

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, FEBRUARY 9, 2009**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:01 p.m. on Monday, February 9, 2009, with President Cockrum presiding.

Councillor Speedy led the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

President Cockrum instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

27 PRESENT: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn
2 ABSENT: Bateman, Malone

A quorum of twenty-seven members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor McHenry recognized Wayne Township resident Andy Harris. Councillor McQuillen recognized Jeff Roeder, Department of Public Works, and thanked the department for their efforts in snow removal during the recent heavy snows.

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed.

Councillor Coleman moved to suspend the Rules regarding Proposal No. 63, 2009, which is listed under Introductions, and act on the proposal this evening. Councillor Mansfield seconded the motion. The motion failed on the following roll call vote; viz:

13 YEAS: Brown, Coleman, Evans, Gray, Lewis, MahernB, MahernD, Mansfield, Minton McNeill, Moriarty Adams, Nytes, Oliver, Sanders

14 NAYS: Cain, Cardwell, Cockrum, Day, Hunter, Lutz, McHenry, McQuillen, Pfisterer, Plowman, Scales, Smith, Speedy, Vaughn

2 ABSENT: Bateman, Malone

Without further objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of January 26, 2009. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 69, 2009. The proposal, sponsored by Councillor Brown, recognizes Stop the Violence in Indianapolis. Councillor Brown read the proposal and presented representatives with copies of the document and Council pins. Pastor Anthony Beverly and members of the Christian Business Men's Coalition thanked the Council for the recognition.

Proposal No. 69, 2009 was retitled SPECIAL RESOLUTION NO. 5, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 5, 2009

A SPECIAL RESOLUTION recognizing Stop the Violence Indianapolis.

WHEREAS, Stop the Violence Indianapolis is an outreach ministry designed to eliminate violence in the city by reaching out to families and providing vision, leadership and purpose; and

WHEREAS, Stop the Violence Indianapolis was created with the purpose of assisting others through education and a broader awareness of positive alternatives to gun violence, gang violence and domestic violence through open communication, prevention and intervention initiatives; and

WHEREAS, Stop the Violence Indianapolis is a means for social change, it empowers people to take action within the Indianapolis area to ensure safety, justice, accountability and healing for people whose lives are affected by violence; and

WHEREAS, Stop the Violence Indianapolis seeks to make Indianapolis a safer, more positive place to live by influencing the lives of children and their parents to resolve issues through no-violent measures; and

WHEREAS, Stop the Violence Indianapolis brings the community together by hosting community events, or major concerts, and neighborhood events. The community events bring people together in unity through music and give kids an opportunity to showcase their artistic talents, as well as providing adults the opportunity to encourage kids to do something other than getting involved with violent activity; and

WHEREAS, leading up to the major concert, there are week-long activities, including prayer walks, neighborhood events (mini concerts), and free car washes. The neighborhood events provide a more family-oriented atmosphere and builds relations with the residents; and

WHEREAS, in 2008, Stop the Violence Indianapolis had close to 800 participants attend its first concert, held two community events (major concerts), held six neighborhood events, created T2 -Totally Teens- to help prevent violence among high school age youth by providing a safe place to hang out after high school games during the winter months, and began forming a youth basketball league to help get children to college; and

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WHEREAS, Stop the Violence Indianapolis has joined forces with several organizations to help eliminate violence, as there are hundreds of individuals and businesses that recognize its value and have invested in the ministry of saving the youth, the neighborhoods and the communities of Indianapolis; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Stop the Violence Indianapolis for its efforts in inspiring adults to prepare children to resolve issues through non-violent measures.

SECTION 2. The Council commends Stop the Violence Indianapolis and its partners and wishes much success to the ministry in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 70, 2009. The proposal, sponsored by Councillor Hunter, recognizes the RTV 6 Toy Drive and an Eastside Partnership. Councillor Hunter read the proposal and presented representatives with copies of the document and Council pins. Kevin Gregory, WRTV 6, and Jeff Bennett, Warren Township Trustee, thanked the Council for the recognition. Councillor Hunter moved, seconded by Councillor Lutz, for adoption. Proposal No. 70, 2009 was adopted by a unanimous voice vote.

Proposal No. 70, 2009 was retitled SPECIAL RESOLUTION NO. 6, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 6, 2009

A SPECIAL RESOLUTION recognizing the RTV 6 Toy Drive and an Eastside Partnership.

WHEREAS, RTV 6 partnered with Gleaners Food Bank, FedEx, AAA Hoosier Insurance, Dial One Hour, Butler University and Ashley Furniture Home Store to collect and supply toys for families in need at Christmas; and

WHEREAS, Donations were received from 46 area businesses; 24 local groups, including sororities, alumni groups and the scouts; 17 area schools and a countless number of Hoosiers; and

WHEREAS, overall, more than 23,000 toys were collected and more than 15,000 children were served, 1,618 of which were children on the greater eastside of Indianapolis; and

WHEREAS, there were 11 eastside toy drop-off/collection sites, including Community Health Network, Irvington Development Organization, UAW Local 98, Morningstar Golf Club, National Labor Relations Board, Opportunity Buys, Painters Union No. 47, Tie Dye Grill, Town of Cumberland, Antiques on the Corner and United Consulting; and

WHEREAS, Fed Ex was instrumental in delivering the toys to the families, and Trustee Jeff Bennett and Carrie Radabaugh helped organize the partnership and offered the Warren Township Government Center as a distribution site, with distribution taking place on December 21,22 and 23; and

WHEREAS, a special thank you also goes out to Walmart manager, Steve Guzik, Mayor's Liaison for Warren Township, Ruth Ann Walker, and a young girl who used her birthday party as an opportunity to collect toys; and

WHEREAS, as a result of the eastside partnership, \$1,700 in cash was donated from the Warren Lions Club and Sarah Riordan; there were 15 community volunteers who donated 300 community service hours; and 482 families were assisted; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Kevin Gregory, Terri Cope Walton and the RTV 6 staff, along with their partners, for their efforts each year in ensuring that many Indianapolis children have smiling faces on Christmas morning.

SECTION 2. The Council commends the efforts of all who took part in this great display of community service and neighborly compassion.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 71, 2009. The proposal, sponsored by Councillors Sanders, Lewis, Bateman, Nytes and Minton-McNeill, urges President Obama to establish an advisory group in the proposed office of Urban Planning to help guide its efforts to provide assistance to the nation's urban areas. Councillor Sanders read the proposal and presented representatives with copies of the document and Council pins. Councillor Sanders moved, seconded by Councillor Smith, for adoption. Proposal No. 71, 2009 was adopted by a unanimous voice vote.

Proposal No. 71, 2009 was retitled SPECIAL RESOLUTION NO. 7, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 7, 2009

A PROPOSAL FOR A SPECIAL RESOLUTION requesting that the proposed Office of Urban Planning in President Obama's administration have an advisory group to help guide that office in its efforts to provide assistance to our nation's urban areas.

WHEREAS, urban areas now house over 80 percent of our population with close to 20% of our nation's total population residing in cities with populations above 200,000; and

WHEREAS, the City of Indianapolis is one of the 25 largest cities in the United States, and has a population of about 850,000; and

WHEREAS, large cities in the United States face many of the same challenges in planning an urban infrastructure that meets the future work and living requirements of growing populations; and

WHEREAS, there is a wealth of expertise and experience in cities, such as Indianapolis, among their public officials and administrators, urban planners, academic and research professionals, and community activists who are engaged in trying to identify solutions for these challenges; and

WHEREAS, a newly created Office of Urban Planning could greatly assist cities, like Indianapolis, in identifying common challenges that face large, urban populations; in sharing their experience and expertise; and in facilitating solutions to those common challenges; now therefore,

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City Council recommends to President Obama that a broad and diverse advisory group be created to help the proposed Office of Urban Planning reach out to cities across the country to assist them in working to adopt best practices available to improve the quality of life for urban residents and for those who work and do business in our cities.

SECTION 2. The Council joins the cities of Cleveland, Winston-Salem, Chicago, Denver and others in supporting this effort and urging the creation of an advisory Board.

