

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

**REGULAR MEETINGS  
MONDAY, OCTOBER 5, 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 7:04 p.m. on Monday, October 5, 2009, with Councillor Cockrum presiding.

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

**ROLL CALL**

The President 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:

*25 PRESENT: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy  
4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

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

**INTRODUCTION OF GUESTS AND VISITORS**

Councillor Pfisterer recognized Eagledale Neighborhood Association activist Harry Simpson. Councillor McQuillen recognized former Council President Steve Talley. Councillor McHenry recognized Pike Township Resident Association president Susan Blair and Marion County Alliance of Neighborhood Associations (MCANA) president Cathy Burton. Councillor Lutz recognized MCANA vice-president Pat Andrews. Councillor Brown recognized Nancy Ford Winters, an advocate for the visually impaired in the city. Councillor Bateman recognized Judge David Shaheed. Councillor Smith recognized Father Boniface Hardin. Councillor Oliver recognized Nation of Islam Minister David Muhammad. Councillor Brown recognized Principal Liz Odle and Indianapolis Metropolitan Police Department (IMPD) lieutenant Steve Odle.

**OFFICIAL COMMUNICATIONS**

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, October 5, 2009, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,  
s/Bob Cockrum  
President, City-County Council

September 21, 2009

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* on Wednesday, September 23, 2009 and in the *Indianapolis Star* on Thursday, September 24, 2009, a copy of a Notice of Public Hearing on Proposal No. 356, 2009, said hearing to be held on Monday, October 5, 2009, at 7:00 p.m. in the City-County Building.

Respectfully,  
s/Melissa Thompson  
Clerk of the City-County Council

September 22, 2009

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* on Wednesday, September 30, 2009, a copy of a Legal Notice of General Ordinance No. 85, 2009.

Respectfully,  
s/Melissa Thompson  
Clerk of the City-County Council

October 5, 2009

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Melissa Thompson, the following ordinances:

FISCAL ORDINANCE NO. 30, 2009 – adopts the annual budget for the Indianapolis Airport Authority for 2010

FISCAL ORDINANCE NO. 31, 2009 – adopts the annual budget for the Capital Improvement Board of Managers for 2010

FISCAL ORDINANCE NO. 32, 2009 – adopts the annual budget for the Health and Hospital Corporation for 2010

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FISCAL ORDINANCE NO. 33, 2009 – adopts the annual budget for the Indianapolis Public Transportation Corporation (IndyGo) for 2010

FISCAL ORDINANCE NO. 34, 2009 – adopts the annual budget for the Indianapolis-Marion County Public Library for 2010

FISCAL ORDINANCE NO. 35, 2009 – adopts the annual budget for the City of Indianapolis and Marion County for 2010

POLICE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009 – adopts the annual budget for the Police Special Service District for 2010

FIRE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009 – adopts the annual budget for the Fire Special Service District for 2010

SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 1, 2009 - adopts the annual budget for the Solid Waste Collection Special Service District for 2010

GENERAL ORDINANCE NO. 94, 2009 – amends the Code to increase the surety bond amounts of certain county officials, as necessitated by recent statutory amendments

GENERAL ORDINANCE NO. 95, 2009 – amends the Code with respect to expenditures from the Marion County Children's Guardian Home Donation and Cash Change Funds

GENERAL ORDINANCE NO. 96, 2009 – amends the zoning ordinance to change the name of the enforcement agency to the new city department of code enforcement and to make grammatical corrections (2009-AO-01)

GENERAL ORDINANCE NO. 97, 2009 – amends the enforcement and remedies ordinance to change the name of the police department to its official title and to make grammatical corrections (2009-AO-02)

GENERAL ORDINANCE NO. 98, 2009 – amends the subdivision control ordinance to change the referenced agency name from township assessor to county assessor and to make grammatical corrections (2009-AO-03)

GENERAL ORDINANCE NO. 99, 2009 – amends the Code to clarify the sources and use of the Marion Superior Court equipment fund

GENERAL ORDINANCE NO. 100, 2009 – authorizes parking restrictions on Michigan Street between College Avenue and Leon Street (District 9)

GENERAL ORDINANCE NO. 101, 2009 – authorizes a multi-way stop at the intersection of Burgess Avenue and Spencer Avenue (District 21)

GENERAL ORDINANCE NO. 102, 2009 – amends the Code to correct all spellings of the word councillor and to make other technical corrections

GENERAL RESOLUTION NO. 24, 2009 – approves a property tax installment payment plan for certain taxpayers with a homestead deduction

GENERAL RESOLUTION NO. 25, 2009 - approves the issuance of general obligation refunding bonds for the Indianapolis-Marion County Public Library in an amount not to exceed \$48,000,000

SPECIAL RESOLUTION NO. 32, 2009 – recognizes Virginia Terpening

SPECIAL RESOLUTION NO. 33, 2009 - reviews the 2010 tax rates, tax levies and budgets of certain civil taxing units and adopts recommendations with respect thereto

Respectfully,  
s/Gregory A. Ballard, Mayor

## **ADOPTION OF THE AGENDA**

The President proposed the adoption of the agenda as distributed.

Councillor McQuillen moved, seconded by Councillor McHenry, to reconsider the votes on the adoption of Proposal Nos. 315, 316 and 317, 2009 (annual budgets for the Health and Hospital Corporation, Indianapolis Public Transportation Corporation and Indianapolis-Marion County Public Library) for purposes of offering amendments to the assessed valuations and tax rates; and that the same be placed on the agenda of this meeting. The motion carried by a unanimous voice

vote. President Cockrum stated that these items will be added under New Business at the end of the agenda.

President Cockrum added that Proposal No. 368, 2009 is a rezoning ordinance scheduled for public hearing this evening. He asked for consent to move the proposal to the end of the agenda, as well, so as not to delay other business, as these types of hearings usually take up to an hour to complete. Consent was given.

Without further objection, the agenda was adopted as amended.

### **APPROVAL OF THE JOURNAL**

The President called for additions or corrections to the Journal of September 21, 2009. There being no additions or corrections, the minutes were approved as distributed.

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

PROPOSAL NO. 374, 2009. The proposal, sponsored by Councillors Brown, Gray and B. Mahern, recognizes R. Elizabeth Odle. Councillors Brown and B. Mahern read the resolution and presented representatives with copies of the document and Council pins. Ms. Odle thanked the Council for the recognition. Councillor B. Mahern moved, seconded by Councillor Brown, for adoption. Proposal No. 374, 2009 was adopted by a unanimous voice vote.

Proposal No. 374, 2009 was retitled SPECIAL RESOLUTION NO. 34, 2009, and reads as follows:

#### **CITY-COUNTY SPECIAL RESOLUTION NO. 34, 2009**

A SPECIAL RESOLUTION recognizing R. Elizabeth Odle.

WHEREAS, R. Elizabeth Odle has worked for the Indianapolis Public School system for 34 years as an educator and an administrator; and

WHEREAS, For 17 of the 34 years, Ms. Odle has been the principal of Washington Irving Elementary, where 91% of the students come from homes that fall below the National Poverty level; and

WHEREAS, Ms. Odle has enacted significant change in Washington Irving, and encouraged her students daily with the motto "make our best better, and our better best"; and

WHEREAS, over the years, Ms. Odle has demonstrated that building community bridges and utilizing community resources helps students grow into the best that they can be. She has had a positive effect on thousands of young people who have grown to become successful members of the community; and

WHEREAS, Ms. Odle has volunteered for several programs and has served in many capacities, including board member of the local Collegiate Assessment of Academic Proficiency (CAAP) and the Indianapolis Homeless Initiative; and

WHEREAS, in addition, Ms. Odle has received several awards for her professional works and her community involvement, including receipt of the 2007 Touchstone Award from Girls, Inc.; and

WHEREAS, on July 31, 2009, Ms. Odle retired from her position with IPS, but not from her commitment, as she will continue to work with United Way and IPS to expand the programs initiated at Washington Irving; 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. The Indianapolis City-County Council proudly recognizes R. Elizabeth Odle for 34 years of dedicated service to the work of the Indianapolis Public School system.

SECTION 2. The Council congratulates Ms. Odle on her retirement and applauds her commitment to continue making a difference in young people's lives.

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. 375, 2009. The proposal, sponsored by Councillors Bateman, Oliver, Lewis and Minton McNeill, recognizes Reverend Father Boniface Hardin. Councillors Bateman, Oliver and Lewis read the proposal and presented Father Hardin with a copy of the document and Council pin. Martin University Graduate Aaron Penner, Judge David Shaheed, and ? thanked Father Hardin for all his hard work. Father Hardin thanked the Council for the recognition. Councillor Bateman moved, seconded by Councillor Oliver, for adoption. Proposal No. 375, 2009 was adopted by a unanimous voice vote.

Proposal No. 375, 2009 was retitled SPECIAL RESOLUTION NO. 35, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 35, 2009

A SPECIAL RESOLUTION recognizing Reverend Father Boniface Hardin.

WHEREAS, Father Hardin is the founder and president emeritus of Martin University, and has long been an inspirational teacher, guide and leader of the community; and

WHEREAS, Father Hardin attended St. Meinrad High School and the St. Meinrad Archabbey school. He obtained his degree from St. Meinrad College and his Master of Divinity from St. Meinrad School of Theology; and

WHEREAS, Father Hardin continued his studies at the University of Notre Dame, School of Commerce; received recognition for his excellence in academics with Honorary Doctorates in Divinity from Oakland City University, Marian College, Franklin College and Christian Theological Seminary; and Honorary Doctorates of Humane Letters from Indiana University, Ancilla College, Manchester College, The Governor's State University and the University of Indianapolis; and

WHEREAS, Father Hardin has received numerous awards and recognitions, including, but not limited to: the Distinguished Alumnus Award from St. Meinrad Seminary; International Citizen of the Year Award, International Center of Indianapolis Award; Living Legend Award, Indiana Historical Society Award and Hoosier Minority Black Chamber of Commerce; NUVO Cultural Vision Award for Lifetime Achievement; Indiana Black Expo President Image Award; Who's Who in Black Indianapolis; and the Advanced Opportunities in Education Award; and

WHEREAS, Father Hardin founded Martin University in 1977, and served as its president until December, 2007. Under his leadership, Martin University has been developed to offer more than 1,200 degrees and services in a new 58,000 square-foot Educational Center; and

WHEREAS, Father Hardin is a member of and has founded or co-founded a host of organizations, as well as served on many boards and commissions, for the education, advancement, support, and assistance of minorities; and

WHEREAS, in addition, Father Hardin has produced or co-hosted many minority television and/or radio programs, and served as editor of the Afro-American Journal, published quarterly by Martin University; 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 Reverend Father Boniface Hardin for his many contributions to the minority community and the community at-large.

SECTION 2. The Council wishes Father Hardin continued success in all present and 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. 376, 2009. The proposal, sponsored by Councillors Bateman and Oliver, recognizes Ronald Brown. Councillors Bateman and Oliver read the proposal and presented Mr. Brown with a copy of the document and a Council pin. Mr. Brown thanked the Council for the recognition. Councillor Bateman moved, seconded by Councillor Oliver, for adoption. Proposal No. 376, 2009 was adopted by a unanimous voice vote.

