any input from the administration before Ordinance 4548 was adopted when this Ordinance was read by title only on 2<sup>nd</sup> or 3<sup>rd</sup> readings.

President Fitzpatrick advised Councilwoman Zygas that the organizations/entities in question have always been on the Commission, but their names changed over time, with the City not being notified to change it in the recent ordinance.

Councilman Dabney stated that the Social Status Commission was never notified regarding the proposed amendments; with Councilwoman Tillman advising she had sent a notification to everyone.

President Fitzpatrick asked if there was anyone from the public that had any comments; there was no response.

President Fitzpatrick asked if there were any other comments from the Council; hearing none; the veto was overridden by the following vote: **AYES:** Council members P. Przybylinski, Tillman, Fitzpatrick, Mack, D. Przybylinski, Simmons and Zygas (7) **NAYS:** Council member Dabney (1).

**RESOLUTION**

The Clerk read the following proposed resolution by title only,

**MICHIGAN CITY COMMON COUNCIL****RESOLUTION NO. [4792](#)****A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING PHM BRANDS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR REAL PROPERTY, PURSUANT TO INDIANA CODE 6-1.1-12.1**

**WHEREAS**, a Deduction for Rehabilitated or Redevelopment of Real Property in Economic Revitalization Areas is authorized under Indiana Code 6-1.1-12.1 *et seq.* (the "Act") in the form of deductions of assessed value for: (i) qualified real property improvements under Section 3; (ii) the installation of qualified personal property under Section 4.5; and (iii) of the occupancy of an eligible vacant building primarily used for commercial or industrial purposes under Section 4.8 of the Act, each as a result of new development, redevelopment and/or rehabilitation; and

**WHEREAS**, Resolution No. 4733 (the "ERA Resolution") of the Common Council of the City of Michigan City, Indiana (the "Common Council"), as approved and adopted on November 20, 2018, designated and established a certain area located within the City of Michigan City, Indiana (the "City"), being the entire corporate municipal jurisdiction of the City, as the Economic Revitalization Area (the "ERA"); and

**WHEREAS**, The ERA Resolution remains in full force and effect as adopted and approved, such that the designation of the ERA and the effectiveness of the ERA Resolution expires on December 31, 2022; and

**WHEREAS**, **PHM Brands LLC** (the "Company"), pursuant to Section 3(a) of the Act has filed with the Common Council a **Statements of Benefits Real Property (FORM SB-1/Real Property)** (the "Statement of Benefits") dated October 5, 2020, **EXHIBIT A** attached hereto, which proposes adding to their facility in Michigan City and relocating personal property and equipment and setting up manufacturing facilities (the "Project") constructed on real property located at 1700 E Hwy 12 in the City (real property tax numbers: 46-01-21-462-001.000-022 and 46-01-21-462-002.000-022.

**WHEREAS**, the Company, upon approval of economic development incentive(s) by the City, intends to implement redevelopment and rehabilitation improvements to facilities and structures related to the Project during the period of November 1, 2020 through December 31, 2021 in a total amount anticipated to be **\$1,100,000** for the Project, to be fully assessed by **January 1, 2022 (the "Assessment Date")**.

**WHEREAS**, The Economic Development Corporation, Michigan City, Indiana ("EDCMC") submitted to the Common Council, as the designating body pursuant to Section 3 of the Act, the following documents related to the Company's request for an assessed valuation deduction of qualified real property within the ERA: (i) the Statement of Benefits ("FORM SB-1/Real Property") as completed and (ii) other supplemental information related to said request for an ERA assessed valuation deduction; and

**WHEREAS**, The Common Council has confirmed that the Company's facility located at 1700 E Hwy 12 is within the boundaries of the ERA, and therefore the Common Council may make a determination pursuant to Section 3 of the Act, based upon the evidence, as to whether Company shall be allowed an assessed valuation deduction of qualified real property investments made within the ERA.

**NOW, THEREFORE, BE IT RESOLVED** that the actions of the Common Council of the City of Michigan City, Indiana pursuant to Section 3 of the Act are based upon the evidence as presented by the Company after review of the Statement of Benefits as well as other pertinent information provided by the EDCMC and upon the following findings in the affirmative also pursuant to Section 3(b) of the Act, that:

1. The Project is reasonable for a project of its nature;

2. The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project;
3. The estimated annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project; and
4. The totality of the benefits is sufficient to justify an assessed valuation deduction as a result of the Project.

**BE IT FURTHER RESOLVED** that pursuant to Section 2(k) of the Act, the Common Council acknowledges that the Project is not located within a designated allocation area of the Redevelopment Commission of Michigan City, Indiana under Indiana Code 36-7-14-39 or Indiana Code 35-7-15.1-26.

**BE IT FURTHER RESOLVED** that the Common Council hereby grants the Company an assessed valuation deduction (Tax Abatement) from qualified real property investments limited to a private investment or cost of \$1,100,000 for redevelopment and rehabilitation activities to structures and facilities by the Company between November 1, 2020 and December 31, 2021, which is anticipated to be fully assessed on Assessment Date, being not later than January 1, 2022, all in accordance with the Act as it relates to the Project and as identified on the Statement of Benefits.

**BE IT FURTHER RESOLVED** that the final determination of the amount of assessed valuation deduction of the Project for investments in qualified real property shall be made by the appropriate Michigan Township Assessor, LaPorte County, Indiana, review board, or State of Indiana agency.

**BE IT FURTHER RESOLVED** that pursuant to Sections 3(c) and 17 of the Act, the Common Council, based upon its affirmation of criteria pursuant to Section 3(b) of the Act as stated above, hereby grants the Company an assessed valuation deduction period of **seven (7) years** on fully assessed real property from the Assessment Date for which said deduction percentage schedule for qualified real property applies over said seven (7) year abatement period, more specifically identified in **EXHIBIT B** attached hereto.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as set forth in **EXHIBIT B** during the seven (7) year abatement period is attached hereto in order to meet the requirements of Sections 3(c) and 17 of the Act.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as identified in **EXHIBIT B** shall begin upon the completion and the full assessment of real property improvement as a result redevelopment and rehabilitation activities related to the Project (anticipated to be not later than January 1, 2022 as the Assessment Date) by the appropriate assessing authority, regardless of the expiration date of the ERA as stated the ERA Resolution.

**BE IT FURTHER RESOLVED** that the Common Council may impose a fee on the tax savings realized by the Company pursuant to Section 14 of the Act as a result of the application of an ERA deduction as calculated and applied by the Office of the LaPorte County, Indiana Auditor.

**BE IT FURTHER RESOLVED** that, pursuant to Ordinance No. 4417 of the Common Council, adopted and approved on January 3, 2017 and having received the written consent of the Company in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof and incorporated herein, and pursuant to Section 14(b) of the Act, for each year the Company's real property tax liability is reduced by an assessed valuation deduction related specifically to the construction and the full assessment of real property as a result of the Project, the Company shall pay to the LaPorte County, Indiana Treasurer a fee in the amount computed and determined by the LaPorte County, Indiana Auditor pursuant to the provisions of Section 14(c) of the Act (the "Imposed Fee") such that:

1. The Common Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the LaPorte County, Indiana Auditor for purposes of STEP TWO of Section 14(c) of the Act;

2. Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of real property taxes that would have been paid by the Company during that year if the deductions approved in this Resolution had not been in effect, i.e., 15% of the Company's real property tax savings attributable to a deduction from the assessed valuation from the Project; and
3. Pursuant to Section 14(d) of the Act, the Imposed Fee, as collected, shall be distributed to the **Economic Development Corporation, Michigan City, Indiana** as a tax exempt governmental (nonprofit) entity established to promote economic development within the corporate limits of the City as determined by the Common Council as the designating body.

**BE IT FURTHER RESOLVED** that the Company has agreed to the following imposed reasonable conditions during the abatement period upon approval of an assessed valuation deduction for real property as herein specified and authorized under Section 2(i)(6) of the Act and to be included under Item D (page 2) of the approved FORM SB-1/Real Property:

Condition #1: The Company understands and agrees that the annual deduction to be applied **shall be limited to the of assessed valuation of \$1,100,000 of private investment or cost of real property improvements** during the seven (7) year abatement period as a result of ERA assessed valuation deductions from incremental real property improvements assessed. The City from the first year of the abatement period for which a real property assessed valuation deduction is applied, and for the duration of the seven (7) year abatement period, shall annually

cause to be prepared a schedule monitoring the annual, total and cumulative tax savings realized.