SECTION 3. Upon adoption of this resolution, the Council will forward a copy to the Indiana Congressional Delegation.

SECTION 4. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 5. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

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President Cockrum stated that he will direct the clerk to send a copy of this document to the Indiana delegation.

Councillor Cardwell reported that the Economic Development Committee heard Proposal No. 532, 2008 and Proposal No. 1, 2009 on January 27, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 532, 2008. The proposal, sponsored by Councillor Cardwell, reappoints Bradley Battin to the Indianapolis City Market Corporation Board of Directors. PROPOSAL NO. 1, 2009. The proposal, sponsored by Councillor Cardwell, reappoints Jeffrey Congdon to the Ft. Benjamin Harrison Reuse Authority. By 4-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Cardwell moved, seconded by Councillor Day, for adoption. Proposal No. 532, 2008 and Proposal No. 1, 2009 were adopted on the following roll call vote; viz:

24 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, MahernB, MahernD, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Sanders, Scales, Smith, Speedy, Vaughn
0 NAYS:
3 NOT VOTING: Lutz, Mansfield, Plowman
2 ABSENT: Bateman, Malone

Proposal No. 532, 2008 was retitled COUNCIL RESOLUTION NO. 34, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 34, 2009

A COUNCIL RESOLUTION reappointing Bradley Battin to the Indianapolis City Market Corporation Board of Directors.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Indianapolis City Market Corporation Board of Directors, the Council reappoints:

Bradley Battin

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2010. The person appointed by this resolution shall serve at the pleasure of the Council and until his successor is appointed and qualifies.

Proposal No. 1, 2009 was retitled COUNCIL RESOLUTION NO. 35, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 35, 2009

A COUNCIL RESOLUTION reappointing Jeffrey Congdon to the Ft. Benjamin Harrison Reuse Authority.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Ft. Benjamin Harrison Reuse Authority, the Council reappoints:

Jeffrey Congdon

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2011. The person appointed by this resolution shall serve at the pleasure of the Council and until his successor is appointed and qualifies.

Councillor Smith reported that the Metropolitan Development Committee heard Proposal Nos. 38-39, 2009 on February 2, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 38, 2009. The proposal, sponsored by Councillor Smith, appoints Jason Gaines to the Metropolitan Development Commission. PROPOSAL NO. 39, 2009. The proposal, sponsored by Councillors Smith and Hunter, approves the Mayor's appointment of Maury Plambeck as the Director of the Department of Metropolitan Development. By 9-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Smith moved, seconded by Councillor Lutz, for adoption. Proposal Nos. 38-39, 2009 were adopted on the following roll call vote; viz:

25 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Sanders, Scales, Smith, Speedy, Vaughn
0 NAYS:
2 NOT VOTING: Mansfield, Plowman
2 ABSENT: Bateman, Malone

Proposal No. 38, 2009 was retitled COUNCIL RESOLUTION NO. 36, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 36, 2009

A COUNCIL RESOLUTION appointing Jason Gaines to the Metropolitan Development Commission.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Development Commission, the Council appoints:

Jason Gaines

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2009. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 39, 2009 was retitled COUNCIL RESOLUTION NO. 37, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 37, 2009

A COUNCIL RESOLUTION approving the Mayor's appointment of Maury Plambeck as the Director of the Department of Metropolitan Development for a term ending December 31, 2009, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Metropolitan Development is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Maury Plambeck to serve as Director of the Department of Metropolitan Development at his pleasure for a term ending December 31, 2009; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

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SECTION 1. Maury Plambeck is approved and confirmed by the City-County Council to serve as the Director of the Department of Metropolitan Development for a term ending December 31, 2009, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 43, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 43, 2009 on February 5, 2009. The proposal, sponsored by Councillor Hunter, approves the Mayor's appointment of David Sherman as the Director of the Department of Public Works. By a 9-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Hunter moved, seconded by Councillor McQuillen, for adoption. Proposal No. 43, 2009 was adopted on the following roll call vote; viz:

25 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Oliver, Pfisterer, Sanders, Scales, Smith, Speedy, Vaughn

0 NAYS:

2 NOT VOTING: Nytes, Plowman

2 ABSENT: Bateman, Malone

Proposal No. 43, 2009 was retitled COUNCIL RESOLUTION NO. 38, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 38, 2009

A COUNCIL RESOLUTION approving the Mayor's appointment of David Sherman as the Director of the Department of Public Works for a term ending December 31, 2009, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Public Works is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of David Sherman to serve as Director of the Department of Public Works at his pleasure for a term ending December 31, 2009; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. David Sherman is approved and confirmed by the City-County Council to serve as the Director of the Department of Public Works for a term ending December 31, 2009, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal Nos. 45 and 46, 2009 on February 3, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 45, 2009. The proposal, sponsored by Councillors Cardwell, Hunter and Malone, approves the Mayor's appointment of Nicholas Weber as the Deputy Mayor for Economic and Workforce Development. PROPOSAL NO. 46, 2009. The proposal, sponsored by Councillors Speedy, Hunter and Malone, approves the Mayor's appointment of Olgen Williams as the Deputy Mayor for Neighborhoods. By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that Proposal No. 45, 2009 do pass as

amended and Proposal No. 46, 2009 do pass. Councillor Lutz moved, seconded by Councillor Hunter, for adoption. Proposal Nos. 45, 2009, as amended, and Proposal No. 46, 2009 were adopted on the following roll call vote; viz:

27 YEAS: *Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn*
0 NAYS:
2 ABSENT: *Bateman, Malone*

Proposal No. 45, 2009, as amended, was retitled COUNCIL RESOLUTION NO. 39, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 39, 2009

A COUNCIL RESOLUTION approving the Mayor's appointment of Nicholas Weber as the Deputy Mayor for Economic and Workforce Development for a term ending December 31, 2009, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of Deputy Mayor is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Nicholas Weber to serve as the Deputy Mayor for Economic and Workforce Development at his pleasure for a term ending December 31, 2009; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Nicholas Weber is approved and confirmed by the City-County Council to serve as the Deputy Mayor for Economic and Workforce Development for a term ending December 31, 2009, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 46, 2009 was retitled COUNCIL RESOLUTION NO. 40, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 40, 2009

A COUNCIL RESOLUTION approving the Mayor's appointment of Olgen Williams as the Deputy Mayor for Neighborhoods for a term ending December 31, 2009, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of Deputy Mayor is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Olgen Williams to serve as Deputy Mayor for Neighborhoods at his pleasure for a term ending December 31, 2009; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Olgen Williams is approved and confirmed by the City-County Council to serve as Deputy Mayor for Neighborhoods for a term ending December 31, 2009, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 62, 2009. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which approves the consolidation of the Perry Township Fire Department with the Indianapolis Fire Department on or after August 1, 2009"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 63, 2009. Introduced by Councillor Coleman. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code with respect to the council rules on adjournment motions recognizing deceased persons"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 64, 2009. Introduced by Councillor Evans. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in the Branch Creek at the Pike subdivision (District 1)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 65, 2009. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in the Grey Fox Woods subdivision, sections two and three (District 25)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 66, 2009. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at the intersection of Arlington Avenue, Graham Road, and County Line Road (District 25)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 67, 2009. Introduced by Councillor Hunter. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in the Raymond Park Village subdivision (District 21)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 68, 2009. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in the Arbors on Bluff subdivision (District 22)"; and the President referred it to the Public Works Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

Councillor Cardwell reported that the Economic Development Committee heard Proposal Nos. 47 and 48, 2009 on January 27, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 47, 2009. The proposal, sponsored by Councillors Cardwell and Malone, is a final ordinance amending and restating Special Ordinance No. 7, 2008 for GMF-Mann Village, LLC in an amount not to exceed \$15,000,000 for the purpose of refunding the outstanding multifamily housing revenue bonds which were issued to finance the acquisition, renovation and equipping of the existing 336-unit multifamily housing residential rental project known as the Mann Village Apartments (District 22). PROPOSAL NO. 48, 2009. The proposal, sponsored by Councillors Cardwell and Malone, is a final ordinance for Crossing Partners, L.P. to restructure

the existing financing of \$8,700,000 to finance the acquisition, renovation and equipping of the existing 252-unit multifamily housing residential rental project known as the Farmington Lakes Apartments (District 11). By a 4-0 vote, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Cardwell moved, seconded by Councillor McQuillen, for adoption. Proposal Nos. 47 and 48, 2009 was adopted on the following roll call vote; viz:

27 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn

0 NAYS:

2 ABSENT: Bateman, Malone

Proposal No. 47, 2009 was retitled SPECIAL ORDINANCE NO. 2, 2009, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 2, 2009

A SPECIAL ORDINANCE authorizing the City of Indianapolis to issue the Bonds (as defined below) and approving and authorizing other actions in respect thereto.