Proposal No. 376, 2009 was retitled SPECIAL RESOLUTION NO. 36, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 36, 2009

A SPECIAL RESOLUTION recognizing Ronald Brown.

WHEREAS, Ronald Brown came to Indianapolis from Gary, IN. He is married to Dorothy Jean Brown, has two children and grandchildren, received his Bachelor's degree from Ball State University and his Master's degree from Louisiana Tech, and is a business owner; and

WHEREAS, Mr. Brown completed his last year of high school with no sight and very little assistance. He was the first blind person to pledge Kappa Alpha Psi at Ball State University; and

WHEREAS, Mr. Brown has been in the vending business for nearly 25 years, two of his business include being the owner/vendor of the Canteen located inside the City-County building. In addition, he also owns a business named Cane & Able, where he teaches cane travel and orientation to the blind and visually impaired; and

WHEREAS, Mr. Brown has been president of the National Federation of the Blind (NFB), an Indiana affiliate, for the last 14 years, with chapters around the state that award countless scholarships to students for continued education each year, and is second vice-president of the National NFB office in Baltimore, MD; and

WHEREAS, Mr. Brown has been an advocate for the blind for many years. He is constantly advocating to employers to hire the blind and attends the NFB summit in Washington, D.C each year, along with others from all 50 states, to speak to respective congresspersons about issues regarding the blind; 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 Ronald Brown for his work to change the understanding about the plight of the blind and to engage them back into the mainstream.

SECTION 2. The Council commends Mr. Brown for his diligence in educating the community and the country about helping the blind lead successfully fulfilling lives.

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. 377, 2009. The proposal, sponsored by Councillor Cockrum, urges a parking meter blackout to encourage veterans and citizens to observe the November 11, 2009 Veterans Day activities. President Cockrum stated that this is a proposal the Council passes each year to

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encourage citizens to honor veterans. Councillor Lutz moved, seconded by Councillor McQuillen, for adoption. Proposal No. 377, 2009 was adopted by a unanimous voice vote.

Proposal No. 377, 2009 was retitled SPECIAL RESOLUTION NO. 37, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 37, 2009

A PROPOSAL FOR A SPECIAL RESOLUTION urging a parking meter blackout to encourage veterans and citizens to observe the November 11, 2009 Veterans Day activities.

WHEREAS, Veterans Day, originally called Armistice Day to commemorate the cease fire that ended the fighting of World War One, was expanded in 1954 to remember the sacrifices of all those who fought on the land, sea, and air to preserve America's freedom; and

WHEREAS, after a solemn ceremony, many veterans, bands, military equipment, high schools and other patriotic units will participate in an inspiring downtown parade ; and

WHEREAS, to encourage veterans and all citizens of Indianapolis to observe this Veterans Day ceremony and parade, the Council requests the Board of Public Works to issue a parking meter blackout on November 11, 2009; 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 recognizes the significance of Veterans Day 2009 and urges the city to forego parking meter revenues on that day as a salute of respect to all Americans who have worn a uniform of our Armed Forces.

SECTION 2. The Council also urges that on Wednesday, November 11, 2009, all schools, businesses, government agencies, and individual citizens pause, reflect upon, and give thanks for the important contributions and sacrifices of the servicemen and women who have honorably served our nation so well in the past and at the present time to keep the flag of the United States of America flying proudly over the land of the free and home of the brave.

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

SECTION 4. This resolution shall be in effect upon adoption and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 124, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 124, 2009 on April 23, September 10 and October 1, 2009. The proposal, sponsored by Councillor Hunter, reappoints Mark F. Rumreich to the Marion County Stormwater Management Technical Advisory Committee. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it be stricken. Councillor Hunter moved, seconded by Councillor Day, to strike. Proposal No. 124, 2009 was stricken by a unanimous voice vote.

PROPOSAL NO. 357, 2009. In Councillor Vaughn's absence, Councillor Hunter reported that the Public Safety and Criminal Justice Committee heard Proposal No. 357, 2009 on September 23, 2009. The proposal, sponsored by Councillor Vaughn, appoints Jason Reyome to the Community Corrections Advisory Board. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Hunter moved, seconded by Councillor Plowman, for adoption. Proposal No. 357, 2009 was adopted on the following roll call vote; viz:

23 YEAS: *Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy*

0 NAYS:

2 NOT VOTING: *Brown, Mahern (B)*

4 ABSENT: *Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 357, 2009 was retitled COUNCIL RESOLUTION NO. 90, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 90, 2009

A COUNCIL RESOLUTION appointing Jason Reyome to the Marion County Community Corrections Advisory Board.

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 Marion County Community Corrections Advisory Board, the Council appoints:

Jason Reyome

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. 358, 2009. In Councillor Vaughn's absence, Councillor Hunter reported that the Public Safety and Criminal Justice Committee heard Proposal No. 358, 2009 on September 23, 2009. The proposal, sponsored by Councillors Vaughn, Mansfield and Hunter, appoints William Gooden to the Animal Care and Control Board. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Hunter moved, seconded by Councillor Scales, for adoption. Proposal No. 358, 2009 was adopted on the following roll call vote; viz:

*23 YEAS: Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy*

0 NAYS:

2 NOT VOTING: *Brown, Mahern (B)*

4 ABSENT: *Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 358, 2009 was retitled COUNCIL RESOLUTION NO. 91, 2009, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 91, 2009

A COUNCIL RESOLUTION appointing William Gooden to the Animal Care and Control Board.

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 Animal Care and Control Board, the Council appoints:

William Gooden

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.

## INTRODUCTION OF PROPOSALS

PROPOSAL NO. 370, 2009. Introduced by Councillors Pfisterer and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer of \$44,200 in the 2009 Budget of the Marion County Assessor (County General Fund) to replace three new central air conditioning units, to upgrade and standardize computer connectivity, and to fund other equipment purchases necessary to expedite commercial appeals processing and to perform mandatory reassessment activities"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 371, 2009. Introduced by Councillors Hunter and Mansfield. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code with respect to nonsmoking areas"; and the President referred it to the Community Affairs Committee.

PROPOSAL NO. 372, 2009. Introduced by Councillors Moriarty Adams and Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer of \$5,000 in the 2009 Budget of the Marion County Circuit Court (County General Fund) to purchase general office supplies"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 373, 2009. Introduced by Councillors Moriarty Adams and Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer and appropriation of \$690,241 in the 2009 Budget of the Marion Superior Court (County General, Cumulative Capital Improvement, Alternative Dispute Resolution and County Grants Funds) to fund increased mediation costs, additional personnel costs, payroll software, Guardian Ad Litem costs, and a court recording system"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 378, 2009. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a Special Resolution which supports FedEx Express operations and the City of Indianapolis"; and the President referred it to the Rules and Public Policy Committee.

## SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 369, 2009. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 369, 2009 on September 29, 2009. The proposal, sponsored by Councillor Lutz, reviews the 2010 tax rates, tax levies and budgets of the Towns of Warren Park and Spring Hill, and adopts recommendations with respect thereto. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 369, 2009 was adopted on the following roll call vote; viz:

*22 YEAS: Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Scales, Smith, Speedy*

*0 NAYS:*

*3 NOT VOTING: Bateman, Brown, Oliver*

*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 369, 2009 was retitled SPECIAL RESOLUTION NO. 38, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 38, 2009

A PROPOSAL FOR A SPECIAL RESOLUTION reviewing the 2010 tax rates, tax levies and budgets of the Towns of Warren Park and Spring Hill, and adopting recommendations with respect to such tax rates, levies and budgets.

WHEREAS, IC 6-1.1-17-3.5 requires the City-County Council to review and make recommendations with respect to certain tax rates, tax levies and budgets of certain civil taxing units located in Marion County; and

WHEREAS, the city-county council has now considered such tax rates, tax levies and budgets for 2010 of such civil taxing units and has considered the recommendations of the City Controller and Chief Financial Officer of the council; now, therefore:

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

SECTION 1. The city-county council has reviewed the budgets of the Towns of Warren Park and Spring Hill, and does adopt the recommendations with respect to each respective civil taxing unit as set forth in Exhibit A.

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

PROPOSAL NOS. 379-382, 2009. Introduced by Councillor Smith. Proposal Nos. 379-382, 2009 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on September 25, 2009. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 84-87, 2009, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 84, 2009.  
2009-ZON-044  
2551 AND 2557 SOUTH MERIDIAN STREET (Approximate Addresses)  
INDIANAPOLIS, CENTER TOWNSHIP  
COUNCIL DISTRICT # 19  
TIMOTHY D. AND BONITA K. BIRTCHMAN requests REZONING of 0.311 acre, from the C-3 District, to the D-5 classification to provide for dwelling uses.

REZONING ORDINANCE NO. 85, 2009.  
2009-ZON-049  
1132 PROSPECT STREET (Approximate Address)  
INDIANAPOLIS, CENTER TOWNSHIP  
COUNCIL DISTRICT # 16  
PAUL BAUMGARTEN/SEND FOR DAVID CLOUGH requests rezoning of .17 acres, from the I-3-U District, to the C-3C classification.

REZONING ORDINANCE NO. 86, 2009.  
2009-ZON-809  
5525 WEST 34<sup>th</sup> STREET (Approximate Address)  
INDIANAPOLIS, WAYNE TOWNSHIP  
COUNCIL DISTRICT # 7  
BOARD OF SCHOOL COMMISSIONERS requests REZONING of 35 acres, from the D-4 (FF) District, to the SU-2 (FF) classification to provide for school uses.

REZONING ORDINANCE NO. 87, 2009.  
2009-ZON-810  
10101 EAST 38<sup>th</sup> STREET (Approximate Address)  
INDIANAPOLIS, WARREN TOWNSHIP

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COUNCIL DISTRICT # 18  
BOARD OF SCHOOL COMMISSIONERS requests REZONING of 41.38 acres, from the D-A (FF) and D-7 Districts, to the SU-2 (FF) classification to provide for school uses.

**SPECIAL ORDERS - PUBLIC HEARING**

PROPOSAL NO. 356, 2009. Councillor Smith reported that the Metropolitan Development Committee heard Proposal No. 356, 2009 on October 1, 2009. The proposal, sponsored by Councillors Day and Nytes, approves an additional appropriation of \$600,000 in the 2009 Budget of the Department of Metropolitan Development, Office of Code Enforcement (Consolidated County Fund) to finance the continued operations of the High Weeds and Grass program. By a 9-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Nytes urged all Councillors to support the proposal and thanked citizens for the help they have provided in reporting high weeds, with twice as many projects completed due to more reporting.

President Cockrum called for public testimony at 7:47 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Nytes, for adoption. Proposal No. 356, 2009 was adopted on the following roll call vote; viz:

*24 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy*  
*1 NAYS: Coleman*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 356, 2009 was retitled FISCAL ORDINANCE NO. 36, 2009, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 36, 2009

A FISCAL ORDINANCE amending the City-County Annual Budget for 2009 (City-County Fiscal Ordinance No. 54, 2008), Section 1.01(g) to appropriate \$600,000 from the Consolidated County Fund for the purposes of continuing the operations of the High Weeds and Grass program for the Office of Code Enforcement.

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 City-County Annual Budget for 2009, Section 1.01(g), be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of continuing the operations of the High Weeds and Grass program for the Office of Code Enforcement.