**BE IT FURTHER RESOLVED** that the City agrees not to impose a claw back provision for tax savings for any tax years in which the Company complies with the Statement of Benefits, the annual filings required pursuant to the Act, the conditions of this Resolution and the reasonable and timely payment of an applicable Imposed Fee during the seven (7) year abatement period for which an ERA assessed valuation deduction is applied.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the Assessor for Michigan Township, Indiana and the Office of the LaPorte County, Indiana Auditor as it applies to this Resolution and the approval of the Company's assessed valuation deduction, more specifically the following documents or information:

1. The Statement of Benefits, as approved, properly completed consistent with this Resolution and as signed and attested by the appropriate City officials;
2. A certified copy of this Resolution; and
3. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

This Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon approval of the Mayor.

**INTRODUCED BY:** /s/ Paul Przybylinski, Member  
Michigan City Common Council

/s/ Sean Fitzpatrick, Member  
Michigan City Common Council

**NOTE: Exhibits A, B, C and D are filed in the Clerk's Office in file CR-101 attached to Resolution No. 4792.**

President Fitzpatrick asked if the author had anything to add at this time;

Councilman P. Przybylinski stated that Mr. Hulse was present to answer any questions the Council had regarding the proposed tax abatement resolution.

Clarence Hulse, MCEDC Director addressed the Council advising what PHM Brands LLC is a hemp processing company and will be bringing good jobs with great benefits to our community and residents.

Scott Freeburn, Vice President of Engineering representing PHM Brands LLC addressed the council regarding the location of their company and the plans they have for the upcoming year.

President Fitzpatrick asked if there was anyone from the public that wished to speak on the proposed resolution; there was no response.

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

Councilman D. Przybylinski made the motion to adopt the proposed resolution; second by Councilman P. Przybylinski.

President Fitzpatrick asked all in favor of adopting the proposed resolution to signify by saying "AYE" all responded "AYE" those opposed; there was no response. The resolution was adopted vote 8 – 0.

The Clerk read the following proposed resolution by title only,

## MICHIGAN CITY COMMON COUNCIL

### RESOLUTION NO. [4793](#)

#### **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING PHM BRANDS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR REAL PROPERTY, PURSUANT TO INDIANA CODE 6-1.1-12.1**

**WHEREAS**, a Deduction for Rehabilitated or Redevelopment of Real Property in Economic Revitalization Areas is authorized under Indiana Code 6-1.1-12.1 *et seq.* (the "Act") in the form of deductions of assessed value for: (i) qualified real property improvements under Section 3; (ii) the installation of qualified personal property under Section 4.5; and (iii) of the occupancy of an eligible vacant building primarily used for commercial or industrial purposes under Section 4.8 of the Act, each as a result of new development, redevelopment and/or rehabilitation; and

**WHEREAS**, Resolution No. 4733 (the "ERA Resolution") of the Common Council of the City of Michigan City, Indiana (the "Common Council"), as approved and adopted on November 20, 2018, designated and established a certain area located within the City of Michigan City, Indiana (the "City"), being the entire corporate municipal jurisdiction of the City, as the Economic Revitalization Area (the "ERA"); and

**WHEREAS**, The ERA Resolution remains in full force and effect as adopted and approved, such that the designation of the ERA and the effectiveness of the ERA Resolution expires on December 31, 2022; and

**WHEREAS**, PHM Brands LLC (the "Company"), pursuant to Section 3(a) of the Act has filed with the Common Council a **Statements of Benefits Real Property (FORM SB-1/Real Property)** (the "Statement of Benefits") dated October 5, 2020, **EXHIBIT A** attached hereto, which proposes adding to their facility in Michigan City and relocating personal property and equipment and setting up

manufacturing facilities (the "Project") constructed on real property located at 1700 E Hwy 12 in the City (real property tax numbers: 46-01-21-462-001.000-022 and 46-01-21-462-002.000-022).

**WHEREAS**, the Company, upon approval of economic development incentive(s) by the City, intends to implement redevelopment and rehabilitation improvements to facilities and structures related to the Project during the period of November 1, 2020 through December 31, 2021 in a total amount anticipated to be **\$1,100,000** for the Project, to be fully assessed by **January 1, 2022 (the "Assessment Date")**.

**WHEREAS**, The Economic Development Corporation, Michigan City, Indiana ("EDCMC") submitted to the Common Council, as the designating body pursuant to Section 3 of the Act, the following documents related to the Company's request for an assessed valuation deduction of qualified real property within the ERA: (i) the Statement of Benefits ("FORM SB-1/Real Property") as completed and (ii) other supplemental information related to said request for an ERA assessed valuation deduction; and

**WHEREAS**, The Common Council has confirmed that the Company's facility located at 1700 E Hwy 12 is within the boundaries of the ERA, and therefore the Common Council may make a determination pursuant to Section 3 of the Act, based upon the evidence, as to whether Company shall be allowed an assessed valuation deduction of qualified real property investments made within the ERA.

**NOW, THEREFORE, BE IT RESOLVED** that the actions of the Common Council of the City of Michigan City, Indiana pursuant to Section 3 of the Act are based upon the evidence as presented by the Company after review of the Statement of Benefits as well as other pertinent information provided by the EDCMC and upon the following findings in the affirmative also pursuant to Section 3(b) of the Act, that:

5. The Project is reasonable for a project of its nature;
6. The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project;
7. The estimated annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project; and
8. The totality of the benefits is sufficient to justify an assessed valuation deduction as a result of the Project.

**BE IT FURTHER RESOLVED** that pursuant to Section 2(k) of the Act, the Common Council acknowledges that the Project is not located within a designated allocation area of the Redevelopment Commission of Michigan City, Indiana under Indiana Code 36-7-14-39 or Indiana Code 35-7-15.1-26.

**BE IT FURTHER RESOLVED** that the Common Council hereby grants the Company an assessed valuation deduction (Tax Abatement) from qualified real property investments limited to a private investment or cost of \$1,100,000 for redevelopment and rehabilitation activities to structures and facilities by the Company between November 1, 2020 and December 31, 2021, which is anticipated to be fully assessed on Assessment Date, being not later than January 1, 2022, all in accordance with the Act as it relates to the Project and as identified on the Statement of Benefits.

**BE IT FURTHER RESOLVED** that the final determination of the amount of assessed valuation deduction of the Project for investments in qualified real property shall be made by the appropriate Michigan Township Assessor, LaPorte County, Indiana, review board, or State of Indiana agency.

**BE IT FURTHER RESOLVED** that pursuant to Sections 3(c) and 17 of the Act, the Common Council, based upon its affirmation of criteria pursuant to Section 3(b) of the Act as stated above, hereby grants the Company an assessed valuation deduction period of **seven (7) years** on fully assessed real property from the Assessment Date for which said deduction percentage schedule for qualified real property applies over said seven (7) year abatement period, more specifically identified in **EXHIBIT B** attached hereto.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as set forth in **EXHIBIT B** during the seven (7) year abatement period is attached hereto in order to meet the requirements of Sections 3(c) and 17 of the Act.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as identified in **EXHIBIT B** shall begin upon the completion and the full assessment of real property improvement as a result redevelopment and rehabilitation activities related to the Project (anticipated to be not later than January 1, 2022 as the Assessment Date) by the appropriate assessing authority, regardless of the expiration date of the ERA as stated the ERA Resolution.

**BE IT FURTHER RESOLVED** that the Common Council may impose a fee on the tax savings realized by the Company pursuant to Section 14 of the Act as a result of the application of an ERA deduction as calculated and applied by the Office of the LaPorte County, Indiana Auditor.

**BE IT FURTHER RESOLVED** that, pursuant to Ordinance No. 4417 of the Common Council, adopted and approved on January 3, 2017 and having received the written consent of the Company in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof and incorporated herein, and pursuant to Section 14(b) of the Act, for each year the Company's real property tax liability is reduced by an assessed valuation deduction related specifically to the construction and the full assessment of real property as a result of the Project, the Company shall pay to the LaPorte County, Indiana Treasurer a fee in the amount computed and determined by the LaPorte County, Indiana Auditor pursuant to the provisions of Section 14(c) of the Act (the "Imposed Fee") such that:

4. The Common Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the LaPorte County, Indiana Auditor for purposes of STEP TWO of Section 14(c) of the Act;
5. Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of real property taxes that would have been paid by the Company during that year if the deductions approved in this Resolution had not been in effect, i.e., 15% of the Company's real property tax savings attributable to a deduction from the assessed valuation from the Project; and
6. Pursuant to Section 14(d) of the Act, the Imposed Fee, as collected, shall be distributed to the **Economic Development Corporation, Michigan City, Indiana** as a tax exempt governmental (nonprofit) entity established to promote economic development within the corporate limits of the City as determined by the Common Council as the designating body.