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities, for diversification of economic development and creation or retention of opportunities for gainful employment; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, a representative of GMF - Mann Village, LLC, a Tennessee limited liability company (the "Company") has requested that the City of Indianapolis, Indiana (the "Issuer") issue bonds and lend the proceeds thereof to the Company in order to enable the Company to undertake and complete the refunding of the City of Indianapolis, Indiana Multifamily Housing Revenue Bonds (GMF - Mann Village Apartments Project), Series 2008A and 2008B (the "Prior Bonds"); and

WHEREAS, the Prior Bonds were issued to finance the costs of the acquisition, renovation, development, construction, refurbishment, upgrade and equipping of an apartment complex known as Mann Village Apartments with a total of 336 units, located at 4010 Mann Village Road, in City-County Council District 22 of the City of Indianapolis, Indiana (the "Project"); and

WHEREAS, the Company also incurred a subordinate mortgage (the "Prior Mortgage") in connection with the Prior Bonds; and

WHEREAS, the Commission adopted a resolution (the "Original EDC Resolution"), on November 12, 2008 which approved the issuance of the City of Indianapolis, Indiana Multifamily Housing Refunding Revenue Bonds (GNMA Collateralized - GMF - Mann Village Apartments Project), Series 2008 in one or more series, in an aggregate principal amount not to exceed \$15,000,000 by the Issuer and the loan of the proceeds thereof to the Company to refund the Prior Bonds and the Prior Mortgage; and

WHEREAS, the Issuer previously adopted Special Ordinance No. 7 (the "Original Issuer Ordinance") on December 8, 2008 which approved the issuance of the City of Indianapolis, Indiana Multifamily Housing Refunding Revenue Bonds (GNMA Collateralized - GMF - Mann Village Apartments Project), Series 2008 in one or more series, in an aggregate principal amount not to exceed \$15,000,000 by the Issuer and the loan of the proceeds thereof to the Company to refund the Prior Bonds and the Prior Mortgage; and

WHEREAS, adverse bond market conditions caused the potential purchaser under a bond purchase contract to not be able to purchase the entire amount of the bonds; therefore an additional series of bonds

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is necessary to allow the Company to pursue the issuance of economic development facility revenue bonds to refund the Prior Bonds and the Prior Mortgage; and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to refund the Prior Bonds and the Prior Mortgage by issuing not to exceed \$15,000,000 aggregate principal amount City of Indianapolis, Indiana Multifamily Housing Refunding Revenue Bonds (GNMA Collateralized - GMF - Mann Village Apartments Project), Series 2009 in one or more series (the "Senior Bonds") and City of Indianapolis, Indiana Multifamily Housing Refunding Revenue Bonds (GMF - Mann Village Apartments Project), Series 2009 in one or more series (the "Subordinate Bonds" and, together with the Senior Bonds, the "Bonds"); and

WHEREAS, the Issuer intends to issue the Senior Bonds in one or more series pursuant to a Trust Indenture (the "Senior Indenture") dated as of February 1, 2009, by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee") pursuant to a Financing Agreement with respect to the Senior Bonds among the Issuer, the Trustee, the Company and P/R Mortgage & Investment Corp., as lender (the "Lender") (the "Senior Loan Agreement") dated as of February 1, 2009; and

WHEREAS, the Senior Loan Agreement provides for the repayment by the Company of the loan of the proceeds of the Senior Bonds pursuant to which the Company will agree to make payments sufficient to pay the principal and interest on the Senior Bonds as the same become due and payable and to pay administrative expenses in connection with the Senior Bonds; and

WHEREAS, the obligation of the Company to repay the loan with respect to the Senior Bonds will be evidenced by a Mortgage Note, which Mortgage Note will be secured by a Mortgage from the Company to the Lender; and

WHEREAS, the Mortgage Note will be secured by a mortgage backed security of the Government National Mortgage Association that will be held by or pledged to the Trustee as additional security for the Senior Bonds; and

WHEREAS, the Issuer intends to issue the Subordinate Bonds pursuant to a Trust Indenture (the "Subordinate Indenture") dated as of February 1, 2009, by and between the Issuer and the Trustee pursuant to a Financing Agreement with respect to the Subordinate Bonds among the Issuer, the Trustee and the Company (the "Subordinate Loan Agreement") dated as of February 1, 2009; and

WHEREAS, the Subordinate Loan Agreement provides for the repayment by the Company of the loan of the proceeds of the Subordinate Bonds pursuant to which the Company will agree to make payments sufficient to pay the principal and interest on the Subordinate Bonds as the same become due and payable and to pay administrative expenses in connection with the Subordinate Bonds; and

WHEREAS, the obligation of the Company to repay the loan with respect to the Subordinate Bonds will be evidenced by a Note, which Note may be secured by a Mortgage from the Company to the Trustee; and

WHEREAS, the Bonds will be issued in order to obtain funds to lend to the Company for the purpose of refinancing the Prior Bonds and the Prior Mortgage provided, however, that the aggregate principal amount of the Bonds shall not exceed \$15,000,000; and

WHEREAS, no member of the Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-6; and

WHEREAS, there has been submitted to the Commission for its approval substantially final forms of the Senior Indenture, Subordinate Indenture, Senior Loan Agreement, Subordinate Loan Agreement, Amended and Restated Tax Regulatory Agreement, Bond Purchase Agreement with respect to Senior Bonds, Bond Purchase Agreement with respect to the Subordinate Bonds, the Official Statement and the forms of the Senior Bonds and Subordinate Bonds (hereinafter referred to collectively as the "Financing Documents") and this proposed form of ordinance which are by this reference incorporated herein by Resolution adopted prior in time to this date, which Resolution has been transmitted hereto; and

WHEREAS, the Company owns and will continue to own real property, improvements located thereon and the equipment constituting the Project, and the Company will be liable for the debt described in the Senior Loan Agreement and the Subordinate Loan Agreement (collectively, the "Loan Agreements"); and

WHEREAS, the Issuer is amending and restating the Original Issuer Ordinance to provide for the issuance and sale of the Bonds; and

WHEREAS, based upon the resolution adopted by the Commission pertaining to the Project, the Issuer hereby finds and determines that the refunding approved by the Commission for the Prior Bonds and the Prior Mortgage will be of benefit to the health and general welfare of the citizens of the Issuer, complies with the provisions of the Act and the amount necessary to refinance the costs of the Project, will require the issuance, sale and delivery of one or more series of economic development revenue bonds in an aggregate principal amount not to exceed \$15,000,000; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. It is hereby found that the refinancing of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Company for the purposes of refunding the Prior Bonds and the Prior Mortgage, and the repayment of said loan by the Company will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular, the requirement of promoting a substantial likelihood of creating or retaining opportunities for gainful employment. Furthermore, it is hereby found that the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Council or City Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

SECTION 3. The Issuer shall issue its Bonds in one or more series, as described above, in the aggregate principal amount not to exceed \$15,000,000, for the purpose of procuring funds to loan to the Company in order to refund the Prior Bonds and the Prior Mortgage which Bonds will be payable as to principal and interest solely from the payments made by the Company pursuant to the Financing Documents to evidence and secure said loan and as otherwise provided in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

SECTION 4. The City Clerk and City Controller are authorized and directed to sell such Bonds to the purchasers thereof at a price not less than 100% of the aggregate principal amount thereof plus accrued interest, if any, and at a rate of interest not to exceed 12% percent per annum. The Bonds will mature no later than January 1, 2049.