The Department of Metropolitan Development/Office of Code Enforcement seeks to appropriate from the Consolidated County Fund \$600,000 for the following purposes: to pay existing and anticipated expenditures related to mowing contracts and other daily operational expenditures for the High Weeds and Grass program.

SECTION 2. The sum of Six Hundred Thousand Dollars (\$600,000) be, and the same is hereby appropriated for the Department of Metropolitan Development/Office of Code Enforcement, for the purposes as shown in Section 3 by reducing the un-appropriated balance as shown in sections 4.

SECTION 3. The following additional appropriations are hereby approved:

<u>DEPARTMENT OF METROPOLITAN DEVELOPMENT</u>	
<u>OFFICE OF CODE ENFORCEMENT</u>	<u>CONSOLIDATED COUNTY FUND</u>
1. Personal Services	0

2. Supplies	0	
3. Other Services and Charges		600,000
4. Capital Outlay		0
5. Internal Charges		<u>0</u>
TOTAL INCREASE		600,000

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

	<u>CONSOLIDATED COUNTY FUND</u>
Un-appropriated and Unencumbered	
Consolidated County Fund	<u>600,000</u>
TOTAL DECREASE	600,000

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 Consolidated County Fund (on a budgetary basis) is approximately \$42,100,000. Funding for the additional appropriation will be through revenues received into the Consolidated County Fund from proceeds related to the collection of fines and penalties imposed by the High Weeds and Grass program, including those fines and penalties placed as liens on real property.

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. 207, 2009. Councillor Pfisterer reported that the Administration and Finance Committee heard Proposal No. 207, 2009 on June 9, 2009. On June 29, 2009, the Council returned the proposal to Committee, and the Committee again heard the proposal on September 22, 2009. The proposal, sponsored by Councillor Pfisterer, determines the need to lease approximately 25,000 square feet of office space at 6250 West 38th Street for use as a traffic court, clerk's office and probation office of the Marion Superior Court. By a 4-2-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Pfisterer moved, seconded by Councillor McHenry, for adoption.

Councillor McHenry said that constituents in her district do not want this project, and she asked fellow Councillors to support the wishes of the citizens who live in this district.

Councillor Mansfield said that this is not a zoning case, but is somehow being treated as one. She said that this is about the location of a traffic court and probation office. She said that every citizen is just one step away from having to visit a probation office. She said that the presence of public safety officials will actually make the area safer. She asked if there has been increased crime in areas where probation offices exist. Robert Bingham, Chief Probation Officer, said that they have developed satellite offices since 2002, and he cannot bring to the Council's attention any sizable complaint from the communities, and they have good relationships with the community and it has been reported that these types of offices are a plus to the community and cut down on crime. Councillor Mansfield said that the Probation Office has brought offenders into the districts for trash pick-up. She asked if there have been any problems with this. Mr. Bingham said that they have had only compliments for this program and they are hoping to expand it, as it is well received.

Councillor Moriarty Adams said that she has had a probation office in her district since 2003 and they have not experienced any problems with the office.

Councillor Plowman said that there are views from all sides, and he urged his fellow Councillors to support the district Councillor.

Councillor Nytes urged Councillors to look at the situation as a whole. She said the existing offices are inadequate and in grave disrepair. She said that residents have found that they can co-exist with these entities, and the fears about these services are overrated. She said that there are a large number of probationers in this area and she encouraged support.

Councillor Speedy said that no district Councillor wants to vote against another district Councillor, but each Councillor brings different experiences to the table. He said that this project would be a shot in the arm economically to an area that desperately needs it. He said that the probation office on the southside has actually been a help to public safety in that area. He added that discussion regarding this site has actually helped resolve some issues for the office in his district. He said that he supports the proposal.

Councillor Lewis said that she recognizes it is in Councillor McHenry's district, but the businesses next to the area are in her district and they support it, and therefore, she supports it.

Councillor Lutz said that this was not the first choice for locations for this office and relocation, but, for many of the same reasons, residents were against it, and therefore, a new location was chosen. He said that he supports Councillor McHenry and her constituents.

Proposal No. 207, 2009 failed on the following roll call vote; viz:

*10 YEAS: Brown, Gray, Lewis, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Pfisterer, Speedy*  
*15 NAYS: Bateman, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Hunter, Lutz, McHenry, McQuillen, Oliver, Plowman, Scales, Smith*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

PROPOSAL NO. 254, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 254, 2009 on July 9, July 30 and October 1, 2009. The proposal, sponsored by Councillor Minton McNeill, authorizes changes in parking and parking meter zones on Meridian Street between 9th and St. Joseph Streets and on St. Joseph Street between Meridian and Scioto Streets (District 15). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it be stricken. Councillor Hunter moved, seconded by Councillor Day, to strike. Proposal No. 254 was stricken by a unanimous voice vote.

PROPOSAL NO. 286, 2009. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 286, 2009 on September 29, 2009. The proposal, sponsored by Councillors D. Mahern and McQuillen, amends the Code regarding residency requirements for employees of the City and County. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor D. Mahern stated that he supports the proposal and said that residents should be given the first opportunity of employment to put tax money back into the county.

Councillor Hunter moved, seconded by Councillor McHenry, for adoption. Proposal No. 286, 2009 was adopted on the following roll call vote; viz:

22 YEAS: Bateman, Cain, Cardwell, Cockrum, Day, Evans, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy

1 NAY: Coleman

2 NOT VOTING: Brown, Gray

4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn

Proposal No. 286, 2009 was retitled GENERAL ORDINANCE NO. 103, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 103, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code regarding residency requirements for employees of the City and County.

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

SECTION 1. Section 291-112 of the "Revised Code of the Consolidated City and County," regarding the employee residence requirement, be and is hereby 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. 291-112. Employee residence requirement.

(a) After August 15, 1977, any person who accepts full time or part-time employment with the City of Indianapolis, or any special service or special taxing district thereof, or Marion County, must have his principal place of residence within the limits of Marion County or become a resident of the county within six (6) months of the date when he accepts such employment; and his position as an employee of such unit of government shall terminate six (6) months from the date that he moves his principal place of residence from the county.

(b) After July 1, 2009, any person who accepts seasonal or temporary employment with the City of Indianapolis, or any special service or special taxing district thereof, or Marion County, must have his principal place of residence within the limits of Marion County on the first day of employment.

~~(c)~~ (c) This section shall not apply to persons who have specialized skills or training if there is no suitable applicant for the position residing within the limits of Marion County, and the appropriate elected official or his designee approves.

~~(d)~~ (d) This section shall not apply to members of the fire forces of the city, who are governed by the provisions of IC 36-8-4-2, or to members of the metropolitan law enforcement agency, who are governed by section 279-227 and 279-241 of the Code.

~~(e)~~ (e) This section shall not apply to those persons who were nonresident employees of the county, the city, or any special service or special taxing district thereof, prior to August 15, 1977.

~~(f)~~ (f) This section shall not apply to any person who was a nonresident employee of an entity other than the City of Indianapolis, or any special service or special taxing district thereof, or Marion County and who became an employee of one (1) of those entities as a result of a transfer of the duties of his/her employer to the City of Indianapolis, or any special service or special taxing district thereof, or Marion County. However, if at any time during his/her employment with one (1) of those entities, such employee does become a resident, that employee shall thereafter be covered by this section.

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

PROPOSAL NO. 294, 2009. In Councillor Vaughn's absence, Councillor Hunter reported that the Public Safety and Criminal Justice Committee heard Proposal No. 294, 2009 on August 19, August 26, September 17 and September 23, 2009. The proposal, sponsored by Councillors Malone and Moriarty Adams, amends the Code to clarify provisions regarding the Indianapolis Fire Department and to reflect the prevailing operation of the department. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as

October 5, 2009

amended. Councillor Hunter moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 294, 2009, as amended, was adopted on the following roll call vote; viz:

25 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy

0 NAYS:

4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn

Proposal No. 294, 2009 was retitled GENERAL ORDINANCE NO. 104, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 104, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to clarify provisions regarding the Indianapolis fire department and to reflect the prevailing operation of the department.

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

SECTION 1. Chapter 252 of the "Revised Code of the Consolidated City and County," regarding the Indianapolis fire department, 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:

Chapter 252

**INDIANAPOLIS FIRE DEPARTMENT**

**ARTICLE I. ~~FIRE DIVISION~~ IN GENERAL**

**Sec. 252-101. Definitions.**

As used in this ~~article~~ chapter, the following words and phrases shall have the meanings ascribed to them in this section.

*Chief* means the chief executive officer of the ~~fire~~ Indianapolis fire department appointed pursuant to this article.

*Civilian fire merit board* ~~or merit board~~ means the ~~consolidated city~~ Indianapolis fire department merit board created pursuant to this ~~article~~ chapter.

~~Consolidated city fire force or force~~ means the fire division of the department of public safety.

~~Department~~ means the department of public safety.

*Director* means the director of the department of public safety.

*Employee* means a regularly employed civilian employee of the ~~consolidated fire force~~ Indianapolis fire department.

*Fire special service district* means the special service district created pursuant to IC 36-3-1-6 and Section 111-3 of the Code.

*Indianapolis fire department* or *department* means the fire division of the department of public safety.

*Member* means a regularly employed firefighter of the ~~fire~~ Indianapolis fire department.

*Merit rank* means all promotions to the rank of lieutenant, captain, and battalion chief made in accordance with the Indianapolis fire department's merit system.

*Non-suppression division* means all firefighters assigned to work an average of one hundred and twenty (120) hours in a twenty-one (21) day work period at various Indianapolis fire department

worksites other than fire stations.

Suppression division means all department firefighters assigned to work one hundred and forty-four (144) hours in a twenty-one (21) day work period.

**Sec. 252-102. Fire division, jurisdiction, powers, and duties.**

(a) The fire division of the department of public safety shall be known as the ~~consolidated city fire force~~ of "Indianapolis Fire Department." The authority and jurisdiction of the ~~fire department~~ shall extend throughout the fire special service district and such other territory where the ~~consolidated city fire force~~ department provides fire protection services as provided by law.

(b) It shall be the duty of the ~~consolidated city fire force~~ Indianapolis fire department to suppress all fires ~~which that~~ occur in the fire special service district and such other territory, to prevent the occurrence and spread of such fires, to provide emergency medical services and rescue operations, and to investigate fires.

(c) The ~~consolidated city fire force~~ department shall have all powers prescribed in chapter 591 of this Code and all other powers necessary to these duties and any other powers granted by law, the city-county council or the mayor.

**Sec. 252-103. Chief.**

(a) The director ~~of public safety~~ shall appoint a chief of the Indianapolis ~~Fire Department~~. The director shall have the authority to remove the chief only with the approval of the board of public safety.

(b) The chief may be selected from members of the department who hold the permanent merit rank of captain or above on the basis of prior training and experience, and shall have a minimum of ten (10) years of service with the department, which time period shall include an individual's service as a full-time, paid member of a fire department that has been consolidated into the ~~Indianapolis Fire Department~~.