**BE IT FURTHER RESOLVED** that the Company has agreed to the following imposed reasonable conditions during the abatement period upon approval of an assessed valuation deduction for real property as herein specified and authorized under Section 2(i)(6) of the Act and to be included under Item D (page 2) of the approved FORM SB-1/Real Property:

*Condition #1:* The Company understands and agrees that the annual deduction to be applied **shall be limited to the of assessed valuation of \$1,100,000 of private investment or cost of real property improvements** during the seven (7) year abatement period as a result of ERA assessed valuation deductions from incremental real property improvements assessed. The City from the first year of the abatement period for which a real property assessed valuation deduction is applied, and for the duration of the seven (7) year abatement period, shall annually cause to be prepared a schedule monitoring the annual, total and cumulative tax savings realized.

**BE IT FURTHER RESOLVED** that the City agrees not to impose a claw back provision for tax savings for any tax years in which the Company complies with the Statement of Benefits, the annual filings required pursuant to the Act, the conditions of this Resolution and the reasonable and timely payment of an applicable Imposed Fee during the seven (7) year abatement period for which an ERA assessed valuation deduction is applied.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the Assessor for Michigan Township, Indiana and the Office of the LaPorte County, Indiana Auditor as it applies to this Resolution

and the approval of the Company's assessed valuation deduction, more specifically the following documents or information:

4. The Statement of Benefits, as approved, properly completed consistent with this Resolution and as signed and attested by the appropriate City officials;
5. A certified copy of this Resolution; and
6. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

This Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon approval of the Mayor.

**INTRODUCED BY:** /s/ Paul Przybylinski, Member  
Michigan City Common Council

/s/Sean Fitzpatrick, Member  
Michigan City Common Council

**NOTE: Exhibits A, B, C and D are filed in the Clerk's Office in file CR-101 attached to Resolution No. 4793.**

President Fitzpatrick asked if the authors had anything to add at this time;

Councilman P. Przybylinski advised that tax abatements help the companies get the preliminary edge when getting started in our community.

President Fitzpatrick asked if there was anyone from the public that wished to speak on the proposed resolution; there was no response.

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

Councilman D. Przybylinski made the motion to adopt the proposed resolution; second by Councilman Dabney.

President Fitzpatrick asked all in favor to adopt the proposed resolution to signify by saying "AYE" all responded "AYE" those opposed; there was no response. The resolution was adopted vote 8 – 0.

The Clerk read the following proposed resolution by title only,

**MICHIGAN CITY COMMON COUNCIL**

**RESOLUTION NO. [4794](#)**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING HEARTHSTONE FOOD SOLUTIONS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR DEPRECIABLE PERSONAL PROPERTY, PURSUANT TO INDIANA CODE 6-1.1-12.1**

**WHEREAS**, a Deduction for Rehabilitated or Redevelopment of Real Property in Economic Revitalization Areas is authorized under Indiana Code 6-1.1-12.1 *et seq.* (the "Act") in the form of deductions of assessed value for: (i) qualified real property improvements under Section 3; (ii) the installation of qualified personal property under Section 4.5; and (iii) of the occupancy of an eligible vacant building primarily used for commercial or industrial purposes under Section 4.8 of the Act, each as a result of new development, redevelopment and/or rehabilitation; and

**WHEREAS**, Resolution No. 4733 (the "ERA Resolution") of the Common Council of the City of Michigan City, Indiana (the "Common Council"), as approved and adopted on November 20, 2018, designated and established a certain area located within the City of Michigan City, Indiana (the "City"), being the entire corporate municipal jurisdiction of the City, as the Economic Revitalization Area (the "ERA"); and

**WHEREAS**, The ERA Resolution remains in full force and effect as adopted and approved, such that the designation of the ERA and the effectiveness of the ERA Resolution expires on December 31, 2022; and

**WHEREAS, Hearthside Food Solutions, LLC** (the "Company"), pursuant to Section 4.5(a) of the Act has filed with the Common Council a **Statements of Benefits Personal Property (FORM SB-1/PP)** (the "Statement of Benefits") dated October 25, 2020, **EXHIBIT A** attached hereto, which proposes the relocation of existing equipment and the purchase of depreciable personal property machinery and equipment ("PPME") for installation of processing, oven and packaging line to produce crackers (the "Project") on real property located at 502 West Highway 20 in the City (real property tax number: 46-05-08-100-027.000-009) with a personal property tax number of 46-139900511010, and

**WHEREAS**, the Company, upon approval of economic development incentive(s) by the City, intends to relocate existing equipment from other states' operations and purchase new PPME as part of a capital investment plan during the period from November 1, 2020 through December 31, 2021 in a total amount anticipated to be **\$10,000,000** for the Project, to be placed into service and assessed for the January 1, 2022 assessment date (the "Assessment Date").

**WHEREAS**, The Economic Development Corporation, Michigan City, Indiana ("EDCMC") submitted to the Common Council, as the designating body pursuant to Section 4.5(a) of the Act, the following documents related to the Company's request for an assessed valuation deduction of qualified depreciable personal property within the ERA: (i) the Statement of Benefits ("FORM SB-1/PP") as completed and (ii) other supplemental information related to said request for an ERA assessed valuation deduction; and **WHEREAS**, The Common Council has confirmed that the Company's facility located at 502 West Highway 20 is within the boundaries of the ERA, and therefore the Common Council may make a determination pursuant to Section 4.5 of the Act, based upon the evidence, as to whether Company shall be allowed an assessed valuation deduction of qualified depreciable personal property investments made within the ERA.

**NOW, THEREFORE, BE IT RESOLVED** that the actions of the Common Council of the City of Michigan City, Indiana pursuant to Section 4.5(b) of the Act are based upon the evidence as presented by the Company after review of the Statement of Benefits as well as other pertinent information provided by the EDCMC and upon the following findings in the affirmative also pursuant to Section 4.5(b) of the Act, that:

9. The Project is reasonable for a project of its nature;
10. The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project and the installation of depreciable personal property;
11. The estimated annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project and the installation of depreciable personal property; and
12. The totality of the benefits is sufficient to justify an assessed valuation deduction as a result of the Project and the installation of depreciable personal property.

**BE IT FURTHER RESOLVED** that pursuant to Section 2(k) of the Act, the Common Council acknowledges that the Project is not located within a designated allocation area of the Redevelopment Commission of Michigan City, Indiana under Indiana Code 36-7-14-39 or Indiana Code 35-7-15.1-26.

**BE IT FURTHER RESOLVED** that the Common Council hereby grants the Company an assessed valuation deduction (Tax Abatement) from qualified depreciable personal property investments – machinery and equipment ("PPME") as relocated to the State of Indiana and as newly purchased **limited to a cost of \$10,000,000 to be installed and placed into service by the Company between November 1, 2020 and December 31, 2021, which is to be fully assessed on the Assessment Date** to be stated and identified on the Company's FORM 103-Long and FORM 104 filings for a tax identification number to be determined by the Office of the LaPorte County, Indiana

Assessor upon initial filing of said form, all in accordance with the Act as it relates to the Project and as identified on the Statement of Benefits attached to **EXHIBIT A** hereto.

**BE IT FURTHER RESOLVED** that the final determination of the amount of assessed valuation deduction of the Project for investments in qualified depreciable personal property shall be made by the appropriate Michigan Township, Indiana Assessor, LaPorte County, Indiana Assessor, LaPorte County, Indiana review board, or State of Indiana agency.

**BE IT FURTHER RESOLVED** that pursuant to Sections 4.5(c) and 17 of the Act, the Common Council, based upon its affirmation of criteria pursuant to Section 4.5(b) of the Act as stated above, hereby grants the Company an assessed valuation deduction period of **five (5) years** from the first assessment date on which PPME is assessed on a FORM 103-Long and FORM 104 filings, including all required deduction form required by the Act and the Indiana Department of Local Government Finance (the "DLGF") for submission and filing, for which said deduction percentage schedule for qualified depreciable personal property applies over said this five (5) year abatement period, more specifically identified in **EXHIBIT B** attached hereto.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as set forth in **EXHIBIT B** during the five (5) year abatement period is attached hereto in order to meet the requirements of Sections 4.5(c) and 17 of the Act.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as identified in **EXHIBIT B** shall begin upon the installation, placement into service, and the full assessment of depreciable personal property as a result of the Project (to be not later than January 1, 2022) by the appropriate assessing authority, regardless of the expiration date of the ERA as established by the ERA Resolution.

**BE IT FURTHER RESOLVED** that the Common Council may impose a fee on the tax savings realized by the Company pursuant to Section 14 of the Act as a result of the application of an ERA deduction as calculated by the Office of the LaPorte County, Indiana Auditor and as billed by the Office of the LaPorte County, Indiana Treasurer.