SECTION 5. The Mayor and City Clerk are authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and City Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Bonds may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Bonds may be facsimile signatures. The City Clerk and City Controller are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and City Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or City Clerk without further approval of this City-County Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 6. The provisions of this ordinance and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. Subject to the obligations of the Company set forth in the Loan Agreements and the Tax Representation Certificate, the Issuer will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations promulgated thereunder. The Mayor and the Clerk, or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the

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foregoing, or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 of the Code and the regulations thereunder.

SECTION 8. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Financing Documents or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreements, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any at them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreements and the issuance, sale and delivery of the Bonds.

SECTION 9. The Company will indemnify and hold the Issuer, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses and other court costs arising out of, or in any way relating to, the execution or performance of the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, including the issuance and sale of the Bonds or failure to issue or sell the Bonds or other actions taken under the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, all as further described in the Loan Agreements, except in any case as a result of the intentional misrepresentation or willful misconduct of the Issuer.

SECTION 10. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 11. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 12. It is hereby determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5 et seq., as amended.

SECTION 13. The Mayor and the Clerk are authorized to take all such further actions or to execute, attest and deliver such further instruments and documents in the name of the Issuer as in their judgment shall be necessary or advisable in order fully to consummate the transaction and carry out the purposes of this Ordinance.

SECTION 14. This ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 3, Chapter 4, Section 14.

SECTION 15. This ordinance is amends and restates the Original Issuer Ordinance in its entirety.

Proposal No. 48, 2009 was retitled SPECIAL ORDINANCE NO. 3, 2009, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 3, 2009

A SPECIAL ORDINANCE authorizing the City of Indianapolis to restructure the existing financing for the City of Indianapolis, Indiana Variable/Fixed Rate Multi-Family Housing Revenue Bonds, Series 1996 (Crossing Partners, L.P. Project) originally issued in the aggregate principal amount of \$8,700,000 (the "Bonds") and approving and authorizing other actions in respect thereto.

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WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the “Act”) declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities, for diversification of economic development and creation or retention of opportunities for gainful employment; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, a representative of Crossing Partners, L.P., an Indiana limited liability company (the “Company”) has requested that the City of Indianapolis, Indiana (the “Issuer”) approve the restructuring of the Bonds ; and

WHEREAS, the Bonds were issued on November 1, 1996, to finance the acquisition, renovation and equipping of the 252 unit affordable housing facility known as Farmington Lakes Apartments, located at 7925 Crossbridge Drive, in City-County Council District 11 of the City of Indianapolis, Indiana (the “Project”); and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to approve the restructuring of the Bonds so that the Bonds may be converted from variable to fixed rate; and

WHEREAS, the Issuer intends to restructure the Bonds pursuant to a Third Supplement To Trust Indenture (the “Indenture”) and a Second Amendment To Loan Agreement (the “Loan Agreement”) each dated as of February 1, 2009, for the purpose of restructuring the Bonds; and

WHEREAS, no member of the City-County Council of the Issuer (the “Council”) has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-6; and

WHEREAS, there has been submitted to the Commission for its approval by Resolution adopted prior in time to this date a substantially final form of the Indenture and this proposed form of ordinance which are by this reference incorporated herein, which Resolution has been transmitted hereto; and

WHEREAS, the Company owns and will continue to own real property, improvements located thereon and the equipment constituting the Project; and

WHEREAS, based upon the Resolution adopted by the Indianapolis Economic Development Commission (the “Commission”) pertaining to the Project, the Issuer hereby finds and determines that the restructuring approved by the Commission for the Bonds will be of benefit to the health and general welfare of the citizens of the Issuer, complies with the provisions of the Act; now, therefore:

**BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. It is hereby found that the restructuring of the Project will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular, the requirement of promoting a substantial likelihood of creating or retaining opportunities for gainful employment. Furthermore, it is hereby found that the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

SECTION 2. The form of the Indenture and Loan Agreement presented herewith are hereby approved and shall be kept on file by the Clerk of the Council or City-Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Indenture and Loan Agreement are on file in the office of the Clerk of the Council for public inspection.

SECTION 3. The Mayor and City Clerk are authorized and directed to execute the Indenture and Loan Agreement approved herein which requires the signature of the Mayor and City Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Indenture and Loan Agreement may be necessary or desirable to consummate the transaction, and their

execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Indenture and Loan Agreement may be facsimile signatures. The Mayor and City Clerk may, by their execution of the Indenture and Loan Agreement and imprinting of their facsimile signatures thereon, approve changes therein and also in those documents which do not require the signature of the Mayor and/or City Clerk without further approval of this Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 4. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance, the Indenture, the Loan Agreement or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Indenture or the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any at them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Indenture and the Loan Agreement and the delivery of the Bonds.

SECTION 5. The Company will indemnify and hold the Issuer, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses and other court costs arising out of, or in any way relating to any other cause whatsoever pertaining to the Project or the Bonds, except in any case as a result of the intentional misrepresentation or willful misconduct of the Issuer.

SECTION 6. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 8. It is hereby determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5 et seq., as amended.

SECTION 9. The Mayor and the Clerk are authorized to take all such further actions or to execute, attest and deliver such further instruments and documents in the name of the Issuer as in their judgment shall be necessary or advisable in order fully to consummate the transaction and carry out the purposes of this Ordinance.

SECTION 10. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 3, Chapter 4, Section 14.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 61, 2009. Councillor Speedy reported that the Community Affairs Committee heard Proposal No. 61, 2009 on February 5, 2009. The proposal, sponsored by Councillors Vaughn and Malone, appropriates \$9,500,000 in the 2009 Budget of the Division of Family and Children (Family and Children Services Fund) to fund contractual services for child welfare services and programs incurred in 2008 but funded in 2009 in accordance with HEA 1001, 2008. By a 4-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Nytes said that she could not attend the meeting, but did study the minutes and is concerned that there are still so many unanswered questions. She said that while she knows this

was mentioned during budget discussions, they were not sure at the time how much money it would be, but she would have expected there would be more documentation as to how that money would be spent. She said that there is no reference of a tax rate to pay off the debt incurred and there are references to both \$5.5 million and \$15 million. She said that there are still significant questions left unanswered. While she has respect for those families that take on the responsibility of providing safe and secure environments for children in need of services (CHINS) and does not want to hold up reimbursement of their funding, she is not comfortable with the proposal as it has come out of committee. She moved, seconded by Councillor Gray, to return Proposal No. 61, 2009 to committee for further discussion.

Councillor Speedy said many of these questions were raised at the committee level already, and this closes the chapter on a long standing practice of the state sending local government a voucher telling them what to pay. This proposal ends that practice. Councillor Nytes said that she appreciates that this is the last time the Council will have to engage in this exercise, but in past years it seems there was frequently more documentation. However, they have not seen any budgets or summaries of where this \$15 million is going, even though they have to borrow to make it. Councillor Speedy said that as it was explained to him, the practice which has been in place for a long time is that the state tells them what to spend, but not what to spend it for. He said that they have not had a lot of help in even reaching an accurate amount as to what the final bill will be, let alone the details of expenditures. David Reynolds, City Controller, said that there are a lot of questions left to be answered, but the issue this evening is that there are bills that need to be paid for people who have provided a vital, yet costly, service. He said that they did not have good information when they devised the budget, and simply made a good faith estimate. This may not, however, be the last chance the Council will have to review this issue, because there are still some unknowns regarding tail payments and state reimbursements and how much property tax will be corrected.