(c) The chief may be selected from past members of the ~~Indianapolis Fire Department~~ or from members or past members of a fire department other than the ~~Indianapolis Fire Department~~ only if he or she has:

- (1) Met the following educational requirements:
  - a. A bachelor's or master's degree from an accredited institution of higher education in fire science, management, public administration or a related field; or;
  - b. A bachelor's degree from an accredited institution of higher education in a non-related field: and
    - i. An associate's degree in fire science; or
    - ii. An executive fire officer designation from the National Fire Academy or its successor institution;
- (2) Attained fire officer I and fire officer II certification;
- (3) At least ten (10) years' experience in a fire department of a city with a population of one hundred thousand (100,000) or more in Indiana, another state, or the District of Columbia; and
- (4) Achieved the merit rank of captain (or its equivalent) or above.

(d) The chief shall have general charge of the daily operations of the department and may, with the approval of the director ~~of the department of public safety~~, appoint any number of executive assistants, who shall hold the temporary rank and title of assistant chief, deputy chief, ~~or division chief or shift commander~~, as he or she deems necessary ~~to allow him~~ to efficiently discharge his or her executive duties. The chief shall select these executive assistants from among those holding the permanent merit rank of captain or above in the department. The appointed ranks of assistant chief, deputy chief, ~~and division chief and shift commander~~ shall be temporary, and each executive assistant shall retain his or her permanent merit rank, unless promoted in accordance with the merit system. The chief may temporarily appoint and assign ~~sworn~~ members of the department to a ~~higher pay grade~~ lieutenant, captain, or battalion chief in the non-suppression division ~~when such~~, and such member's pay grade ~~is~~ shall be

commensurate with the duties and qualifications required of the member. Such assignment shall have no effect on the merit rank of the member.

**Sec. 252-104. Budget.**

The director shall prepare and submit an annual budget to the fire special service district council ~~which that~~ shall approve or modify said budget. The fire special service district council shall appropriate funds to finance the operations and activities of the ~~consolidated city Indianapolis fire force~~ department provided for in this article. These appropriated funds shall be deposited with the consolidated city controller in an account known as the "~~consolidated city Indianapolis fire force~~ department account." The director shall have authority to expend, under regular consolidated city procedure in accordance with applicable law, all sums appropriated to such account for the purposes, activities and services contemplated by this ~~article~~ chapter. At the end of each fiscal year, any unexpended portion of such account shall revert to the fire special service district general fund.

**Sec. 252-105. Organization.**

Except as otherwise provided by this ~~article~~ chapter, the ~~consolidated city fire force Indianapolis fire~~ department shall be organized in such manner as shall be prescribed by the director from time to time.

**Sec. 252-106. Personnel ~~section~~ branch.**

(a) There is hereby created a personnel ~~section~~ branch as a part of the ~~consolidated city fire force Indianapolis fire~~ department, which shall be supervised on a daily basis by a director of personnel who shall be appointed by the chief and who shall have prior training in personnel management.

(b) Pursuant to the recommendations of the civilian fire merit board established by this ~~article~~ chapter, the director of the personnel branch of the ~~force~~ department shall appoint such employees of the personnel ~~section~~ branch as he or she deems necessary. Such employees shall be civilians.

(c) Subject to applicable law, and with approval of the civilian fire merit board and chief, the director of the personnel branch shall be responsible for the development and implementation of ~~sworn and civilian~~ personnel management programs within the ~~consolidated city fire force~~ department. These personnel management programs shall be: merit systems relating to recruitment; applicant screening, testing and selection; job auditing; hiring; performance evaluation; transfer; promotion; separation; reemployment career development; discipline; employee relations; grievance procedures; and, personnel records management.

**Sec. 252-107. Civilian employees.**

(a) The civilian fire merit board shall be authorized to prescribe and promulgate such rules and policies as it deems necessary concerning the regulation of civilians on the ~~force~~ Indianapolis fire department. The chief, through the personnel ~~section~~ branch, shall appoint civilian employees and shall make maximum use of civilian employees in positions in the ~~force~~ department not requiring firefighters.

(b) All civilian employees of the ~~force~~ department, other than those in appointive positions, shall be considered merit employees. All civilian merit personnel management programs shall be administered in accordance with the merit systems outlined in section 252-106 above.

(c) A civilian employee appointed by the chief or the director of the personnel branch shall serve for one (1) year from the date of appointment as a probationer, during which time the employment of such employee may be terminated by the chief with or without cause, and such termination shall be final and not subject to review. If his or her employment is not otherwise terminated, the employee shall become a permanent employee at the end of one (1) year and may be subject to discharge or discipline for any cause in conformity with the rules and regulations adopted by the civilian fire merit board.

**Sec. 252-108. Life and liability insurance.**

The director ~~of public safety~~ shall recommend to the corporation counsel appropriate group life and disability insurance coverage to cover all members of the ~~force~~ Indianapolis fire department. Such insurance coverage may be purchased and maintained in reasonable amounts and shall cover only firefighters killed or disabled in the line of duty. The director ~~of public safety~~ shall recommend to the corporation counsel appropriate insurance to indemnify ~~firefighters~~ members of the department against liability for injuries or damages to persons or property resulting from alleged acts of negligence, wrongful acts or omission of ~~the firefighter~~ such members while acting within the scope of their authority and employment.

**Sec. 252-109. Fire protection by the Indianapolis Fire Department outside the fire special service district.**

The Indianapolis Fire Department may provide fire protection or services outside the boundaries of the fire special service district, only under the following circumstances and upon the following conditions:

- (1) The ~~Chief of the Indianapolis Fire Department~~ chief or the director of the department of public safety may enter into any contract or mutual agreement or understanding with the ranking fire officer of any existing municipal or volunteer fire department or with the chief executive officer of any unit of government ~~which that~~ maintains or finances an established fire department, wherein the agreement provides for the mutual assistance between the Indianapolis Fire Department and the other fire department such that the ranking officer ~~of the respective fire departments~~ may request, when necessary, the assistance without charge to the assisted department. The Indianapolis Fire Department is authorized to render such assistance as is requested by the ranking officer on duty with the respective department so long as the rendering of such assistance shall not endanger the citizens of the fire special service district or threaten the ability of the Indianapolis Fire Department to render services within the fire special service district.
- (2) The department of public safety ~~of the city~~, upon approval of the mayor, may enter into a contract with any person, municipality, or other governmental unit ~~which that~~ is situated at a place not within the fire special service district but within the county and ~~which that~~ is desirous of contracting with the city for regular fire protection involving the use and services of the Indianapolis Fire Department. The details of such contract shall be specified by the department of public safety, but each contract must provide that the city furnish on a calendar-year basis so much firefighting service and apparatus as may be reasonably necessary on the request of the contracting person, municipality or other governmental unit when a fire exists at the premises of such person or within the boundaries of the municipality or governmental unit, but that obligation to render such services shall not exist at any time that the same would endanger or threaten the services of the Indianapolis Fire Department to the citizens of the fire special service district. The contract shall also provide for a negotiated rate or fees payable as required by the department of public safety for the rendering of such services and may provide for additional charges based on the actual services and apparatus used in the performance of such agreement.
- (3) Upon consolidation of a township fire department into the Indianapolis Fire Department pursuant to IC 36-3-1-6.1, the Indianapolis Fire Department shall provide fire protection or services in the territory where such services were formerly provided by the township fire department.

**ARTICLE II. FIREFIGHTERS MERIT SYSTEM**

**Sec. 252-201. Civilian Fire merit board.**

(a) There ~~shall be~~ is hereby established a civilian fire merit board ~~which that~~ shall consist be composed of four (4) members ~~who shall be~~ appointed by the director and two (2) members ~~who shall be~~ elected by the active members of the Indianapolis fire department in accordance with IC 36-8-3.5-1. Each member of the merit board shall be a registered voter who resides within the department's jurisdiction as established by section 252-102 of the Code, and no member appointed or elected to the merit board shall be a member of the department or of any other police or fire department or agency, or hold another elective or appointive office in either a city, town, township, county or state government. Members of the merit board shall serve for a term of two (2) years, and all members, either elected or appointed, shall serve during their respective terms and until their respective successor shall be appointed or elected, and qualified.

An appointed member of the merit board may be removed by the director, with or without cause, without right of hearing. If a vacancy occurs among the members of the merit board appointed by the director, the director shall appoint a replacement to serve the unexpired term. If a vacancy occurs among the members of the merit board elected by the active members of the department, a replacement shall be elected by the active members of the department in accordance with IC 36-8-3.5-8 to serve the unexpired term. A member of the merit board may be appointed or elected for successive terms.

(b) The chief ~~of the department~~ shall be an ex officio member of the merit board without voting power.

(c) Three (3) members of the board shall constitute a quorum for the purpose of taking official action; however, in the event of a tie vote, the recommendation of the chief shall be deemed adopted by the board.

(d) The merit board shall establish rules for its operation. Included in such rules shall be the time and place for holding regular monthly meetings and such special meetings throughout the year as may be deemed necessary to transact its business. Each year the merit board, with the concurrence of the director, shall select from its members a president, vice-president and secretary.

(e) The merit board shall administer and supervise the merit system established by this article.

(f) The city-county council, in accordance with IC 36-3-6-6, may provide the board a monthly stipend of fifty dollars (\$50.00).

**Sec. 252-202. Merit selection and procedures.**

(a) Any person, including persons seeking reappointment or reinstatement, shall be appointed to the ~~city Indianapolis~~ fire department in accordance with the merit selection and appointment procedure created by this section and such rules and regulations as may be established by the merit board in accordance with the provisions of this section. Such rules and regulations may change the order of their procedure but not the substance of the requirements established by this section. Appointment and reappointment to the department shall be made without regard to an applicant's political party preference or activity.

(b) Any individual of the age of twenty-one (21) or above and not over the age of thirty-five (35) having at least a high school education or equivalent is eligible to make application to become a member of the department; however, each applicant must meet minimum fitness/medical standards adopted by the department and continue to meet minimum fitness/medical standards, as a condition of employment, while serving as a member of the department. The department shall develop job-related minimum standards with the assistance of an independent consultant in order to meet applicable federal and state guidelines. All individuals appointed or reappointed to the department must establish residency in Marion County or a contiguous county at the time of such appointment or reappointment. Applicants shall not have been convicted of an offense ~~which that~~ is a felony under Indiana law.

Applicants must obtain an application form from the personnel branch and must comply with the following additional requirements:

- (1) Applicants must pass a complete physical examination and a psychological examination in accordance with state law. The psychological examination shall be given by an individual approved by the state board of examiners in psychology or the state board of medical registration. If a written psychological examination is administered, such examination shall be approved by the state board of examiners in mental health or the state board of medical registration, in accordance with psychological examinations approved by the PERF board in consultation with the commissioner of mental health. Applicants may be required to pay up to one-half (1/2) of the costs of the required physical and psychological examinations in accordance with applicable departmental rules.
- (2) Applicants must pass a written examination to evaluate both aptitude and intellectual capacity for fire work.
- (3) Applicants must pass a job-related agility test.
- (4) Applicants shall have a structured oral interview as established by the fire merit board.

The rules and procedures for the above requirements shall be set by the chief ~~of the department~~ with the approval of the merit board.

(c) The personnel branch shall prepare a list of those applicants eligible for appointment ranked in order of their total combined score. The written examination shall constitute no more than fifty (50) percent of the applicant's total eligibility score. Prior to the creation of the eligibility list, the personnel branch, with approval of the merit board, shall establish the weight of each of the components of the applicant process.