**BE IT FURTHER RESOLVED** that, pursuant to Ordinance No. 4417 of the Common Council, adopted and approved on January 3, 2017 and having received the written consent of the Company in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof and incorporated herein, and pursuant to Section 14(b) of the Act, for each year the Company's personal property tax liability is reduced by an assessed valuation deduction related specifically to the installation, placement into service, and the full assessment of depreciable personal property as a result of the Project, the Company shall pay to the LaPorte County, Indiana Treasurer a fee in the amount computed and determined by the LaPorte County, Indiana Auditor pursuant to the provisions of Section 14(c) of the Act (the "Imposed Fee") such that:

7. The Common Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the LaPorte County, Indiana Auditor for purposes of STEP TWO of Section 14(c) of the Act;
8. Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of personal property taxes that would have been paid by the Company during that year if the deductions approved in this Resolution had not been in effect, i.e., 15% of the Company's personal property tax savings attributable to a deduction from the assessed valuation from the Project; and
9. Pursuant to Section 14(d) of the Act, the Imposed Fee, as collected, shall be distributed to the **Economic Development Corporation, Michigan City, Indiana** as a tax exempt governmental (nonprofit) entity established to promote economic development within the corporate limits of the City as determined by the Common Council as the designating body.

**BE IT FURTHER RESOLVED** that the Company has agreed to the following imposed reasonable conditions during the abatement period upon approval of an assessed valuation deduction for PPME as herein specified and authorized under Section 2(i)(6) of the Act and to be included under Item G (page 2) of the approved FORM SB-1/PP:

*Condition #1:* The Company by May 10 of each calendar year during the period for which an ERA assessed valuation deduction is applicable shall submit to the City or its authorized representatives as it applies to the Project, the FORM 103, FORM 103-EL and/or FORM 103-ERA to supplement the FORM CF-1/PP (“Compliance with Statement of Benefits”) that is annually filed with the City for each personal property ERA assessed valuation deduction so that the City may verify and confirm the following: (i) the ERA assessed valuation deductions reported by the Company and/or approved by the Office of the Assessor for Michigan Township, Indiana and (ii) the calculation of the Imposed Fee by the Office of the LaPorte County, Indiana Auditor.

*Condition #2:* The Company understands and agrees that the annual deductions during the five (5) year abatement period shall be **limited to a cost of \$10,000,000** as a result of ERA assessed valuation deductions from depreciable personal property installed, placed into service, and assessed on the Assessment Date, and for which ERA assessed valuation deductions are applied. The City, from the first year of assessment for which a depreciable personal property ERA assessed valuation deduction is applied and for the duration of the five (5) year abatement period shall annually cause to be prepared a schedule monitoring the annual, total, and cumulative tax savings realized; such that, once this limit of tax savings realized is attained, the City’s Common Council will: (i) notify the Company and (ii) take action to terminate this ERA assessed valuation deduction prior to a subsequent January 1 assessment date.

**BE IT FURTHER RESOLVED** that the City agrees to comply with the privacy notices of said FORM 103, FORM 103-EL and FORM 103-ERA as confidential filings in accordance with I.C. 6-1.1-35-9 and that said documents: (i) are not statutorily required filings to the City to review a personal property assessed valuation deduction of the Company but as a reasonable condition as herein specified and included under Item G (page 2) of an approved FORM SB-1/PP and (ii) are submitted to supplement the Company’s annually filed FORM CF-1/PP for each personal property ERA assessed valuation deduction such that the City may only utilize said forms to verify and confirm: (a) ERA assessed valuation deductions reported by the Company and/or as approved by the Office of the Assessor for Michigan Township, Indiana and (b) the calculation of an Imposed Fee by the Office of the LaPorte County, Indiana Auditor; and, therefore said documents are deemed not to be public record(s) and shall not be made available to the public.

**BE IT FURTHER RESOLVED** that the City agrees not to impose a claw back provision for tax savings for any tax years in which the Company complies with the Statement of Benefits, the annual filings required pursuant to the Act, the conditions of this Resolution and the reasonable and timely payment of an applicable Imposed Fee during the five (5) year abatement period for which an ERA assessed valuation deduction is applied.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the Assessor for Michigan Township, Indiana as it applies to this Resolution and the approval of the Company's ERA assessed valuation deduction, more specifically the following documents or information:

7. The Statement of Benefits, as approved, properly completed consistent with this Resolution and as signed and attested by the appropriate City officials;
8. A certified copy of this Resolution; and
9. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the LaPorte County, Indiana Assessor as it applies to this Resolution and the approval of the Company's ERA assessed valuation deduction, more specifically the following documents or information:

1. The Statement of Benefits, as approved, properly completed consistent with this Resolution, and as signed and attested by the appropriate City officials;
2. A certified copy of this Resolution; and
3. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the LaPorte County, Indiana Auditor as it applies to this Resolution and the approval of the Company's ERA assessed valuation deduction, more specifically the following documents or information:

1. The Statement of Benefits, as approved, properly completed consistent with this Resolution and as signed and attested by the appropriate City officials;
2. A certified copy of this Resolution; and
3. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

This Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon approval of the Mayor.

**INTRODUCED BY:** /s/ Michael Mack, Member  
Michigan City Common Council

/s/ Don Przybylinski, Member  
Michigan City Common Council

**NOTE: Exhibits A, B, C and D are filed in the Clerk's Office in file CR-101 attached to Resolution No. 4794.**

President Fitzpatrick asked if the authors had anything to add at this time;

Councilman P. Przybylinski stated Hearthside Food Solutions is a top operation and have been in our community for several years bringing jobs to our community; advising they were given the award for "Food Processor" of the year in 2019 (a national award); with this project being a(10) million dollar investment.

Councilman Mack advised tax abatements are a way to stimulate the economy and entice jobs; which is great for Michigan City and our future.

Clarence Hulse addressed the Council stating this a great company that has been here for ten (10) years; and is happy that they are looking to expand.

Bob Wojcik, Hearthside Foods, Plant Manager addressed the Council advising they are proud to be a part of this community and will continue to bring good quality jobs to Michigan City.

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

Mr. Wojcik advised Councilman P. Przybylinski that they are incorporating this project into the current facility; that they produce a variety of cookies, crackers and bar type products for major food companies stating there products are on the shelves in all our local grocery stores.

Councilman Dabney advised MCEDEC does work and compete with other cities/states to bring a company to our city; stating the more businesses/companies that decide to relocate to our City, the better our tax base is in our city.

President Fitzpatrick asked if there was anyone from the public that wished to speak on the proposed resolution; there was no response.

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

President Fitzpatrick asked all in favor to adopt the proposed resolution to signify by saying "AYE" all responded "AYE" those opposed; there was no response. The resolution was adopted vote 8 – 0.

The Clerk read the following proposed resolution by title only,

**MICHIGAN CITY COMMON COUNCIL**

**RESOLUTION NO. [4795](#)**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING HEARTHSIDE FOOD SOLUTIONS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR REAL PROPERTY, PURSUANT TO INDIANA CODE 6-1.1-12.1**

**WHEREAS**, a Deduction for Rehabilitated or Redevelopment of Real Property in Economic Revitalization Areas is authorized under Indiana Code 6-1.1-12.1 *et seq.* (the "Act") in the form of deductions of assessed value for: (i) qualified real property improvements under Section 3; (ii) the installation of qualified personal property under Section 4.5; and (iii) of the occupancy of an eligible vacant building primarily used for commercial or industrial purposes under Section 4.8 of the Act, each as a result of new development, redevelopment and/or rehabilitation; and

**WHEREAS**, Resolution No. 4733 (the "ERA Resolution") of the Common Council of the City of Michigan City, Indiana (the "Common Council"), as approved and adopted on November 20, 2018, designated and established a certain area located within the City of Michigan City, Indiana (the "City"), being the entire corporate municipal jurisdiction of the City, as the Economic Revitalization Area (the "ERA"); and

**WHEREAS**, The ERA Resolution remains in full force and effect as adopted and approved, such that the designation of the ERA and the effectiveness of the ERA Resolution expires on December 31, 2022; and

**WHEREAS, Hearthside Food Solutions, LLC** (the "Company"), pursuant to Section 3(a) of the Act has filed with the Common Council a **Statements of Benefits Real Property (FORM SB-1/Real Property)** (the "Statement of Benefits") dated October 25, 2020, **EXHIBIT A** attached hereto, which proposes renovating their facility to Michigan City (the "Project") constructed on real property located at 502 West Highway 20 in the City (real property tax number: 46-05-08-100-027.000-009 for the main facility of operations for the Company), and

**WHEREAS**, the Company, upon approval of economic development incentive(s) by the City, intends to implement redevelopment and rehabilitation improvements to facilities and structures related to the Project during the period of November 1, 2020 through December 31, 2021 in a total amount anticipated to be **\$3,600,000** for the Project, to be fully assessed by **January 1, 2022 (the "Assessment Date")**.