Councillor Sanders asked if there is \$9.5 million in the Family and Children Services Fund that can be encumbered. Mr. Reynolds said that this appropriates \$9.5 million into that fund. Councillor Sanders asked if there is cash sitting in that fund. Mr. Reynolds said that there is not, and that like normal funding practice, they will utilize interfund borrowing or tax anticipation notes. Councillor Sanders asked then if the funds identified are not really coming from the Family and Children Services (FCS) Fund. Mr. Reynolds said that there is not \$9.5 million in that fund, but there is some there. Councillor Sanders asked if the money is coming then from County General. She asked if they have to bond this out, if it will result in a property tax increase. Mr. Reynolds said it is too early to say that, as there are still too many unknowns with state reimbursements and 2008 collections. Councillor Sanders asked if increasing property taxes by bonding against them is an option. Mr. Reynolds said that they will not know all their options until they get reimbursements and collections come in. Councillor Sanders asked if they will need more than the \$9.5 million if they already have \$8.2 million in claims. Mr. Reynolds said that the \$8.2 million in claims is partially covered by the originally budgeted \$5.5 million. The extra will be paid from the \$9.5 million. Councillor Sanders said if there are funds left over from this \$9.5 million appropriation, where do they go. Mr. Reynolds said that the money reverts back to the original fund and the authority to spend goes away. He said the goal is to have a zero fund balance when all bills are paid and collections come in. Councillor Sanders asked if there is any way to be sure the state is not billing the city for 2009 expenses still, which are no longer their responsibility. Mr. Reynolds said that they will do their due diligence and audit these bills to be sure. Councillor Sanders asked how long the city is obligated to keep that window of paying these bills open until the books can be closed. Mr. Reynolds said that he does not know the answer to that question.

Councillor Lutz said that while he understands this is an unfunded mandate that the city is required to pay and has no control over it, and he agrees that people should be paid for providing services, he is concerned that there is no accompanying documentation. Therefore, he cannot support the proposal unless he can see documentation as to where this \$9.5 million is going. Mr. Reynolds said that his office will only pay the bills that they have verified to be legitimate expenses during the time the county was responsible for paying such. He said that this proposal does not actually spend the dollars, but just gives his office the authority to pay invoices. Councillor Lutz said that he respects the Office of Finance and Management (OFM), but until he sees something more concrete from the state, they seem to be pulling numbers from the air. He said that he cannot vote to support something until he knows what the spending is for, and it is not a criticism of the OFM.

Councillor Speedy asked if the office is willing to conduct an audit on these bills. Mr. Reynolds said that they are. Councillor Speedy said that he believes this gives them assurance they need that this money will go where it is supposed to through the documentation of an audit. He encouraged his colleagues to support the proposal and then request a follow-up audit report.

Councillor Sanders said that Councillors at least have the right to ask for a budget or spreadsheet to understand overspending and underspending. She said that to talk of a balanced budget flies in the face of what they are dealing with at this time.

Councillor Nytes asked if they are spending \$15 million more on this function that they budgeted for in 2008. President Cockrum said that they budgeted \$5.5 million in the 2009 budget, and so they are spending \$9.5 million more than anticipated. Councillor Nytes said that although they are actually 2008 expenditures, this reflects 2009 budget spending. She said that she wants to remind the public that even though they no longer have the responsibility of the Family and Children Fund, there are still issues with this office in documenting expenditures and spending monies wisely. She said that with the Controller's assurance of an audit, she withdraws her motion to return the proposal to committee. Councillor Gray withdrew his second.

Councillor Speedy moved, seconded by Councillor Scales, for adoption. Proposal No. 61, 2009 was adopted on the following roll call vote; viz:

20 YEAS: Cain, Cardwell, Cockrum, Day, Gray, Hunter, Lewis, MahernB, MahernD, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Scales, Smith, Speedy, Vaughn
7 NAYS: Brown, Coleman, Evans, Lutz, Minton McNeill, Oliver, Sanders
2 ABSENT: Bateman, Malone

Proposal No. 61, 2009 was retitled FISCAL ORDINANCE NO. 1, 2009, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 1, 2009

A FISCAL ORDINANCE amending the Child Welfare Services Annual Budget for 2009 (City-County Fiscal Ordinance No. 54, 2008) by appropriating Nine Million Five Hundred Thousand Dollars (\$9,500,000) in the Family and Children Services Fund for purposes of the Division of Family and Children.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.07 of the City – County Annual Budget for 2009 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Division of Family and Children to fund the following: child welfare services and programs paid in 2009 when services were provided in 2008, financed by the fund balance of the Family and Children Services Fund.

SECTION 2. The sum of Nine Million Five Hundred Thousand Dollars (\$9,500,000) be, and the same appropriated for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4, where applicable.

SECTION 3. The following increased appropriation is hereby approved:

<u>DIVISION OF FAMILY AND CHILDREN</u>	<u>FAMILY AND CHILDREN SERVICES FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	9,500,000
4. Capital Outlay	<u>0</u>
TOTAL INCREASE	9,500,000

SECTION 4. The said increased appropriation is funded by the following reductions:

	<u>FAMILY AND CHILDREN SERVICES FUND</u>
Unappropriated and Unencumbered	
Family and Children Services Fund	<u>9,500,000</u>
TOTAL DECREASE	9,500,000

SECTION 5. In accordance with section 151-64 of the revised code of the Consolidated City and County, the following fund balance information is provided:

The estimated December 31, 2009 ending fund balance for the Family and Children Services Fund (on a budgetary basis) is approximately \$0. Funding for the additional appropriation is based on reimbursement revenues from the Indiana Department of Child Services and bond proceeds for the coverage of Child Welfare costs.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 462, 2008. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 462, 2008 on October 14 and November 11, 2008 and January 20 and February 3, 2009. The proposal, sponsored by Councillors Evans, Pfisterer, Sanders and B. Mahern, amends the Code to provide for the effective conservation of water furnished by the department of waterworks. By a 5-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Mansfield moved, seconded by Councillor Sanders, to amend Sec. 706-105 (c) and (d) to allow exemptions from the mayor. The motion carried on the following roll call vote; viz:

26 YEAS: *Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy*
1 NAY: *Vaughn*
2 ABSENT: *Bateman, Malone*

Councillor Coleman said that he voted against the proposal in committee, but will vote to support it this evening because the amendment gives the mayor some discretion. However, he would recommend that these exemptions not be used as it would have to be a public safety or health issue for conditions to get that bad.

Councillor Lutz moved, seconded by Councillor Mansfield, for adoption. Proposal No. 462, 2009, as amended, was adopted on the following roll call vote; viz:

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27 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn

0 NAYS:

2 ABSENT: Bateman, Malone

Proposal No. 462, 2008 was retitled GENERAL ORDINANCE NO. 15, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 15, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to provide for the effective conservation of water furnished by the department of waterworks.

WHEREAS, both natural and man-made conditions may arise or occur to cause a temporary shortage of water; and

WHEREAS, such conditions may affect the department of waterworks' ability to provide an adequate supply of water or to maintain adequate water pressure in its delivery system; and

WHEREAS, in such event it is imperative to the well-being of the public that uses of water not essential to the health, welfare and safety be restricted; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. TITLE III of the "Revised Code of the Consolidated City and County," regarding public health and welfare, hereby is amended by the addition of a NEW Chapter 706 regarding water conservation, to read as follows:

Chapter 706

WATER CONSERVATION

Sec. 706-101. Application.

This ordinance applies to the use of water from the Indianapolis Water public water system that occurs within the county.

Sec. 706-102. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory conditions means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the Indianapolis Water reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

Customer means an individual, firm, corporation, government agency or other entity being supplied with water utility service by Indianapolis Water at a location within the county.

Indianapolis Water means the City of Indianapolis Department of Waterworks.

Indianapolis Water reservoirs means Geist Reservoir and Morse Reservoir.

Mandatory conservation means compliance with Indianapolis Water's imposition of requirements that are designed to reduce certain kinds and types of water use.

Normal conditions means conditions under which water supply and treatment capacity are adequate to meet all demands.

Treated water means water treated in a manner that it is suitable for human consumption or for another designated use.

Vegetable garden means a garden where substantially all of the plants are suitable and grown

primarily for human consumption.

Voluntary conservation means compliance with Indianapolis Water's request to reduce water use.

Water emergency means an occurrence wherein Mandatory Conservation measures are appropriate due to the levels in either of the Indianapolis Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated twenty-five (25) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

Water user means a customer or other individual, firm, corporation, government agency, or other entity using water from the Indianapolis Water public water system within the county.

Water warning means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the Indianapolis Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated fifty (50) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

Sec. 706-103. Voluntary conservation.

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the Wise Water Use Policy adopted by the board of directors of Indianapolis Water.