(d) Beginning with the applicant having the highest eligibility score on the eligibility list, the department shall conduct a background investigation into the personal history and character of the

applicant. Any information indicating that the applicant has engaged in any conduct or activities ~~which~~ that would warrant the disqualification of the applicant from appointment to the department shall be forwarded to the chairman of the personnel branch and shall be made a part of the applicant's file. The file shall be presented by the chairman of the personnel branch to the merit board, which shall determine whether such conduct or activities are such as to disqualify the applicant for appointment.

(e) Final eligibility lists prepared as the result of an applicant screening process shall be in effect for two (2) years or until a new eligibility list for the next process is final, whichever occurs sooner. The merit board shall establish procedures for the management of the final eligibility lists. Any applicant who, personally or through any other person, solicits any member of the merit board to favor his or her appointment or reinstatement to the department shall be thereby rendered ineligible for any such appointment.

**Sec. 252-203. Vacancies; training academy for recruits; probationary period.**

(a) The chief shall appoint as recruit trainees such applicant or applicants as are necessary to fill any vacancies ~~which that~~ exist in the Indianapolis fire department. Eighty (80) percent of such vacancies to be appointed at one time by the chief shall be filled by taking the applicant having the highest score on the final eligibility list and proceeding down the list in order. The chief shall fill the remaining twenty (20) percent of the vacancies by selecting any person remaining on the final eligibility list. In selecting candidates, consideration shall be given to IC 36-8-4-10. Recruit trainees shall be assigned to the fire training academy for a training course prescribed by the chief with the approval of the merit board. No recruit trainee shall be assigned to regular active duty until he or she has attended and successfully completed the training course so prescribed. Failure to complete the course successfully shall result in dismissal from the department. After completing the training course, the recruit trainee shall be elevated to the probationary rank of firefighter and shall be assigned to regular active duty. The probationary period shall last for one (1) year of actual service from the date of the recruit trainee's graduation from the training academy. Each firefighter shall be evaluated monthly during this period by his or her immediate supervisor pursuant to the evaluation system provided for in this Code. The appointment of the firefighter becomes permanent when he or she has successfully completed the one-year probationary period.

(b) While an individual is in the status of recruit trainee or probationary firefighter, the chief may terminate or temporarily suspend an individual for cause, without right to any hearing before the merit board.

(c) The personnel branch, with the approval of the director, shall be authorized to conduct such recruiting and publicity campaigns in any county of this state as it may determine to be necessary to attract an adequate number of qualified persons to become members of the department.

**Sec. 252-204. Retirement.**

A member of the Indianapolis fire department shall be required to retire from the department consistent with state and federal guidelines or upon his or her failure to meet minimum medical/fitness standards adopted by the department. Such minimum medical/fitness standards shall be job-related and established with the assistance of an independent consultant to the department.

**Sec. 252-205. Rules and regulations of the Indianapolis fire department.**

(a) Within the limits of this Code, the chief, with the approval of the director, shall prescribe, adopt and put into effect such rules and regulations for the ~~government governance~~ of the Indianapolis fire department as, from time to time, he or she deems appropriate. Within the limits of this Code, the chief, with the approval of the merit board, shall establish a classification of ranks, grades and positions in the department and shall designate the authority and responsibilities of each rank, grade and position. The chief shall have authority to assign or reassign any member of the department to serve at any ~~fire station or headquarters~~ department worksite, within the limits of the Code, and to perform such duties as he or she shall designate, provided such grade and assignment results in no decrease in the firefighter's merit rank, and provided the firefighter's minimum salary is commensurate with his or her merit rank. The chief shall be authorized to make maximum use of civilian employees in any position in the department so as to release firefighters to perform essential ~~department~~ departmental functions.

(b) Consistent with the terms of section 252-206(a), the chief, with the approval of the director, may establish a position classification system and a scale of compensation for the various firefighters in the department. The compensation so fixed shall be based on the rank held by the firefighter and the special technical competence of the job assignment of the firefighter. Any position pay granted to a firefighter shall remain in effect only while such firefighter is in such position. The scale of

compensation shall be required to apply uniformly to all firefighters' merit rank and minimum salary commensurate with the rank.

**Sec. 252-206. Merit promotion system.**

(a) There shall be a merit promotion system ~~which that~~ shall be administered in accordance with rules and regulations adopted by the merit board. This merit promotion system shall apply to all promotions to the ranks of lieutenant, captain and battalion chief. It shall not apply to the appointment of the chief by the director or to the appointment of assistant chief, deputy chiefs, ~~and~~ division chiefs ~~and~~ shift commanders by the chief. Within the limits of this Code, the chief, with the approval of the merit board, shall set standards for promotion in conformity with the most widely approved standards of comparable fire departments and shall establish reasonable prerequisites of training, education and experience for each rank, grade and position in the department.

(b) The following eligibility requirements are established for all individuals seeking promotion within the Indianapolis fire department:

- (1) ~~Private to lieutenant~~ Private to lieutenant: To be eligible for promotion to the rank of lieutenant, an individual must have completed five (5) years of continuous service as a ~~sworn~~ member of the department, which time period shall include an individual's service as a full-time, paid member of a fire department that has been consolidated into the ~~Indianapolis Fire Department~~.
- (2) ~~Lieutenant to captain~~ Lieutenant to captain: To be eligible for promotion to the rank of captain, an individual must have served two (2) years in the rank of lieutenant.
- (3) ~~Captain to battalion chief~~ Captain to battalion chief: To be eligible for promotion to the rank of battalion chief, an individual must have served two (2) years in the rank of captain.

In determining years of service for promotion eligibility to the next merit rank, all time served from the candidate's date of appointment shall be considered. However, if an officer is demoted, no time served in a rank prior to the demotion shall be considered in determining years of service for promotion eligibility. The merit board shall resolve any issue relating to the determination of a firefighter's years of service. A member shall be promoted only to the next highest rank.

(c) The merit board, in conjunction with the chief ~~of the department~~, shall establish process phases and procedures for use in selecting candidates for promotion to the various ranks. The board may use the services of professional consultants from outside the department to assist in developing and administering the process. The process phases shall be established in conformity with standard psychometric procedures, federal and state guidelines relating to selection methods, equal employment opportunity laws, and generally accepted standards for fire departments. Weightings of the components of the process shall be established by the department, using the services of professional consultants prior to the inception of the process with the acceptance of the merit board. The process may include, but is not limited to, such phases as a written examination, structured interviews, performance evaluations, and/or assessment center techniques, as structured to accommodate the various rank levels.

(d) Promotions shall be made by the chief ~~of the department~~ with the approval of the merit board. Such promotions shall be made to position vacancies identified by the chief and designated to be filled by the chief and the director ~~of public safety~~. In making final selections for promotion, the chief shall promote the candidate who, in the opinion of the chief and merit board, is best qualified for the position based on such considerations as cumulative score on the merit selections procedures, the qualifications of the candidate for promotion, and community and legal obligations of the department and the city. The merit board shall establish guidelines, policies and procedures for the administration of the promotion process, and such guidelines, policies and procedures shall be posted in all ~~Indianapolis Fire Department~~ work sites and a copy provided to the public safety committee of the city-county council prior to the inception of the process.

(e) All promotions to the ranks of lieutenant, captain and battalion chief shall be made in accordance with this merit system, without regard to the candidate's political party preference or activities. Any member of the department who, personally or through any other person, solicits any member of the merit board to favor his or her promotion shall be thereby rendered ineligible for any such promotion.

(f) There shall be no acting ranks; in the suppression division, however, in instances in which the officer assigned to an apparatus or station is temporarily absent due to illness, vacation, training or other reason, a firefighter may be temporarily assigned to fulfill the responsibilities of the absent officer.

**Sec. 252-207. Evaluations.**

The chief, with the approval of the merit board and with the assistance of the personnel ~~office~~ branch, shall establish a system for the evaluation of the performance of each member of the department. The personnel ~~office~~ branch shall maintain a record of all evaluations of each member under this system.

**Sec. 252-208. Discipline.**

(a) The ~~fire~~ chief shall have the ultimate authority to discipline all members of the Indianapolis fire department. However, that authority may be delegated by the chief in accordance with the provisions contained in this section. The authority of the chief to discipline shall be subject only to the firefighter's right of appeal to the fire merit board as provided herein.

(b) All disciplinary matters within the department shall be based on one (1) or more of the following infractions:

- (1) Violation of any rule, regulation, or order of the department;
- (2) Any breach of discipline;
- (3) Insubordination;
- (4) Neglect of duty;
- (5) Immoral conduct;
- (6) Conduct unbecoming a firefighter;
- (7) Substandard performance;
- (8) Violation, with the determination by the chief, of any federal, state or local law; and
- (9) Failure to cooperate or be truthful.

(c) An officer may be placed on leave with pay for up to thirty (30) calendar days by the chief pending determination of final disciplinary action. Such leave with pay shall be considered a duty status and not a punishment.

(d) The delegation by the chief of the authority to discipline shall not exceed the following:

- (1) Any deputy or assistant chief may suspend any subordinate firefighter for up to a total of eighty (80) working hours, with or without pay, which suspension shall be reviewed by the disciplinary board of battalion chiefs, and ultimately reviewed by the chief. The suspended firefighter may be subject to reinstatement with pay by the chief at any time.
- (2) Any division chief may suspend any subordinate firefighter for up to a total of forty-eight (48) working hours, with or without pay, which suspension shall be reviewed by the disciplinary board of battalion chiefs, and ultimately reviewed by the chief. The suspended firefighter may be subject to reinstatement with pay by the chief at any time.
- (~~2~~3) Any battalion chief may suspend any subordinate firefighter for up to a total of twenty-four (24) working hours, with or without pay, which suspension shall be reviewed by the disciplinary board of battalion chiefs, and ultimately reviewed by the chief. The suspended firefighter may be subject to reinstatement with pay by the chief at any time.

(e) Firefighters who are classified by the department as exempt executive, administrative or professional employees pursuant to the provisions of the Fair Labor Standards Act are not subject to unpaid disciplinary suspensions other than for violations of safety rules of major significance unless the suspension is for the period of an entire workweek or a specified number of full workweeks.

(f) A disciplinary board of battalion chiefs, referred to in this section as the disciplinary board, shall assist the chief in departmental disciplinary matters. The board shall be subordinate and advisory to the chief and shall consist of three (3) member officers with the permanent merit rank of battalion chief. Board members shall be selected at random and shall serve as a board for a term not to exceed six (6) months. A new board shall be ~~empaneled~~ impaneled every six (6) months. No battalion chief shall serve

as a member of the board in consecutive six-month periods.