**WHEREAS**, The Economic Development Corporation, Michigan City, Indiana ("EDCMC") submitted to the Common Council, as the designating body pursuant to Section 3 of the Act, the following documents related to the Company's request for an assessed valuation deduction of qualified real property within the ERA: (i) the Statement of Benefits ("FORM SB-1/Real Property") as completed and (ii) other supplemental information related to said request for an ERA assessed valuation deduction; and

**WHEREAS**, The Common Council has confirmed that the Company's facility located at 502 W. Highway 20 is within the boundaries of the ERA, and therefore the Common Council may make a determination pursuant to Section 3 of the Act, based upon the evidence, as to whether Company shall be allowed an assessed valuation deduction of qualified real property investments made within the ERA.

**NOW, THEREFORE, BE IT RESOLVED** that the actions of the Common Council of the City of Michigan City, Indiana pursuant to Section 3 of the Act are based upon the evidence as presented by the Company after review of the Statement of Benefits as well as other pertinent information provided by the EDCMC and upon the following findings in the affirmative also pursuant to Section 3(b) of the Act, that:

13. The Project is reasonable for a project of its nature;

14. The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project;
15. The estimated annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to be a result of the Project; and
16. The totality of the benefits is sufficient to justify an assessed valuation deduction as a result of the Project.

**BE IT FURTHER RESOLVED** that pursuant to Section 2(k) of the Act, the Common Council acknowledges that the Project is not located within a designated allocation area of the Redevelopment Commission of Michigan City, Indiana under Indiana Code 36-7-14-39 or Indiana Code 35-7-15.1-26.

**BE IT FURTHER RESOLVED** that the Common Council hereby grants the Company an assessed valuation deduction (Tax Abatement) from qualified real property investments **limited to a cost of \$3,600,000 for redevelopment and rehabilitation activities to structures and facilities by the Company between November 1, 2020 and December 31, 2021, which is anticipated to be fully assessed on Assessment Dates, being not later than January 1, 2022,** all in accordance with the Act as it relates to the Project and as identified on the Statement of Benefits.

**BE IT FURTHER RESOLVED** that the final determination of the amount of assessed valuation deduction of the Project for investments in qualified real property shall be made by the appropriate Michigan Township Assessor, LaPorte County, Indiana review board, or State of Indiana agency.

**BE IT FURTHER RESOLVED** that pursuant to Sections 3(c) and 17 of the Act, the Common Council, based upon its affirmation of criteria pursuant to Section 3(b) of the Act as stated above, hereby grants the Company an assessed valuation deduction period of **seven (7) years** on fully assessed real property from the Assessment Date for which said deduction percentage schedule for qualified real property applies over said seven (7) year abatement period, more specifically identified in **EXHIBIT B** attached hereto.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as set forth in **EXHIBIT B** during the seven (7) year abatement period is attached hereto in order to meet the requirements of Sections 3(c) and 17 of the Act.

**BE IT FURTHER RESOLVED** that the assessed valuation deduction percentages as identified in **EXHIBIT B** shall begin upon the completion and the full assessment of real property improvement as a result redevelopment and rehabilitation activities related to the Project (anticipated to be not later than January 1, 2022 as the Assessment Date) by the appropriate assessing authority, regardless of the expiration date of the ERA as stated the ERA Resolution.

**BE IT FURTHER RESOLVED** that the Common Council may impose a fee on the tax savings realized by the Company pursuant to Section 14 of the Act as a result of the application of an ERA deduction as calculated and applied by the Office of the LaPorte County, Indiana Auditor.

**BE IT FURTHER RESOLVED** that, pursuant to Ordinance No. 4417 of the Common Council, adopted and approved on January 3, 2017 and having received the written consent of the Company in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT C** and is made a part hereof and incorporated herein, and pursuant to Section 14(b) of the Act, for each year the Company's real property tax liability is reduced by an assessed valuation deduction related specifically to the construction and the full assessment of real property as a result of the Project, the Company shall pay to the LaPorte County, Indiana Treasurer a fee in the amount computed and determined by the LaPorte County, Indiana Auditor pursuant to the provisions of Section 14(c) of the Act (the "Imposed Fee") such that:

10. The Common Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the LaPorte County, Indiana Auditor for purposes of STEP TWO of Section 14(c) of the Act;
11. Accordingly, for each year the Imposed Fee is payable by the Company, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of real property taxes that would have been

paid by the Company during that year if the deductions approved in this Resolution had not been in effect, i.e., 15% of the Company's real property tax savings attributable to a deduction from the assessed valuation from the Project; and

12. Pursuant to Section 14(d) of the Act, the Imposed Fee, as collected, shall be distributed to the **Economic Development Corporation, Michigan City, Indiana** as a tax exempt governmental (nonprofit) entity established to promote economic development within the corporate limits of the City as determined by the Common Council as the designating body.

**BE IT FURTHER RESOLVED** that the Company has agreed to the following imposed reasonable conditions during the abatement period upon approval of an assessed valuation deduction for real property as herein specified and authorized under Section 2(i)(6) of the Act and to be included under Item D (page 2) of the approved FORM SB-1/Real Property:

*Condition #1:* The Company understands and agrees that the annual deduction to be applied **shall be limited to \$3,600,000 of private investment or cost of real property improvements** as assessed on the Assessment Date during the seven (7) year abatement period as a result of ERA assessed valuation deductions from incremental real property improvements assessed. The City from the first year of the abatement period for which a real property improvement assessed valuation deduction is applied and for the duration of the seven (7) year abatement period shall annually cause to be prepared a schedule monitoring the annual, total and cumulative tax savings realized.

**BE IT FURTHER RESOLVED** that the City agrees not to impose a claw back provision for tax savings for any tax years in which the Company complies with the Statement of Benefits, the annual filings required pursuant to the Act, the conditions of this Resolution and the reasonable and timely payment of an applicable Imposed Fee during the seven (7) year abatement period for which an ERA assessed valuation deduction is applied.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to cause the filing of all appropriate approval documents related to this Resolution with the Office of the Assessor for Michigan Township, Indiana and the Office of the LaPorte County, Indiana Auditor as it applies to this Resolution and the approval of the Company's assessed valuation deduction, more specifically the following documents or information:

10. The Statement of Benefits, as approved, properly completed consistent with this Resolution and as signed and attested by the appropriate City officials;
11. A certified copy of this Resolution; and
12. An approved and signed copy of the minutes of the meeting at which the Common Council approves this Resolution and the Statement of Benefits.

**BE IT FURTHER RESOLVED** that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

This Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon the signature of the Mayor of the City as the executive of the City.

**INTRODUCED BY:** /s/ Michael Mack, Member  
Michigan City Common Council

/s/ Don Przybylinski, Member  
Michigan City Common Council

**NOTE: Exhibits A, B, C and D are filed in the Clerk's Office in file CR-101 attached to Resolution No. 4795.**

President Fitzpatrick asked if the authors had anything to add at this time;

Councilman D. Przybylinski advised this is a \$3,600,000.00 investment in our community; commenting on what the company saves from this tax abatement; explaining this process stimulates progress, expands their businesses; and in turn hires local residents for a good livable wage.

President Fitzpatrick asked if there was anyone from the public who wished to speak on the proposed resolution; there was no response.

President Fitzpatrick asked if there were any comments from the Council; there was no response.

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

President Fitzpatrick asked all in favor of adopting the proposed resolution to signify by saying "AYE" all responded "AYE" those opposed; there was no response. The resolution was adopted vote 8 – 0.