It shall be the public policy of the City of Indianapolis to direct the Indianapolis Water and the Board of Waterworks to establish a rate structure that provides a financial incentive to customers to conserve water. Such a rate structure shall provide that customers are charged a water usage rate which encourages the conservation of our public water supply through lower fees and rates per cubic foot of water consumption as the customer and/or water user uses a lower volume of water and for higher fees and rates per cubic foot of water consumption as the customer and/or water user uses a greater volume of water.

Sec. 706-104. Declaration of need; notice.

(a) Upon determining that the Indianapolis Water public water system is in a condition of water shortage, the mayor of the city may declare the existence of a water warning or water emergency, whereupon the respective water conservation measures described in Section 706-105 of this chapter shall apply until the water warning or emergency is terminated. Whenever the mayor finds that some or all of the conditions that gave rise to the declaration of a water warning or water emergency no longer exist, he may declare the water warning or water emergency terminated.

(b) Notice of the declaration or termination of a water warning or water emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

Sec. 706-105. Mandatory water conservation; exemptions.

(a) During a water warning or a water emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:

- (1) Sprinkling, watering, or irrigating of grass;
- (2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;
- (3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;
- (4) Filling empty swimming pools;
- (5) Installing new landscaping or new lawn by using sod until return to normal conditions are declared by Indianapolis Water;

- (6) Using hydrants except for fire suppression or as otherwise directed by Indianapolis Water; and
- (7) Operating water fountains that are non-recycling.

(b) In addition to the prohibitions listed in subsection (a), it shall be unlawful during a water emergency for a water user to cause, permit, allow, do, or engage in any outdoor watering; provided, however, that vegetable gardens may be watered every other day by container or hand-held hose equipped with shut-off nozzle.

(c) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories;

(d) The following water users and water uses may be exempted by the mayor from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Automatic commercial car washes, provided a majority of the water used is recycled;
- (2) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and
- (3) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday.
- (4) Any watering of property owned or controlled by the Department of Parks and Recreation as directed by the mayor or mayor's designee where such watering is necessary or appropriate for asset preservation.

Sec. 706-106. Enforcement.

(a) Each customer shall be responsible for compliance with Section 706-105 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(b) A person's first and second violations of Section 703-105 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103, Article III, of the Code.

(c) With respect to violations not resolved under Chapter 103, Article III, of the Code, including a person's third and subsequent violations of Section 703-105 in a twelve-month period, Indianapolis Water may refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in Chapter 103, Article V of the code. Violations under this subsection are subject to the general penalties provided in Section 103-3 of the code; however, the penalty for each such violation shall not be less than Five Hundred Dollars (\$500.00).

(d) All monies collected from violation of this chapter shall be deposited in the water conservation enforcement fund created by Section 135-391 of the Code.

Sec. 706-107. Enforcement.

This chapter shall be enforced by the division of compliance of the department of metropolitan development and any other designee of the director of the department of metropolitan development.

SECTION 2. Section 103-51 of the "Revised Code of the Consolidated City and County," regarding admission of violations and payment of designated civil penalties, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 103-51. Violations subject to admission and payment.

Violations of the Code (or ordinance) provisions set forth in the schedule in section 103-52 are designated as subject to admissions of violation and payment of the designated civil penalty ~~(if not more than one hundred dollars (\$100.00) in an amount not exceeding any limitation under IC 33-36-2-3 in accordance with the procedures of this article.~~

SECTION 3. Section 103-52 of the "Revised Code of the Consolidated City and County," regarding certain code provisions and civil penalties that may be paid through the ordinance violations bureau, hereby is amended by the addition of the language that is underscored, to read as follows:

Sec. 103-52. Schedule of Code provisions and penalties.

The following Code (or ordinance) provisions and their respective civil penalties are designated for enforcement through the ordinance violations bureau:

Code Section	Subject Matter	Civil Penalty
293-321	Failure to file economic statement of interest - first offense	50.00
321-1	Swimming in unguarded waters - first offense in calendar year	50.00
361-108	Littering on premises of another	45.00
361-201	Vehicle losing its load--First offense in calendar year	50.00
391-302	Unlawful noise--First offense in calendar year	50.00
391-303	Noisy house--First offense in calendar year	50.00
407-103	Loitering—First offense in calendar year	50.00
431-108	Parking prohibited for street repairs and cleaning	20.00
431-314	Premises address violation--Second offense in calendar year	25.00
431-602	Bicycles--Second and subsequent violations regarding children under twelve	50.00
431-603	Unlawful operation of bicycle--First violation	50.00
431-702	Prohibited activity in roadways--First violation in twelve-month period	25.00
431-703	Interference with vehicular traffic--First violation in twelve-month period	25.00
441-108	Pedestrian violations	12.50
441-214	Parking when temporarily prohibited	20.00
441-318	Unlawful use of horn or sounding device	15.00
441-363	Unlawfully parked trailer	20.00
441-407	Display of unauthorized traffic controls	15.00
441-408	Interference with traffic control devices	15.00
441-503	Consumption or possession by operator of motor vehicle--First offense in calendar year	50.00
441-504	Operating motor vehicle containing open alcoholic beverages--First offense in calendar year	50.00
511-702	Open burning	50.00
531-102	Animal at large--First offense in twelve-month period	50.00
611-403	Unlawful loading or unloading of private bus	15.00
611-501	Unlawful stopping of food vendor vehicle	15.00
611-502	Violation of noise restriction on food vendors	15.00

611-504	Failure of food vending vehicle to display required warnings	15.00
611-506	Unlawful vending from other than curbside of vending vehicle	15.00
621-106	Unlawful parking on sidewalk, in crosswalk, or adjacent yard	25.00
621-107	Unlawful parking in certain school areas	20.00
621-108	Unlawful manner of parking	20.00
621-109	No required lights on certain parked vehicles	20.00
621-110	Violation of handicapped parking restrictions	100.00
621-111	Unlawful parking in handicapped parking meter zone	100.00
621-112	Unloading perpendicular to curb without permit	20.00
621-113	Unlawful use of bus stops and taxicab stands	20.00
621-114	Unlawful use of passenger and loading zones	20.00
621-115	Unlawful parking adjacent to certain buildings	20.00
621-116	Unlawful parking for display for sale or advertising	20.00
621-117	Unlawful parking for more than six (6) hours	20.00
621-118	Unlawful parking of commercial vehicles at night	20.00
621-119	Unlawful parking in alleys or on certain narrow streets	20.00
621-120	Unlawful parking in designated special parking areas	20.00
621-121	Parking on certain streets where prohibited at all times	20.00
621-122	Stopping, standing or parking on streets where prohibited at all times	20.00
621-123	Parking on certain streets where prohibited at all times on certain days	20.00
621-124	Parking on certain streets when prohibited at certain times on certain days	20.00
621-125	Stopping, standing or parking during prohibited hours on certain days on certain streets	25.00
621-126	Parking longer than permitted on certain streets at certain times on certain days	20.00
621-203	Parking in excess of time permitted in parking meter zone	20.00
621-210	Parking in meter zone when temporarily prohibited	20.00
621-216	Overtime parking in metered parking space	20.00
621-306	Unlawful parking during snow emergency	25.00
621-404	Leaving taxicab unattended	20.00
621-405	Unlawful parking in certain mailbox zones	20.00
621-430(a)	Unlawful use of loading zone in Regional Center by non-eligible vehicle	25.00
621-430(b)	Unlawful use of loading zone in Regional Center--Non-permitted use	25.00
621-430(c)	Unlawful use of loading zone in Regional Center in excess of posted time limits	25.00
621-430(d)	Unlawful obstructing traffic in the Regional Center	25.00
621-430(e)	Unlawful parking in alleys or on certain narrow streets in the Regional Center	25.00
621-501	Unlawful stopping, standing or parking near fire hydrant	75.00
621-502	Unlawful obstruction of fire lane	75.00
631-102	In park after hours--First offense in calendar year	50.00