- (1) Following the suspension of a firefighter by the chief for a period greater than eighty (80) working hours or any suspension of a firefighter by an assistant chief, the chief shall appoint a firefighter to gather all of the pertinent facts and to investigate the event surrounding the suspension. The results of that investigation shall be reported to the chief, to the disciplinary board and to the chairman of the personnel branch for inclusion in the firefighter's personnel record. The chief, or his or her designee if the chief so determines, may cause the firefighter to be brought before the disciplinary board for a hearing based upon any charges. Alternately, the chief, in his or her discretion, may also cause the firefighter to appear directly before the merit board for a hearing.
- (2) Any firefighter subject to a hearing before the disciplinary board shall be notified in writing of the charges and of the time and date of the hearing. Such notice must be given by the board at least five (5) days prior to such hearing. In addition, the firefighter has the right to have witnesses subpoenaed by the disciplinary board to testify in his or her behalf upon forty-eight (48) hours' advance notice to the board. If the firefighter requests that witnesses be subpoenaed, he or she shall provide a list of such witnesses to the board and to the chairman of the personnel branch, who shall prepare and deliver the subpoenas on behalf of the board. All testimony at this hearing shall be under oath. Any firefighter appearing at this hearing, whether as an accused or as a witness, shall cooperate fully with the disciplinary board and answer all questions truthfully and directly. In such hearings, and pursuant to departmental policy, the firefighter shall have the right to have legal counsel.
- (3) The hearing before the disciplinary board shall be conducted in accordance with written directives of the chief. The disciplinary board shall, by a majority vote, make a finding of guilty or not guilty and reduce it to writing. If the finding is guilty, the board shall make its recommendations for punishment. The findings and recommendations shall then be referred to the chief or his or her designee for his or her determination and shall be made available to the accused firefighter.
- (4) After receiving the findings and recommendations, the chief or his or her designee may, with or without hearings, either concur with the disciplinary board or may reverse the board in full or in part. After making his or her determination, the chief or his or her designee may:
  - a. Suspend the firefighter without pay for up to six (6) months. If the suspension does not exceed a total of eighty (80) working hours, suspension shall be without the right of appeal to the fire merit board. That portion of any suspension exceeding a total of eighty (80) working hours may be appealed to the fire merit board within thirty (30) calendar days;
  - b. Demote the firefighter in rank; however, any demotion may be appealed to the fire merit board within thirty (30) calendar days;
  - c. Recommend to the merit board that the firefighter be terminated, in which case the merit board shall consider such a recommendation in the same manner as an appeal of a chief's determination for suspension or demotion;
  - d. Reprimand the firefighter verbally or in writing;
  - e. Reinstate with pay any firefighter who has been previously suspended without pay.
- (5) A copy of the findings of fact and recommendations of the disciplinary board as well as the chief's determination shall be made a permanent part of the subject firefighter's personnel record. A copy of all of these findings of fact and recommendations as well as the chief's determination shall also be referred to the director of the department of public safety within fifteen (15) days.
- (g) Appeals to the merit board shall be handled in the following manner:
  - (1) Any member of the ~~fire~~ department may appeal the following determinations to the fire merit board within thirty (30) calendar days of such determination:
    - a. That portion of any suspension without pay exceeding eighty (80) working hours;
    - b. Any demotion in rank.

- (2) The hearing before the merit board shall be an administrative hearing, shall be de novo and shall be a hearing of record. The evidence before the merit board shall consist of the findings of fact and recommendations of the disciplinary board of battalion chiefs if such disciplinary board is convened, the written charges and the determination of the fire chief upon those charges, and any other evidence requested by the merit board, presented by the aggrieved firefighter, or presented by the chief.
- (3) Any firefighter appealing any decision of the chief shall be given notice at least fifteen (15) calendar days prior to the hearing before the merit board.
- (4) The appealing firefighter may be represented by legal counsel before the merit board, and the chief shall be represented by the corporation counsel or his or her designee.
- (5) The merit board may fully or partially affirm or completely reverse any portion of the chief's determination ~~which that~~ is appealable. In the case of a demotion, the merit board may demote a firefighter only one (1) permanent rank at any one (1) time. The merit board may order any firefighter reinstated with pay for any appealable suspension. In addition, the merit board may remand the action for further review by the ~~fire~~ chief.
- (6) After hearing the evidence, the merit board shall make a finding by majority voice and reduce its findings and decision to writing. A copy of the findings and decision shall be forwarded to the firefighter in question and to the director ~~of the department of public safety~~ and shall become a permanent part of the firefighter's personnel record.
- (h) For the purpose of all hearings before the chief, the disciplinary board of battalion chiefs, and the merit board, each respectively shall have subpoena power enforceable by the circuit or superior court.
- (i) Any member of the ~~fire~~ department may, following a decision of the merit board, file a verified petition in the superior or circuit court of the county for a review of the decision. The petition for review shall be filed within thirty (30) days of the written decision of the merit board. The consolidated city shall be the sole defendant in the petition. Within thirty (30) days after receipt of the summons, the city shall cause the merit board to file a complete transcript of the hearing. The court, without jury, shall review the record and render its decision as in other administrative reviews. The clerk of the court shall send a copy of the court's decision to the department of public safety and the appealing firefighter. Either party may appeal the decision of the court.

**ARTICLE III. FIREFIGHTER PERSONNEL RULES**

**Sec. 252-301. Holidays; additional pay.**

- (a) *Suppression division.*
- (1) ~~Additional pay for working on a holiday. Because of the nature of the work of the members of the Indianapolis Fire Department, members assigned to the suppression division are often required in the regular rotation of their duties to work on the following holidays, when other citizens are free from the duties of their employment, to wit:~~

New Year's Day	Independence Day
Presidents Day	Labor Day
Martin Luther King Day	Veterans Day
Easter Sunday	Thanksgiving Day
Memorial Day	Christmas Day
Discovery Day	

Because of the increased pressures of the work of the ~~fire force~~ department and the around-the-clock requirements for ~~those in members~~ of the suppression division, ~~it is deemed by this city-county the council that they shall be granted hereby grants to such members additional holiday pay of one hundred dollars (\$100.00) per day in accordance with the collective bargaining agreement between the city and the Indianapolis Metropolitan Professional Fire Fighter, Local 416 for working on any of the eleven (11) listed following holidays:~~

- (1) New Year's Day;
- (2) Martin Luther King Day (third Monday of January);
- (3) Presidents Day (third Monday of February);
- (4) Easter Sunday;
- (5) Memorial Day;
- (6) Independence Day;
- (7) Labor Day;
- (8) Columbus Day;
- (9) Veterans Day;
- (10) Thanksgiving Day; and
- (11) Christmas Day.

(b) ~~Administration~~ Non-suppression division. ~~(1) Holidays designated. Sworn m~~Members of the ~~administration non-suppression~~ non-suppression division of the department shall be entitled to the following days as holidays:

- (1) New Year's Day;
- ~~Labor Day~~
- (2) Martin Luther King Day (third Monday of January);
- (3) Presidents Day (third Monday of February);
- (4) Good Friday;
- (5) Primary Election Day in years with state or municipal elections;
- (6) Memorial Day;
- (7) Independence Day;
- (8) Labor Day;
- (9) General Election Day in years with state or municipal elections;
- (10) Thanksgiving Day;
- (11) Friday after Thanksgiving; and
- (12) Christmas Day;

~~If any of these holidays fall falls on a Sunday, the Monday succeeding shall be designated as the legal holiday. When any of these holidays falls on a Saturday, the Friday preceding shall be designated as the legal holiday. (2) Pay for unworked holidays. Sworn m~~Members of the ~~administration non-suppression~~ non-suppression division shall receive their regular rate of pay for holidays on which they are not required to work. ~~(3) Additional pay for working on a holiday. If a sworn member of the administration non-suppression division is~~ Members who are required to work for eight (8) hours or more on ~~one (1) of the designated holidays listed in subsection (b)(1) above, then that member a holiday shall receive the additional pay for that holiday at the rates listed in subsection (a)(1). at the rates set forth for members of the suppression division in the collective bargaining agreement between the city and the Indianapolis Metropolitan Professional Fire Fighters, Local 416~~ Members who are required to work less than eight (8) hours on one (1) of the holidays listed in subsection (b)(1) above, then that member a holiday shall receive a portion of the additional

holiday pay commensurate with the portion of the day worked, but not less than one-half (1/2) of the holiday pay.

**Sec. 252-302. Annual leave.**

(a) *Suppression division.*

(1) ~~Effective January 1, 2003, each active member of the Indianapolis Fire Department assigned to the suppression division shall receive not less than ninety-six (96) hours annual leave with full salary each and every fiscal year. Provided, that any such member who shall have served five (5) continuous years but less than seven (7) continuous years on such department shall receive not less than one hundred twenty (120) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served seven (7) continuous years but less than fifteen (15) continuous years on such department shall receive not less than one hundred forty-four (144) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served fifteen (15) continuous years but less than twenty (20) continuous years on such department shall receive not less than two hundred sixteen (216) hours annual leave each and every fiscal year. Provided further that any such member who shall serve for twenty (20) or more continuous years shall receive not less than two hundred forty (240) hours annual leave each and every fiscal year.~~

(2) ~~Effective January 1, 2004, each active member of the Indianapolis Fire Department assigned to the suppression division shall receive not less than one hundred twenty (120) hours annual leave with full salary each and every fiscal year. Provided, that any such member who shall have served five (5) continuous years but less than seven (7) continuous years on such department shall receive not less than one hundred forty-four (144) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served seven (7) continuous years but less than fifteen (15) continuous years on such department shall receive not less than one hundred sixty-eight (168) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served fifteen (15) continuous years but less than twenty (20) continuous years on such department shall receive not less than two hundred sixteen (216) hours annual leave each and every fiscal year. Provided further that any such member who shall serve for twenty (20) or more continuous years shall receive not less than two hundred forty (240) hours annual leave each and every fiscal year.~~

(3) ~~Effective January 1, 2006, e~~Each active member of the Indianapolis Fire Department assigned to the suppression division shall receive not less than one hundred and forty-four (144) hours annual leave with full salary each and every fiscal year. Provided, that any such member who shall have served five (5) continuous years but less than seven (7) continuous years on such department shall receive not less than one hundred and sixty-eight (168) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served seven (7) continuous years but less than fifteen (15) continuous years on such department shall receive not less than one hundred and ninety-two (192) hours annual leave with full salary each and every fiscal year. Provided further that any such member who shall have served fifteen (15) continuous years but less than twenty (20) continuous years on such department shall receive not less than two hundred and sixteen (216) hours annual leave each and every fiscal year. Provided further that any such member who shall serve for twenty (20) or more continuous years shall receive not less than two hundred and forty (240) hours annual leave each and every fiscal year.

(4) Annual leave shall be taken within the calendar year in which it is accumulated; however, at the discretion of the chief ~~of the fire department~~, up to a maximum of three hundred and twelve (312) hours of earned annual leave may be carried over from one (1) calendar year to the next calendar year, provided the chief ~~of the fire department~~ retains the right to schedule such carryover annual leave at his or her discretion in order to maintain the efficiency of the operation of the ~~fire~~ department. Members who are unable to take sufficient annual leave to keep their maximum carry-over amount below three hundred and twelve (312) hours; due to extenuating circumstances (including, but not limited to, extended military leave, family medical leave, on-duty injury leave, or other administrative or legal constraints) may be allowed, with the approval of the chief or director, to carry over the additional adjusted accrued hours until such hours can be efficiently scheduled upon the member's return to regularly assigned duties.

(3) Upon separation of employment by reason of death, or retirement under circumstances such

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that the employee would be eligible for retirement under state law, or in the event of layoff, if such layoff was anticipated to last longer than six (6) months, an employee will be entitled to compensation for accumulated vacation leave at his or her daily rate of compensation.