**ORDINANCE**

The Clerk read the following proposed ordinance on first reading by title only, **AMENDING MUNICIPAL CODE SECTION 2-457, AS AMENDED BY ORDINANCE 4548 COMMISSION ON THE SOCIAL STATUS OF AFRICAN AMERICAN MALES**

**Introduced by:** Tracie Tillman  
Angie Nelson Deutch

President Fitzpatrick asked if the authors had anything to add at this time:

Councilwoman Tillman advised this is to amend the ordinance from thirteen (13) to fifteen (15) members; reading the proposed amendment:

**WHEREAS**, Common Council has become aware that it is in the best interest of the City of Michigan City and the Commission On The Social Status of African-American Males (Commission) that certain provisions of the Commission’s enabling Ordinance be amended and that the Commission should take the necessary steps to amend its By-Laws to incorporate the amendments.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Michigan City, Indiana, that the provisions of Section 2-457 of the Michigan City Municipal Code referenced below shall be amended to read as follows:

1. 2-457(b)(2) The Commission shall consist of fifteen (15) voting members. Each member shall be a resident of Michigan City and shall be appointed by the group or organization whom he/she represents within Michigan City unless otherwise specified herein below. The appointments shall be made as follows:

- .....
- (2)(a) The mayor shall appoint seven (7) members to a two year term. Those seven appointments shall consist of members from the following groups as follows:
    1. Three appointments from the justice system;
    2. One member nominated by the county labor coalitions;
    3. One member nominated by a neighborhood group association; and
    4. One member from a workforce development agency, career tech center or higher education institution
    5. One member chosen by the mayor

(2)(b) Eight (8) appointments shall be made by the Common Council of the City of Michigan City on a yearly basis and shall be members of or participants in the following groups and entities:

1. One (1) from the Human Rights Commission
2. One (1) from the Minority Health Partners
3. One (1) from the Swanson Center
4. One (1) from the Ministerial Associations
5. One (1) Michigan City Resident Appointed By Common Council
6. One (1) from the Helping Our People Excel (H.O.P.E.)
7. One (1) from the NAACP
8. One (1) member of the Common Council Appointed by the Common Council

All other provisions of Section 2-457 shall remain in full force and effect.

Councilwoman Deutch advised the proposed ordinance is making the corrections to the names of the organizations that have been changed as well as the number of appointees by the Mayor and Council.

President Fitzpatrick asked if there was anyone from the public who wished to speak on the proposed ordinance;

Andrew Steel, Access LaPorte County addressed the Council explaining his concerns regarding the increase in the number of members being proposed; that it is hard enough for several boards and commissions to get enough people to attend the meetings to get a quorum; questioning why do they want to add more members.

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

Discussion ensued between Councilman P. Przybylinski and Councilwoman Tillman advising the commission will function the same way as it does now, but with one additional person to participate.

President Fitzpatrick asked if there were any further comments from the general public or Council; there was no response.

President Fitzpatrick stated the proposed ordinance will be held over to second reading at the next council meeting on Tuesday, November 17, 2020.

The Clerk read the following proposed ordinance on first reading by title only,  
**AMENDING MUNICIPAL CODE SECTION 2-457-COMMISSION ON THE SOCIAL STATUS OF AFRICAN-AMERICAN MALES**

**Introduced by:** Tracie Tillman  
 Angie Nelson Deutch

President Fitzpatrick asked if the author had anything to add at this time;

Councilwoman Tillman asked to withdraw this amendment.

President Fitzpatrick asked if anyone from the Council wished to sponsor the proposed ordinance; there was no response.

President Fitzpatrick stated the proposed ordinance will be withdrawn.

The Clerk read the following proposed ordinance on second reading by title only,  
**AMENDING THE ZONING MAP OF THE CITY OF MICHIGAN CITY, LAPORTE COUNTY, INDIANA TO REZONE PROPERTY OWNED BY OEHMSTEAD COMPANY,**

**LLC; GREEN ACRES, LLC; AND PIONEER LUMBER, INC. FROM R1B and B3 to M2**

**Introduced by** Bryant Dabney  
Gene Simmons

President Fitzpatrick asked if the authors had anything to add;

Councilman Simmons stated this was approved by the Planning Commission on September 22, 2020; with the Planning Commission voting unanimously in favor to recommend the rezoning of this property; this is part of the 426 acres that were approved by annexation; 293 acres will be used for heavy industrial districts which will be consistent with the Michigan City Comprehensive Plan and the rest will be residential and commercial property.

President Fitzpatrick asked if there was anyone from the public that had any comments on the proposed ordinance;

Attorney Barry McDonnell addressed the Council representing Oehmstead Company, Green Acres and Pioneer Lumber Company; advising the 293 acres is a mix of both residential and commercial zoning; asking it be rezoned to M2 to allow for industrial and manufacturing growth; advising this is the next step in the process.

Clarence Hulse addressed the Council recommending they move the proposed ordinance forward.

President Fitzpatrick asked if there was anyone else from the public who wished to speak on the proposed ordinance; there was no response.

President Fitzpatrick asked if there were any further comments from the Council; there was no response.

President Fitzpatrick stated the proposed ordinance will be held over on 3rd<sup>d</sup> reading at the next Council meeting on Tuesday, November 17, 2020.

The Clerk read the following proposed ordinance on 2<sup>nd</sup> reading by title only,  
**REPEALING ORDINANCE NO. 4546 ENTITLED “ESTABLISHING RULES FOR ATTENDANCE AT AND THE USE OF WASHINGTON PARK AND PENALTIES FOR VIOLATING SAME FOR VIOLATING PARK DEPARTMENT RULES CONCERNING THE USE OF WASHINGTON PARK AND THE ZOO”**

**Introduced by:** Bryant Dabney  
Dalia Zygas

**Note: the proposed ordinance was “TABLED” on 2<sup>nd</sup> reading at the Council meeting on October 20, 2020 until there is a Health and Safety Committee/Workshop held**

President Fitzpatrick asked if the authors had anything to add at this time; there was no response.

Councilman Dabney made a motion to remove the proposed ordinance from being tabled, second by Councilwoman Zygas.

Councilwoman Deutch called a “point of order” asking if they are taking it off the “TABLE” tonight to 2<sup>nd</sup> or 3<sup>rd</sup> reading.

Councilman Dabney reiterated his motion; asking to remove the proposed ordinance from being tabled on second reading this evening.

President Fitzpatrick asked if there were any comments from regarding the motion to remove the proposed ordinance from being tabled; hearing none, the proposed ordinance was removed from being tabled by the following vote: **AYES:** Council members Tillman, Dabney, Mack, D. Przybylinski, Simmons, and Zygas (6). **NAYS:** Council Members Fitzpatrick and P. Przybylinski (2).

President Fitzpatrick asked if the authors had anything to add at this time; there was no response.

President Fitzpatrick asked if there was anyone from the public who wished to speak on the proposed ordinance; there was no response.

President Fitzpatrick ask if there were any comments from the Council on the proposed ordinance;

Councilman D. Przybylinski read the email the council received before tonight's meeting from Assistant Chief, Dave Cooney, M.C.P.D. regarding the proposed Park Departments re-opening plan for 2021:

Councilmen and Director Shinn,

We apologize for not being available for discussion regarding the Washington Park opening for 2021. We have had multiple meetings and phone conferences over the past few days, as well as a mandatory Chief of Police training through our Academy last week.

After speaking with Chief Campbell, we believe the best course of action would be to have a round-table discussion with Director Shinn, his personnel, and our command staff as to how the park should be opened for 2021.

There are limitations on how to proceed without speaking with the park department, how COVID-19 will impact the spring of 2021 (without making assumptions that could be incorrect), as well as our manpower concerns.

Unfortunately, Chief Campbell will be off for a family funeral over the next several days. We can discuss this in the near future.

Thank you,

Assistant Chief, Dave Cooney

Councilman D. Przybylinski explained the M.C.P.D. asked if their department, the Park Department, Park Board and the Council schedule a meeting to discuss and make future plans before the 2021 season begins.

President Fitzpatrick advised that the Council agrees there should be more discussion between all three of these entities versus what has been done so far.

President Fitzpatrick asked if there were any further comments from the Council; there was no response.

President Fitzpatrick stated the proposed ordinance will be held over on 3rd<sup>d</sup> reading at the next Council meeting on Tuesday, November 17, 2020.

The Clerk read the following proposed ordinance on 2<sup>nd</sup> reading by title only,  
**AMENDING SECTION 70-101 IN DIVISION 3 OF CHAPTER 70 OF THE MICHIGAN CITY MUNICIPAL CODE REGARDING THE POLICE MERIT COMMISSION**

**Introduced by:** Paul A. Przybylinski

**NOTE: The proposed ordinance was “TABLED” on 2<sup>nd</sup> reading at the Council meeting on October 20, 2020 and is being brought back on 2<sup>nd</sup> reading tonight, November 4, 2020.**

President Fitzpatrick asked if the author had anything to add at this time;

Councilman P. Przybylinski advised he is working with the City Attorney Lapaich and Chief Campbell regarding the background that he is proposing and has not received all the information to move forward; making a motion to keep the proposed ordinance on the “TABLE” until the next Council meeting on Tuesday, November 17, 2020; second by President Fitzpatrick.