631-109	Alcohol in park--First offense in calendar year	50.00
645-528	Skateboard or similar play device--First offense in calendar year	50.00
<u>706-105</u>	<u>Water conservation violation--First offense in twelve-month period</u>	<u>100.00</u>
<u>706-105</u>	<u>Water conservation violation--Second offense in twelve-month period</u>	<u>250.00</u>
730-505	Civil zoning violations--First offense in calendar year	50.00
811-214	Alarm business failure to report monitoring information	100.00
811-311	First false alarm in calendar year after a year in which a warning was issued	25.00
811-311	Second false alarm in same calendar year as warning	25.00
811-311	Second false alarm in all other calendar years	50.00
811-311	Third false alarm in same calendar year as warning	50.00
811-311	Third false alarm in all other calendar years	75.00
811-311	Fourth false alarm in same calendar year as warning	75.00
811-311	Fourth false alarm in all other calendar years	100.00
811-704	Second faulty fire alarm in twelve-month period	25.00
811-704	Third faulty fire alarm in twelve-month period	50.00
811-704	Fourth faulty fire alarm in twelve-month period	75.00
Ch. 895	Horse-drawn carriage violation--First offense in twelve-month period	100.00
Ch. 903	Pedal cab violation--First offense in twelve-month period	100.00
931-305	Excessive parking charge at commercial parking facility--First offense in twelve-month period	100.00
996-77	No monthly taxicab certificate--First offense in twelve-month period	25.00
996-123	Failure to maintain public vehicle for hire--First offense in twelve-month period	25.00
996-124	Taxicab operator dress code violation--First offense in twelve-month period	25.00
996-126	Failure to display licenses or fare schedule--First offense in twelve-month period	25.00
996-138	Taxicab operator exceeding limitation on hours--First offense in twelve-month period	25.00

SECTION 4. Section 103-501 of the "Revised Code of the Consolidated City and County," regarding definitions that are applicable to administrative adjudication of environmental violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 103-501. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section:

(a) ~~Code shall mean the Revised Code of Indianapolis and Marion County.~~

(b) ~~DPW shall mean~~ means the department of public works.

(c) ~~Environmental violation shall mean~~ means and includes a violation of one (1) or more of the following:

- (1) A regulation, adopted by the Indianapolis Air Pollution Control Board under the authority of section 511-401 of the Code, a violation of which constitutes a violation of Chapter 511 pursuant to section 511-403;

- (2) Section 511-403 of the Code, "enforcement of permits; permit fees and the requirement to obtain a permit;"
- (3) Section 511-701 of the Code, "air pollution;"
- (4) Section 511-702 of the Code, "open burning restricted; general prohibitions;"
- (5) Chapter 575 of the Code, "environmental public nuisances;"
- (56) Chapter 671, Article I, of the Code "general;" ~~sections 671-1 through 671-21.~~
- (67) Chapter 671, Article II, of the Code "building sewers;" ~~sections 671-22 through 671-31.~~
- (78) Chapter 671, Article III, of the Code "industrial discharge permits;" ~~sections 671-41 through 671-100.~~
- (89) Chapter 671, Article VI, of the Code "wastewater hauling;" ~~sections 671-128 through 671-149; and~~
- (9) ~~Any provision of chapter 575, "environmental public nuisances."~~
- (10) Section 760-105 of the Code, "mandatory water conservation: exemptions."
- (d) ~~Party and parties shall refer to~~ means and includes the city and respondents.
- (e) ~~Respondent shall mean~~ means a person to whom a notice of hearing is issued pursuant to section 103-504 of this article.

SECTION 5. Section 103-504 of the "Revised Code of the Consolidated City and County," regarding notice of administrative hearing on environmental violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 103-504. Notice of administrative hearing.

- (a) Whenever DPW issues a notice of violation for an environmental violation or determines that an environmental public nuisance as defined in chapter 575 exists, DPW may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this ~~Code article~~. Whenever the department of waterworks determines that a violation of Section 706-105 of the Code has occurred, the department may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this article.
- (b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. For ~~any a~~ violation of chapter 575, a notice of administrative hearing sent by United States mail, postage prepaid, to the owner of said real estate at the address to which property tax statements for the real estate are sent, as these addresses are shown by the most current records in the assessor's office, shall be sufficient notice to the property owner under this section. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. DPW or the department of waterworks shall keep a record of the time, date and manner of service.
- (c) DPW or the department of waterworks shall cause a copy of each notice issued pursuant to this section to be delivered to the hearing officer who will preside over the hearing.
- (d) Each notice of administrative hearing shall include the following information:
 - (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
 - (2) A statement of the date, time and place of the hearing;
 - (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
 - (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;

- (5) The official title, and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
 - (6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the city; and
 - (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.
- (e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

SECTION 6. Sections 103-508 and 103-509 of the "Revised Code of the Consolidated City and County," regarding stipulated penalties and the decision in adjudications of environmental violation, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 103-508. Stipulated penalties.

The decision of the hearing officer or the compliance agreement approved by the hearing officer may require the payment of stipulated penalties if the terms of the decision or compliance agreement are violated. The stipulated penalties for each violation shall not exceed:

- (1) ~~The penalty amounts described in section 511-607 for violations of Chapter 511 of this Revised Code or section 671-16 of this Revised Code for each violation; or~~
- (2) Two thousand five hundred dollars (\$2,500.00) for all other violations.

Sec. 103-509. Decision.

(a) Upon the conclusion of each hearing or within a maximum of forty-five (45) days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination whether the respondent violated the ordinance as alleged, the amount of civil penalty that must be paid for each violation with instructions on when and how payment shall be made, and a statement of the parties' right to petition for review of the decision. The penalties for each violation shall not exceed:

- (1) ~~The penalty amounts described in section 511-607 for violations of Chapter 511 of this Revised Code, chapter 575 of this Revised Code, or section 671-16 of this Revised Code for each violation; or~~
- (2) Two thousand five hundred dollars (\$2,500.00) for all other violations.

(b) The hearing officer's decision may include an order affirming, modifying or revoking any order issued by DPW with the notice of violation or directing the abatement or cessation of the action described in the notice of violation.

(c) The hearing officer's decision may include a compliance order, establishing a program and schedule to attain and maintain compliance, stipulated penalties, and other provisions necessary to ensure compliance.

(d) The decision shall be based exclusively upon the evidence of record in the hearing and on matters officially noticed therein. The hearing officer's experience and specialized knowledge may be used in the evaluation of the evidence.

(e) The hearing officer shall cause each decision rendered pursuant to this section to be memorialized on a minute sheet or similar written entry into the record. A copy of the minute sheet or similar written entry shall be served upon the parties by United States mail or personal service.

(f) A decision rendered pursuant to this section may be modified by the hearing officer who rendered it, upon the hearing officer's own initiative or by motion of any party. Any motion to modify a decision shall be filed by a party within thirty (30) days after the date of the decision.

SECTION 7. Section 103-511 of the "Revised Code of the Consolidated City and County," regarding transcripts in adjudication of environmental violations, hereby is amended by the deletion of the language that

is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 103-511. Written transcript of hearing; preparation and cost.

At the written request of respondent, DPW or the department of waterworks shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay DPW or the department of waterworks the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which DPW or the department of waterworks shall review and certify as to accuracy.

SECTION 8. Article III of Chapter 185 of the "Revised Code of the Consolidated City and County," regarding nonreverting city funds, hereby is amended by the addition of a NEW Division 9, to read as follows:

DIVISION 9. WATER CONSERVATION ENFORCEMENT FUND

Sec. 135-391. Created.

There is hereby created in the city a fund to be designated the "water conservation enforcement fund," in the office of finance and management, under the controller. The controller and auditor shall deposit in such fund all moneys collected from violations of Chapter 706 of the Code.

Sec. 135-392. Use.

This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of the year, and such balances shall not revert to the city or county general funds or be diverted directly or indirectly for any use other than water conservation enforcement efforts. Moneys in the water conservation enforcement fund shall be used for expenses incurred by the division of compliance of the department of metropolitan development and any other designee of the director of such department to carry out the functions and duties as provided in Section 706-107 of the Code.

Sec. 135-393. Appropriations.

Moneys from this fund shall be appropriated in accordance with the procedures for expenditures of public funds.

SECTION 9. Upon passage of this ordinance, the Council hereby directs Indianapolis Water to consult with the Indiana Utility Regulatory Commission to determine available means to require out-of-county customers to comply with the measures contained herein.