(b) *Non-suppression division.*

(1) Effective October 1, 1996, each active member of the Indianapolis Fire Department assigned to the non-suppression division and hired on or before December 31, 1984, shall receive hereafter not less than one hundred and twenty (120) hours annual leave with full salary each and every fiscal year. Provided, that hereafter any member hired on or before December 31, 1984, who shall have served from ten (10) years to twenty (20) years on such department shall receive not less than one hundred and sixty (160) hours annual leave with full salary each and every fiscal year. Provided further that any such member hired on or before December 31, 1984, who shall serve for more than twenty (20) years shall be entitled to forty (40) additional hours to be added to his or her regular annual leave. Annual leave shall be taken within the calendar year in which it is accumulated; however, at the discretion of the chief ~~of the fire department~~, up to a maximum of two hundred and forty (240) hours of earned annual leave may be carried over from one (1) calendar year to the next calendar year, provided the chief ~~of the fire department~~ retains the right to schedule such carryover annual leave at his or her discretion in order to maintain the efficiency of the operation of the ~~fire~~ department.

(2) Each active member of the ~~Indianapolis Fire Department~~ assigned to the non-suppression division and hired after December 31, 1984, shall receive hereafter not less than eighty (80) hours annual leave with full salary each and every fiscal year. Provided, that hereafter any such member hired after December 31, 1984, who shall have served seven (7) continuous years but less than fifteen (15) continuous years on such department shall receive not less than one hundred and twenty (120) hours annual leave with full salary each and every fiscal year. Provided further that any such member hired after December 31, 1984, who shall have served fifteen (15) or more continuous years on such department shall receive not less than one hundred sixty (160) hours annual leave and that any such member who shall have served twenty (20) or more continuous years on such department shall receive not less than two hundred (200) hours annual leave with full salary every fiscal year. Annual leave shall be taken within the calendar year in which it is accumulated; however, at the discretion of the chief ~~of the fire department~~, up to a maximum of three hundred and twelve (312) hours of earned annual leave may be carried over from one (1) calendar year to the next calendar year, provided the chief ~~of the fire department~~ retains the right to schedule such carryover annual leave at his or her discretion in order to maintain the efficiency of the operation of the ~~fire~~ department. Members who are unable to take sufficient annual leave to keep their maximum carry-over amount below three hundred and twelve (312) hours; due to extenuating circumstances (including, but not limited to, extended military leave, family medical leave, on-duty injury leave, or other administrative or legal constraints) may be allowed, with the approval of the chief or director, to carry over the additional adjusted accrued hours until such hours can be efficiently scheduled upon the member's return to regularly assigned duties.

(3) Upon separation of employment by reason of death, or retirement under circumstances such that the employee would be eligible for retirement under state law, or in the event of layoff, if such layoff was anticipated to last longer than six (6) months, an employee will be entitled to compensation for accumulated vacation leave at his or her daily rate of compensation.

(c) *How leave shall be taken.* Annual leave taken pursuant to this section shall be taken in increments of not less than one (1) duty day, unless approved by the chief or his or her designee. For purposes of this section, "Duty day" shall mean duty day means twenty-four (24) hours for members of the department assigned to the suppression division, and eight (8) hours for all other members of the department.

(d) *Conversion of annual leave.* When a firefighter is transferred from one (1) division to another, the number of hours of annual leave that he/she has accrued shall be converted so he/she retains, as nearly as possible, the same calendar period of time off.

(e) *On duty injury.* ~~In the case of an on duty injury where a firefighter is precluded from using unearned annual leave hours in that calendar year, all unearned and unused annual leave shall be carried over from one (1) calendar year to the next calendar year, provided the chief of the fire department retains the right to schedule such carryover annual leave at his discretion in order to maintain the efficiency of the operation of the fire department.~~

**Sec. 252-303. Sick leave.**

(a) Any active member of the Indianapolis Fire Department hired on or before December 31, 1984, or after January 1, 1993, or any member who is hired between these two (2) dates and who makes an election pursuant to section 252-303(d) who is unable to perform the duties of his or her employment by reason of sickness, accident or injury is entitled to not less than ninety (90) calendar days' sick leave with full pay in a calendar year, or for the period of such incapacity, should said period be less than ninety (90) days. In the case of an officer incurring a sickness, accident or injury in the direct line of duty, the chief, with the approval of the merit board, may, upon written application of the officer, extend paid sick leave. Before any extension may be rendered, a medical doctor or psychologist retained by the department must certify the member unfit for active duty. If the member is unable to return to work, he or she shall apply for a disability pension pursuant to state law. The merit board shall establish guidelines, policies and procedures for the administration of paid sick leave and extensions thereof.

(b) Any active member of the Indianapolis Fire Department hired between December 31, 1984, and January 1, 1993, and who does not make an election to opt out pursuant to section 252-303(d), shall receive sick leave as follows:

(1) *On-duty injury.* Any such member who is unable to perform the duties of his/her employment by reason of sickness, accident or injury incurred in the direct line of duty as certified by a medical doctor or psychologist retained by the department shall be entitled to such leave with full pay for the period of such incapacity; however, such sick leave period shall not exceed ninety (90) calendar days in a calendar year. The chief, with the approval of the merit board, may, upon written application of the officer, extend paid sick leave. Before any extension may be rendered, a medical doctor or psychologist retained by the department must certify the member unfit for active duty. If the member is unable to return to work, he or she shall apply for a disability pension pursuant to state law. The merit board shall establish guidelines, policies and procedures for the administration of paid sick leave and extensions thereof.

(2) *Non-duty injury.*

a. Definitions.

1. "*Sick leave*" ~~shall mean~~ means time off granted a firefighter whose illness, accident, injury or disability prevents ~~him/her~~ him or her from performing duties directed by the department. Sick leave is intended to provide relief from loss of pay in cases of absence from work due to established incapacity to perform assigned duties, as defined and directed by the department, but is not to be regarded as an optional leave right.
2. "*Reasonable evidence*" ~~shall mean~~ means a certificate from a medical doctor licensed to practice medicine or a licensed psychologist and retained by the department that the subject firefighter is incapable of performing assigned duties as defined and directed by the department. Before granting or continuing sick leave with pay, the department may require evidence that the employee is actually sick or disabled.

b. Accrual.

1. Upon commencement of employment, firefighters shall have a bank of ninety-six (96) hours of sick leave for non-duty illnesses, accidents or injuries. Upon completion of one (1) year of employment, firefighters shall accrue sick leave at the rate of eight (8) hours per month, ninety-six (96) hours per year.
2. Those firefighters who are starting to work on or before the fifteenth day of the month shall have their account credited with a full month's accrual of sick time on the first day of the month following the month in which they were hired.
3. Those firefighters who are starting to work on or after the sixteenth day of the month shall have their account credited with a full month's accrual of sick time on the first day of the second month after they were hired.
4. Sick leave time will only accrue if a firefighter works or is paid for more than one-half (1/2) the month; no firefighter shall continue to accrue sick leave or other fringe benefits while receiving pension disability payments.

- c. Separation from employment. Accrued sick leave will not be paid upon termination, except as follows: Upon separation from employment by reason of death, or retirement under circumstances such that the employee would be eligible for retirement benefits under state law, or in the event of a layoff, if such layoff was anticipated to last longer than six (6) months, an employee will be entitled to compensation or accrued accumulated sick leave at one-half (1/2) his or her regular daily rate of compensation.
  - d. Carryover. Accrued sick leave may be carried over from year to year.
- (c) *Compliance with departmental policy.* All use of sick leave due to sickness, accidents and injuries must comply with departmental rules, regulations, orders and standard operating procedures.
- (1) Unearned leave. Sick leave cannot be used prior to accrual and cannot be earned while on any leave without pay status.
  - (2) Justification. The burden of proof rests with the firefighter to demonstrate to the department that sick leave is justifiable. The department may require a medical certificate or other evidence of illness as requested. Sick leave is only to be used for personal illness or injury.
  - (3) Sick leave abuse. In the case of sick leave abuse, the department may designate such leave as vacation leave, leave without pay, or as grounds for disciplinary actions, including dismissal.
  - (4) Charging sick leave. Sick leave may only be taken in eight-hour increments; provided, that those firefighters who work on a twenty-four-hour on/forty-eight-hour off shift may only take sick leave in twenty-four-hour increments.
  - (5) Accrual of other paid leave. Vacation days shall accrue to firefighters while on paid sick leave.

~~(d) During the period from October 1, 2003, through October 31, 2003, an active member of the Indianapolis Fire Department who was hired after December 31, 1984, and before January 1, 1993, shall have the opportunity to opt out of the sick leave provisions of section 252-303(b) and into the sick leave provisions of section 252-303(a). Such election shall be effective upon receipt of notification by the department. A firefighter who fails to make the election during this period shall remain covered by the provisions of section 252-303(b). A firefighter who opts into the provisions of section 252-303(a) shall forfeit all sick leave accumulated during their participation under the provisions of section 252-303(b). A firefighter who elects to opt into the provisions of section 252-303(a) and who during the period January 1, 2003, through October 31, 2003, uses sick leave accumulated under section 252-303(b) shall have one (1) day of leave deducted from his or her ninety day bank for calendar year 2003 for each day of sick leave used during this period.~~

**Sec. 252-304. Perfect attendance leave.**

(a) Effective January 1, 1994, those active members of the Indianapolis fire department assigned to the non-suppression division shall receive one (1) eight-hour perfect attendance leave day for each calendar quarter in which no sick leave is used in addition to any vacation provided thereto.

(b) Perfect attendance leave days are noncumulative and shall be awarded at the pleasure of the chief ~~of the fire department~~, so long as the granting of such leave does not necessitate the use of supplementary manpower nor incur additional costs to the ~~fire~~ department. During declared emergencies, all leave days, including compensatory perfect attendance days, may be canceled for the duration of such emergencies.

**Sec. 252-305. Military leave.**

Military leave shall be granted in accordance with applicable state and federal law. Notwithstanding the provisions of section 291-210, firefighters assigned to the non-suppression division shall be granted a maximum of fifteen (15) eight-hour working days of paid military leave in a calendar year and firefighters assigned to the suppression division shall be granted a maximum of one hundred forty-four (144) work hours of paid military leave in a calendar year.

**Sec. 252-306. Reserved.**

**Sec. 252-307. Death leave.**

(a) *Firefighters in non-suppression division.* Upon the death of a member of the immediate family, ~~ie.,~~ (consisting of a spouse, mother, father, son, daughter, brother, sister, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson and granddaughter, or other relative who was residing with the firefighter), a firefighter will receive a maximum of three (3) working days leave with pay. The chief has discretion to grant three (3) days for leave to be charged against any earned leave time for a death of someone other than those listed above.

(b) *Firefighters in suppression division.*

(1) Upon the death of a parent, child or spouse, an active firefighter assigned to the suppression division will receive a maximum of two (2) twenty-four-hour duty days off with pay.

(2) Upon the death of a brother, sister, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather, grandmother, grandson or granddaughter, or other relative who was residing with the firefighter, a firefighter assigned to the suppression division shall receive a maximum of one (1) twenty-four-hour duty day off with pay. The chief has the discretion to grant one (1) day for leave to be charged against any earned leave time for a death of someone other than those listed above.

(c) *General.* Documentation of the death, such as a death certificate or article, may be required from the firefighter, ~~e.g., death certificate or article~~. Additional time off to be charged to earned leave time if available, or without pay, may be granted at the discretion of the chief.