President Fitzpatrick asked all in favor to “TABLE” the proposed ordinance to signify by saying “AYE” all responded “AYE” those opposed; there was no response. The proposed ordinance will be “TABLED” until the next meeting by a vote of 8-0.

President Fitzpatrick stated the proposed ordinance will be “TABLED” on 2<sup>nd</sup> reading until the next Council meeting on Tuesday, November 17, 2020.

The Clerk read the following proposed ordinance on 3<sup>rd</sup> reading by title only,  
**AMENDING ORDINANCE NO. 4546 TO ESTABLISH TIME PERIOD FOR  
 IMPLEMENTATION OF RULES ESTABLISHED THEREIN**

**Introduced by:** Paul Przybylinski

President Fitzpatrick asked if the author had anything to add at this time; Councilman P. Przybylinski asked the Clerk to read the proposed ordinance in its entirety for the record.

Clerk Neulieb to read the following proposed ordinance in its entirety;

**AMENDING ORDINANCE NO. 4546 TO ESTABLISH TIME PERIOD FOR  
 IMPLEMENTATION OF RULES ESTABLISHED THEREIN**

**WHEREAS**, on September 1, 2020, the Common Council passed Ordinance No. 4546 entitled *Establishing Rules For Attendance At And Use Of Washington Park and Penalties For Violating Same And For Violating Park Department Rules Concerning The Use Of Washington Park And The Zoo* (Rules) which, in paragraphs numbered 1 through 4, established various rules concerning the use of Washington Park, including its parking lots and the beach due to the COVID-19 pandemic; and

**WHEREAS**, that Ordinance did not contain any time limitations for the implementation of those Rules and stated the years for which Park parking sticker holders are admitted; and

**WHEREAS**, the Common Council finds that it is in the best interest of the City, in particular the Park Department, and the citizens of Michigan City that the implementation of the Rules in Ordinance No. 4546 be limited to the period of time each year during which the Park Department allows open access to the Washington Park beach.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Michigan City, Indiana, that the Rules set forth in paragraphs numbered 1 through 4 of Ordinance No. 4546 only be implemented and enforced each year during the time period of the year when the Park Department allows open access to Washington Park beach and, during those times and special events, access will be limited to only holders of Park parking stickers for that year.

This Ordinance to be effective upon passage by the Council and approval by the

Mayor.

Councilman P. Przybylinski advised they discussed various aspects of the ordinance and the amendments in the workshop that was held earlier; stating several reasons the initial ordinance was brought to the council; apologizing to Councilman Mack.

President Fitzpatrick asked if there was anyone from the public who wished to speak on the proposed ordinance; there was no response.

President Fitzpatrick asked if there were any Council comments;

Councilwoman Deutch stated she was going to propose an amendment this evening but when hearing Councilman P. Przybylinski proposed amended ordinance read in its entirety she is satisfied with the language being proposed.

Councilman Mack stated he is in agreement with Councilman P. Przybylinski that something needs to be done; questioning if his intent is to get everyone's input and amend the ordinance at a later date.

Councilman P. Przybylinski advised his intent is to pass the amendment so the park can be used by residents during the Festival of lights along with any other events that would take place during the holidays.

Councilwoman Zygas applauded Councilman P. Przybylinski for all the hard work he has done; stating the ordinance is flexible enough and that she would not be supporting it.

Councilman D. Przybylinski stated he doesn't know why the signs in the entrance to Washington Park that read "Michigan City residents with 2019-2020 stickers only" asking that they please take them down; stating several concerns on why he believes they are posted.

Councilman D. Przybylinski commented on an event that he looks forward to happening annually is when they turn the Festival of lights on for the first time the Salvation Army stands by the entrances asking for donations which these monies collected help so many people in our community have better holidays; and that he will be supporting this ordinance as well.

Councilman Mack stated he would be supporting the proposed ordinance to make sure our Festival of Lights is successful along with other events that our city does annually now through Christmas; stating he is looking forward to working with all the departments to get a solid plan together in the near future.

Councilman Dabney questioned the amended ordinance being proposed and is adopted that an organization participating in the City's summer events and don't have a park sticker will they be able to enter our park.

President Fitzpatrick advised that the amended ordinance being proposed will take away those restriction that are stated in Ordinance No. 4546.

Councilman P. Przybylinski addressed Councilman Dabney.

President Fitzpatrick called "Point of Order" asking Councilman P. Przybylinski to direct his comments to him.

Councilman P. Przybylinski stated we are hoping that a policy will be in place that is mutually agreed upon before the 2021 season starts for Washington Park and our beaches.

Councilman Dabney addressed Council questioning that this is going to be a policy not an ordinance.

President Fitzpatrick stated that it seems like we have been going back and forth about this matter for months; advising that COVID is not going to be going away soon; we have this ordinance in place asking that we move forward to make Ordinance 4546 a better document that everyone can abide by.

President Fitzpatrick asked if there were any more comments from the Council; there was no response.

There was a motion made by Councilman P. Przybylinski, second by Councilman D Przybylinski and Councilwoman Tillman.

The Ordinance was adopted by the following vote: **AYES:** Council members Fitzpatrick, Mack, D. Przybylinski, Simmons, P. Przybylinski and Tillman (6). **NAYS:** Council members Dabney and Zygus (2).

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

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4558**

**ADOPTING POLICY TO ALLOW A PERCENTAGE OF RIVERBOAT FUNDS TO BE USED TO FUND THE CITY'S OPERATING EXPENDITURES FROM THE GENERAL FUND  
AND  
DEDICATING 25% OF RIVERBOAT REVENUES TO INCREASE THE RAINY DAY FUND BALANCE UP TO A MINIMUM OF \$6 MILLION DOLLARS**

**WHEREAS**, in the past, the Common Council has passed several Ordinances limiting percentage of Riverboat revenues that could be used for the City's normal and routine operating expenses paid from the City's General Fund; and

**WHEREAS**, in the past, the Common Council passed Ordinance No. 4285 creating a Rainy Day Fund for the City the terms and conditions of which Ordinance is now codified in Section 2-402 of the Michigan City Municipal Code; and

**WHEREAS**, due to the dire financial condition of the City resulting from adverse impact on City revenues, including, but not limited to, Riverboat revenues, from the COVID-19 pandemic, City expenditures exceeding City revenues in prior years, and the lack of any long range financial planning by the City to prepare for such adverse financial situations, the Common Council finds that it is in the best interest of the City to take prompt action to require substantial and effective steps be taken to improve the financial status of the City and prepare it for adverse financial circumstances that occur in the future; and

**WHEREAS**, the Common Council finds that creating a substantial balance in the City's Rainy Day Fund, funded on an ongoing basis with a part of the Riverboat revenues it receives, is essential to the future financial viability of the City; and

**WHEREAS**, the Common Council finds that strictly limiting the amount of Riverboat revenues that can be used for the City's normal and routine operating expenses paid from the City's General Fund is necessary to allow the proper balance to be achieved in the Rainy Day Fund as soon as reasonably possible.

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

SECTION 1: For purposes of the City's 2022 and succeeding years' budgets for General Fund operating expenditures, a percentage of Riverboat funds received by the City may be used for normal and routine operating expenses in preparing the City's Budgets for the General Fund based on the following schedule:

25% for the 2022 City budget, 20% for the 2023 City Budget and 15% thereafter.

25 % of Riverboat funds received by the City shall be deposited as they are received into the City's Rainy-Day Fund until the balance in that Fund reaches at least \$6 Million. If fund drops below threshold of \$6 Million, 25% of Riverboat funds received by the City will be deposited in the subsequent year(s) until it reaches the threshold.

The remainder of the Riverboat funds received by the City, including income from investment thereof, shall be reserved for capital expenditures for capital improvement and development projects in the City.

SECTION 2: For purposes of this Ordinance, "capital expenditures" and "operating expenses" shall be defined as stated in Exhibit 1 which is attached hereto and incorporated herein.

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

**INTRODUCED BY:** /s/ Sean Fitzpatrick, President  
Michigan City Common Council

**CO-SPONSOR:** /s/ Angela Nelson Deutch  
Michigan City Common Council

**CO-SPONSOR:** /s/ Paul A. Przybylinski  
Michigan City Common Council

President Fitzpatrick advised the proposed ordinance is the amended version he originally introduced with putting some safeguards in place; stating several reasons why there should be monies in this fund.

President Fitzpatrick asked if any of the other authors had anything to add;

Councilwoman Deutch commented on the amendments that were proposed and adopted asking for the Council's support.

President Fitzpatrick asked if there were any other Council comments; there was no response.