SECTION 10. The Council also hereby directs the mayor or mayor's designee to consult with executive bodies of out-of-county governmental entities that use Indianapolis Water prior to declaring a water shortage or water emergency under this ordinance.

SECTION 11. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 12. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 13. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

Councillor Hunter reported that the Public Works Committee heard Proposal Nos. 19, 20 and 44, 2009 on February 5, 2009. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 19, 2009. The proposal, sponsored by Councillor Speedy, authorizes parking restrictions on both sides of Dudley Avenue from Keystone Avenue to a point 925 feet east of Keystone Avenue (District 24). PROPOSAL NO. 20, 2009. The proposal, sponsored by Councillor Cain, authorizes parking restrictions on Gwin Way between Crook Drive and Village Way (District 5). PROPOSAL NO. 44, 2009. The proposal, sponsored by Councillor Minton McNeill, authorizes a change in parking restrictions and meters on segments of Senate Avenue (District 15). By 9-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Hunter moved, seconded by Councillor Cain, for adoption. Proposal Nos. 19, 20 and 44, 2009 were adopted on the following roll call vote; viz:

27 YEAS: *Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn*
0 NAYS:
2 ABSENT: *Bateman, Malone*

Proposal No. 19, 2009 was retitled GENERAL ORDINANCE NO. 16, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 16, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets, be, and the same is hereby amended by the addition of the following, to wit:

Dudley Avenue, on both sides, from Keystone Avenue
to a point 925 feet east of Keystone Avenue

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 20, 2009 was retitled GENERAL ORDINANCE NO. 17, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 17, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-121, Parking prohibited at all times on certain streets.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Revised Code of the Consolidated City and County," specifically, Sec. 621-121, Parking prohibited at all times on certain streets, be and the same is hereby amended by the addition of the following, to wit:

Gwin Way, on both sides,
From Crook Drive to Village Way

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

February 9, 2009

Proposal No. 44, 2009 was retitled GENERAL ORDINANCE NO. 18, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 18, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets and Sec. 621-202, Parking meter zones designated..

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets, be, and the same is hereby amended by the deletion of the following, to wit:

Senate Avenue, on the east side,
from Tenth Street to Twelfth Street

Senate Avenue, on the west side,
from Twelfth Street to a point 250 feet south of Tenth Street

SECTION 2. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-122, Stopping, standing or parking prohibited at all times on certain designated streets, be, and the same is hereby amended by the addition of the following, to wit:

Senate Avenue, on the west side,
from a point 250 feet south of Tenth Street to Tenth Street.

Senate Avenue, on the west side,
from Eleventh Street to Twelfth Street

SECTION 3. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-202, Parking meter zones designated, be, and the same is hereby amended by the deletion of the following, to wit:

TWO HOURS
Senate Avenue, on both sides,
from Fourteenth Street to Sixteenth Street

SECTION 4. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-202, Parking meter zones designated, be, and the same is hereby amended by the addition of the following, to wit:

TWO HOURS
Senate Avenue, on the east side sides,
from Tenth Street to Eleventh Street.

Senate Avenue, on both sides,
from Fifteenth Street to Sixteenth Street.

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 36, 2009. Councillor Lutz reported that the Rules and Public Policy Committee head Proposal No. 36, 2009 on January 20 and February 3, 2009. The proposal, sponsored by Councillor Cockrum, amends the Code to provide for delegation of authority to consent to extensions of local disaster emergency declarations. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Cardwell, for adoption. Proposal No. 36, 2009 was adopted on the following roll call vote; viz:

27 YEAS: *Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, MahernB, MahernD, Mansfield, McHenry, McQuillen, Minton McNeill, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn*

0 NAYS:

2 ABSENT: *Bateman, Malone*

Proposal No. 36, 2009 was retitled GENERAL ORDINANCE NO. 19, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 19, 2009

A PROPOSAL FOR A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," to provide for delegation of authority to consent to extensions of local disaster emergency declarations.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 175 of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, be and is hereby amended, by adding a new Article II to read as follows::

ARTICLE II – LOCAL DISASTER EMERGENCY DECLARATIONS

Sec. 175-201. Extension of local disaster emergency.

If the Mayor declares a local disaster emergency under I.C. 10-14-3-29, and requests the Council to consent to its continuation or renewal for more than seven days, the Clerk of the Council shall promptly notify the President of the Council and all other Councillors of such request.

Sec. 175-202. Consent by Council.

When notified of a request by the mayor under Sec. 175-201, the President shall attempt to schedule a special meeting before the local disaster emergency declaration of the mayor expires. If, because of the nature of the emergency or other circumstances, the President determines, after consultation with the majority leader and minority leader, that a special meeting is not possible before the emergency expires, authority to consent to such extension is delegated to the President of the Council in accordance with the following procedure. The President shall attempt to contact all Councillors by telephone or e-mail to obtain consent to the extension of the emergency declaration. If the President obtains the consent of a majority of the councillors to seek extension, the President shall advise the Mayor of the Council's consent to such extension of the declaration.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

President Cockrum stated that it was brought to his attention that he failed to ask for public testimony on Proposal No. 61, 2009. He called for public testimony at 8:28 p.m.

Ben Whistle, citizen, stated that it seems a moot point to speak since the Council has already voted on this matter, but he agrees with Councillor Sanders that any government organization can find a way to spend \$9.5 million, and there is no proof that money not needed will be returned. He said that it is foolhardy to award these funds without having an itemized bill.

NEW BUSINESS

Councillor Brown said that he did finally receive the organizational chart he requested from the Parks Department, but it did not answer his questions regarding the race, gender and salaries of the top 15 decision-makers for the department. Stuart Lowry, Director of the Department of Parks and Recreation, said that they do not have a tier structure, but that the green and red boxes

at the top of the chart are more likely decision-makers. He said that he will e-mail department personnel to try and get that type of information for Councillor Brown.

Councillor Sanders said that she would like the Council to look at the criteria for calling a snow emergency. She said that during recent snowfalls, many constituents suffered a loss of work and damage to vehicles trying to get to work so they would not have to take personal time. She said that she knows it is the mayor's prerogative, but she thinks the recent snowfalls were a good time for an emergency to be called and thinks it should be explored as to what it takes to constitute an emergency. Councillor Mansfield agreed that it should have been designated as a snow emergency, as people got stuck in the snow, causing even greater congestion and public safety issues. She said that some individuals with business in the City-County Building felt they might be held in contempt of court if they did not show up to court. She said that she is not faulting the Department of Public Works, as there was a lot of snow in a short period of time, and they did the best they could; but in the future, calling an emergency would help keep people off the street and allow emergency and snow removal vehicles to get the job done easier. Councillor Oliver agreed and said that they should have reacted before and not after.

Councillor D. Mahern thanked the Public Works crews and stated that maybe the Public Works Committee could find a better way to easily tell what constitutes a snow emergency. He said that maybe they can determine what was done right and what was done wrong and find a solution. Councillor Hunter said that Director Lowry will be coming to an upcoming Public Works meeting to address some of these concerns.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Sanders stated that she had been asked to offer the following motion for adjournment by:

- (1) Councillor Lewis in memory of Diane White; and
- (2) Councillor Pfisterer in memory of Gareth Dunkin, Frank Otto, Arthur Ratz, Mary Rutherford, Herbert Taylor, Richard Wills and Stephen Hoagland, Jr. ; and
- (3) Councillor Cockrum in memory of Novice T. Dempsey; and
- (4) Councillor Sanders in memory of Richard Boswell and Denis Ryan Kelly ; and
- (5) Councillor Cardwell in memory of Millard Fuller; and
- (6) Councillor Pfisterer and Moriarty Adams in memory of John Flack.

Councillor Sanders moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Diane White, Gareth Dunkin, Frank Otto, Arthur Ratz, Mary Rutherford, Herbert Taylor, Richard Wills, Stephen Hoagland, Jr., Novice T. Dempsey, Richard Boswell, Denis Ryan Kelly, Millard Fuller, and John Flack. She respectfully asked the support of fellow Councillors. She further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:40 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 9th day of February, 2009.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)