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

Councilwoman Zygas advised Councilman D. Przybylinski that she didn't receive the information regarding the affect the rainy-day fund would have on the city budget in year two and three from the Controller.

Councilman P. Przybylinski made a motion to adopt the proposed ordinance, second by Councilman D. Przybylinski and Councilwoman Tillman; the ordinance was adopted by the following vote: **AYES:** Council members Fitzpatrick, Mack, D. Przybylinski, Simmons, Zagas, P. Przybylinski and Tillman (7). **NAYS:** Council member Dabney (1).

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

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4559**

**AMENDING SECTION 38-33 AND SECTION 38-34 OF THE MUNICIPAL CODE TO PROVIDE FOR EMERGENCY RELIEF FUNDS TO CITY BUSINESSES**

**WHEREAS**, the Common Council has determined that some of Michigan City's small businesses are in dire financial straits and unable to pay wages and other operating expenses due to the loss of revenue as a result of the COVID-19 pandemic shutdown; and

**WHEREAS**, the Common Council believes it is the responsibility of the City to provide assistance to those businesses, to the extent it can, to help them make the payments necessary to be able to pay their employees and remain in business.

**NOW, THEREFORE, BE IT ORDAINED**, by the Michigan City Common Council that Section 38-33 and Section 38-34 in Chapter 38, Article III of the Michigan City Municipal Code be amended as follows:

1. Section 3 8(4)-*Eligible Uses* is amended to now read as follows:

(4) Eligible uses.

(a) New investments in capital assets and operating capital:

- (1.) Purchase of machinery and equipment.
- (2.) Purchase of buildings and land for business operations.
- (3.) Construction, repair, and renovation of buildings.
- (4.) Operating capital including inventory and work in progress.
- (5.) Quantifiable employee training when state and federal grants have been investigated and exhausted.

Priority is given to fixed asset financing (land, building, or equipment).

(b) Fund may be used for payment of legal expenses incurred by City directly related to loan transaction involving the Fund.

(c) Emergency Grant up to \$5000 to small businesses in Michigan City found by the Loan Committee upon review of the businesses Fighting Chance Fund Application, a copy of which is attached hereto as Exhibit A, to be facing serious financial problems because of a substantial loss of revenue due to the COVID-19 emergency shutdown and which failed to receive any PPP or EIDL government funding. This fund will utilize \$150,000 from the COVID-19 Relief Funds. Those businesses shall include but not limited to:

1. Independently owned restaurants, but not national or regional chains.
2. Bars & Taverns.
3. Retail stores, not national or regional chains.
4. Personal Services, not national or regional chains, including:
  - a. Hair, beauty, and other personal services, such as salons, barbers, massage parlors, tattoo parlors, spas, etc.
  - b. Personal care services, such as child, elderly, and disabled care; funeral homes; etc.
  - c. Laundry and clothing repair services, such as dry cleaners, laundromats, garment repairs and alterations, etc.
  - d. Residential cleaning services.

- e. Pet care services.
- f. Personal and household goods repairs and maintenance.
- g. Fitness centers and gyms.
- h. Event and banquet spaces & services.

2. Subsection 3 8(5)(f)-*Terms* is amended to read as follows:

- f. Minimum loan is \$25,000.00; except for grants described in subsection 4(c) for which the minimum grant shall be \$1,000 and the maximum \$5,000.

3. Section 38-34 is amended to add the following wording to the end of the section:

Donations and contributions may be solicited and accepted for the purpose of helping to fund this program.

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

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

**CO-SPONSOR:** /s/ Sean Fitzpatrick, Member  
Michigan City Common Council

/s/ Paul A. Przybylinski, Member  
Michigan City Common Council

**NOTE: The application is filed in the Clerk's office attached to Ordinance No. 4559**

President Fitzpatrick asked if the authors had anything to add;

Councilwoman Deutch addressed the council advising this COVID-19 monies being used to help small business; advising that she supports this and hope that she can have the support of the entire council.

President Fitzpatrick ask if there was anyone from the public that wished to speak on this ordinance; there was no response.

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

President D. Przybylinski asked what committee will be making the decision on the funding and amount the applicants will receive; with Councilwoman Deutch stating that the language in the ordinance states the revolving loan committee will be reviewing and advising who will receive these monies; and that if he would like to participate she didn't believe there would be an issue.

Discussion ensued between Councilwoman Deutch and Councilman D. Przybylinski regarding the information each applicant is going to have to provide to be able to receive these monies.

Councilwoman Deutch advised where these applications will be distributed and will be emailing this information out to each Council member.

Councilman D. Przybylinski stated at the last council meeting there was a request to have third reading; advising he objected due to him not receiving from the administration how much money they would need to purchase enough PPE supplies to last through June of 2021; stating to date he has never received that information.

Councilwoman Deutch advised Council P. Przybylinski if a small business/company received funds from another entity during the pandemic already, they will not be eligible to receive any monies from these COVID funds.

President Fitzpatrick asked if there were any other Council comments;

Councilman P. Przybylinski made a motion to adopt the proposed ordinance, second by Councilwoman Tillman; the ordinance was adopted by the following vote: : **AYES:** Council members Mack, D. Przybylinski, Simmons, Zagas, P. Przybylinski Tillman, Dabney and Fitzpatrick (8). **NAYS:** None (0).

### **Unfinished Business**

President Fitzpatrick stated the Common Council has one (1) appointment to the Revolving Loan Fund Committee; term expires on 10/18/20: Incumbent Ms. Pia Parrott;

Clerk Neulieb advised there were applications received from: Jay Niec and Pia Parrott.

Councilwoman Deutch advised that this appointment has be someone that is in the banking field; stating that she spoke to Ms. Parrott and that she would still like to be considered for this position.

President Fitzpatrick opened the floor for nominations asking “ if there were any nominations”;

Councilwoman Tillman nominated Ms. Pia Parrott, second by Councilman Dabney.

President Fitzpatrick asked if there were any other nominations (repeating three times); there was no response and nominations were closed.

Councilwoman Deutch advised Councilman P. Przybylinski that it states in the ordinance one appointment must filled by financial/banking field.

President Fitzpatrick asked since there is no other nomination the vote will be taken this evening; asked all in favor to appoint Ms. Parrott to the MCEDC Revolving Loan Committee signify by saying “AYE” all responded “AYE” those opposed; there was no response.

President Fitzpatrick congratulated Ms. Parrott on her appointment.

### **NEW BUSINESS**

President Fitzpatrick advised the Council has two appointments to the Redevelopment Commission; term will expire on 12/31/2020: Incumbents: John Sheets and Pat Kowalski; with nominations being held at the next Council meeting November 17, 2020.

### **COMMENTS FROM THE MAYOR**

President Fitzpatrick asked if the Mayor had any comments this evening; the Mayor Parry wasn't present.

### **COMMENTS FROM THE PUBLIC**

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

**COMMENTS FROM THE COUNCIL**

Councilman P. Przybylinski thanked the Council for supporting his amendment so we can keep moving forward.

Councilman P. Przybylinski asked Councilwoman Deutch Redevelopment liaison to schedule a meeting with the Redevelopment Commission as soon as possible to review and discuss their financial status.

Councilman P. Przybylinski advised that he and Councilman D Przybylinski attended the Board of Public Works and Safety meeting on Monday November 2<sup>nd</sup> where the contract was approved between NICTD and the City for the upcoming parking garage for the double track project; stating several concerns he and Councilman D. Przybylinski addressed at that meeting regarding this agreement.

Councilman D. Przybylinski commented on the PPE equipment for the record he is still requesting to receive the PPE information from the City Administration regarding what is needed to be purchased to have enough supplies in house to cover the first six (6) months of 2021 within the City; stating that he hopes to bring it to the next Council meeting.

Councilman Simmons commented on the statistics of the Covid-19 numbers in LaPorte County; advising there will be free Covid testing at the Michigan Township Trustees office located at 2601 East Michigan Blvd and can schedule a test by calling 219-81-1939 or visit: [Scheduling.coronavirus.in.gov](https://www.scheduling.coronavirus.in.gov).

President Fitzpatrick commented on the local election; congratulating the candidates that won and thanked the candidates that are leaving for their service to our community.

President Fitzpatrick stated he notices over the last few weeks a culture development of bickering back and forth; commenting he isn't sure where it is coming from but it seems that our council meetings are being used to hash out these problems; that we need to exercise a little more of the decorum and deal with matters/issues in a more professional manner.

**ADJOURNMENT**

Councilman Fitzpatrick made a motion to adjourn, second by Council D. Przybylinski and there being no further business to transact, President Fitzpatrick declared the meeting **ADJOURNED** (approximately 8:30 p.m.)

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Gale A. Neulieb