**Sec. 252-308. Pension benefit payable to the surviving children of deceased members of the 1937 firefighters' pension fund.**

Effective January 1, 1985, and as authorized by IC 36-8-7-12.1(b)(2)(B), surviving children of deceased members of the 1937 firefighters' pension fund shall receive a benefit equal to twenty (20) percent of the salary of a fully paid first class firefighter in the Consolidated City of Indianapolis at the time of the payment of the benefit.

**Sec. 252-309. Hours of work.**

Effective October 5, 1996, firefighters assigned to the suppression division shall be scheduled by the Indianapolis fire department to work an average of one hundred forty-four (144) hours in a twenty-one-day work period. Firefighters assigned to non-suppression shall be scheduled by the department to work an average of one hundred twenty (120) hours in a twenty-one-day work period.

SECTION 2. 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 3. 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 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 322, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 322, 2009 on October 1, 2009. The proposal, sponsored by Councillor Hunter, adopts the annual budget for the Ben Davis Conservancy District for 2010. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Hunter moved, seconded by Councillor Cain, for adoption. Proposal No. 322, 2009 was adopted on the following roll call vote; viz:

October 5, 2009

24 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy  
 1 NAY: Coleman  
 4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn

Proposal No. 322, 2009 was retitled FISCAL ORDINANCE NO. 37, 2009, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 37, 2009

A FISCAL ORDINANCE adopting the operating budget of the Ben Davis Conservancy District Marion County, Indiana, for the fiscal year beginning January 1, 2010, and ending December 31, 2010, and fixing a time when this resolution shall take effect.

WHEREAS, I.C. 36-3-6-9(a)(6) provides that the City-County Council shall review the operating budget of certain taxing units which includes the Ben Davis Conservancy District of Marion County; and,

WHEREAS, the City-County Council has reviewed said budget and has determined that the same should be modified and adopted as stated herein; now, therefore:

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

BEN DAVIS CONSERVANCY DISTRICT  
 BUDGET FOR 2010

SECTION 1. The operating budget for the expenses of the Ben Davis Conservancy District of Marion County, Indiana, for the fiscal year beginning January 1, 2010, and ending December 31, 2010, is hereby adopted so that only the following sums of money are approved and appropriated out of the funds herein named and for the purposes herein specified subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year.

SECTION 2. For said fiscal year there is hereby appropriated out of the "General Fund" of said Conservancy District, the sums as hereinafter appear in this section for the purposes herein named.

BEN DAVIS CONSERVANCY DISTRICT GENERAL FUND		
	ORIGINAL PUBLISHED BUDGET APPROPRIATION	BUDGET APPROVED BY CITY- COUNTY COUNCIL
1. Personal Services	331,400	
2. Supplies	33,000	
3. Other Services and Charges	866,300	
4. Capital Outlay	123,840	
TOTAL	1,354,540	

SECTION 3. That foregoing budget shall be carried out without any revenues from property taxation, with the use of portions of current balances in said funds and the receipts of miscellaneous revenues from all other sources, the means of financing thereof be computed in accordance with the following schedule:

CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY ESTIMATE OF MISCELLANEOUS REVENUE FROM SOURCES OTHER THAN GENERAL PROPERTY TAXES BEN DAVIS CONSERVANCY DISTRICT FUND FOR THE PERIOD ENDING DECEMBER 31, 2009 AND DECEMBER 31, 2010		
ESTIMATED AMOUNTS TO BE RECEIVED	July 01, 2009 Through Dec. 31, 2009	Jan. 01, 2010 through Dec. 31, 2010
ALL OTHER REVENUE		
Contractual Services	30,000	50,000
User Fees	40,000	70,000
Other	2,000	4,000
TOTAL	72,000	124,000

ESTIMATE OF FUNDS TO BE RAISED AND PROPOSED TAX RATES

<b>BEN DAVIS CONSERVANCY DISTRICT GENERAL FUND</b>		
2010 NET ASSESSED VALUATION	364,559,948	
2010 BILLED NET ASSESSED VALUATION		
	<b>PUBLISHED BUDGET</b>	<b>CITY-COUNTY COUNCIL</b>
1. Total budget estimate for incoming year	1,354,540	1,354,540
2. Necessary expenditures, July 1 to December 31 of present year, to be made from appropriation unexpended	775,000	775,000
3. Additional appropriations necessary to be made July 1 to December 31 of present year	500,000	752,563
4. Outstanding temporary loans to be paid and not included in lines 2 or 3		
5. Total funds required	2,629,540	2,882,103
6. Actual cash balance, June 30 of present year (including cash investments)	475,850	475,850
7. Remaining property taxes to be collected present year	692,907	1,330,594
8a. Miscellaneous revenue to be received July 1 through Dec. 31 of present year	72,000	72,000
8b. Estimated revenue to be received January 31 to December 31 of incoming year (add lines 6-7)	124,000	124,000
<b>9. Total Funds</b>	<b>1,364,757</b>	<b>2,002,444</b>
10. Net amount to be raised for expenses to December 31 of incoming year	1,264,783	960,749
11. Operating balance	0	81,090
14. Amount to be raised by tax levy	1,264,783	960,749
<b>Net tax rate on each one hundred dollars of taxable property</b>		
<b>Current year tax rate</b>		
<b>Proposed tax rate for incoming year</b>	0.4187	0.2635

SECTION 4.

<b>SUMMARIES OF APPROPRIATIONS, MISCELLANEOUS REVENUE, TAX LEVIES, NET ASSESSED VALUE AND TAX RATE</b>					
Fund	Appropriation	Miscellaneous Revenue	Tax Levy	Net Assessed Value	Tax Rate
General	1,354,540	124,000	960,749	364,559,948	0.2635
Total	1,354,540	124,000	960,749	364,559,948	0.2635

SECTION 5. This resolution shall be in full force and effect beginning January 1, 2010, after passage by the City-County Council.

PROPOSAL NO. 360, 2009. Councillor Hunter reported that the Public Works Committee heard Proposal No. 360, 2009 on October 1, 2009. The proposal, sponsored by Councillor Hunter, establishes a 25 mile per hour speed limit on sections of Burgess Avenue and Julian Avenue (District 21). By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Hunter moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 360, 2009 was adopted on the following roll call vote; viz:

25 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy  
0 NAYS:  
0 NOT VOTING:  
4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn

Proposal No. 360, 2009 was retitled GENERAL ORDINANCE NO. 105, 2009, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 105, 2009

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 441-323, Alteration of prima facie speed limits.

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. 441-323, Alteration of prima facie speed limits, be and the same is hereby amended by the addition of the following, to wit:

**25 MILES PER HOUR**

*Burgess Avenue, from Emerson Avenue to Melvenia Street*

*Julian Avenue, from Arlington Avenue to Sheridan Avenue*

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

**NEW BUSINESS**

Councillor McQuillen reported that the Municipal Corporations Committee heard Proposal Nos. 315-317, 2009 on September 16, 2009. At the September 21, 2009 Council meeting, these proposals were adopted. Some amendments have come to light, and therefore Councillor McQuillen moved to reconsider and re-adopt the proposals this evening. He said that the proposed amendments are to change the tax rates and assessed valuation (AV) numbers in each of the proposals, and a copy of the amendments should be at each Councillor's desk.

Councillor Mansfield asked why these amendments are needed. James Steele, Council Chief Financial Officer, said that after the budget was introduced and approved by some of these boards, the city received certified AV numbers from the state for 2009. In the 2010 budgets, they had used projections for those AV numbers, which showed an increase over the certified numbers. After receiving these numbers, they felt their projections might be too aggressive, so to be more conservative, they changed the 2010 projections to equal those of the certified 2009 numbers. This, in turn, protects these units. If they used the projected numbers, and the actual AV was less than that, the tax rate would be too low to provide they levy they had noted in their budgets. This caused a slight increase in the tax rate, which will protect for loss in the levy. He said that this is a conservative approach to AV numbers for 2010, and once the actual numbers for 2010 are known, the Department of Local Government Finance (DLGF) will adjust the tax rates accordingly.

PROPOSAL NO. 315, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Health and Hospital Corporation for 2010. Councillor McQuillen moved, seconded by Councillor Pfisterer, to amend the AV numbers and tax rates and re-adopt Proposal

October 5, 2009

No. 315, 2009, as amended. Proposal No. 315, 2009 was amended and adopted on the following roll call vote; viz:

*24 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy*  
*1 NAY: Coleman*  
*0 NOT VOTING:*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 315, 2009 was retitled FISCAL ORDINANCE NO. 32, 2009, and reads as follows:

PROPOSAL NO. 316, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Indianapolis Public Transportation Corporation (IndyGo) for 2010. Councillor McQuillen moved, seconded by Councillor Smith, to amend the AV numbers and tax rates and re-adopt Proposal No. 316, 2009 as amended. Proposal No. 316, 2009 was amended and adopted on the following roll call vote; viz:

*21 YEAS: Brown, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith*  
*4 NAYS: Bateman, Cain, Coleman, Speedy*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 316, 2009 was retitled FISCAL ORDINANCE NO. 33, 2009, and reads as follows:

PROPOSAL NO. 317, 2009. The proposal, sponsored by Councillor McQuillen, adopts the annual budget for the Indianapolis-Marion County Public Library for 2010. Councillor McQuillen moved, seconded by Councillor Cardwell, to amend the AV numbers and tax rates and re-adopt Proposal No. 317, 2009 as amended. Proposal No. 317, 2009 was amended and adopted on the following roll call vote; viz:

*23 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith*  
*2 NAYS: Coleman, Speedy*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 317, 2009 was retitled FISCAL ORDINANCE NO. 34, 2009, and reads as follows:

### **SPECIAL ORDERS - PUBLIC HEARING**

PROPOSAL NO. 368, 2009. Councillor Sanders moved, seconded by Councillor Nytes, at the September 21, 2009 Council meeting for Proposal No. 368, 2009 (Rezoning Case 2009-ZON-046) located at 450 East Washington Street and 101 North New Jersey Street, be scheduled for a hearing before this Council at its next regular meeting on October 5, 2009 at 7:00 p.m. and that the General Counsel read the announcement of such hearing and enter same in the minutes of this meeting.

Councillor Nytes moved, seconded by Councillor Mansfield, to postpone the hearing on Proposal No. 368, 2009 until the next Council meeting on October 26, 2009. General Counsel Robert Elrod stated that this motion is out of order. He said that unless the petitioner agrees to a continuance, the Council body cannot continue the matter. Councillor Mansfield said that it is within this body's rights to postpone a proposal as long as there are 15 votes. Mr. Elrod said that in the state zoning statute, it is clear that a hearing will be held at the next regular meeting of the Council unless the petitioner consents to a postponement. Councillor Mansfield said that zoning hearings have been postponed many times before in this body. Mr. Elrod said that he cannot speak to any proposals during the time he was not acting as General Council, but under his watch, a zoning matter has never been postponed without the consent of the petitioner.

Councillor B. Mahern said that there are four councillors absent this evening, including the Councillor who called the matter out for public hearing, and the Councillor in whose district the project is located. He said that he believes more time is needed for full disclosure and for all councillors to be well informed. He said that to continue to act on this proposal without sufficient information does not bode well for the public's confidence in this body. He said that there are concerns that are substantial and significant and he does not understand why the petitioner will not agree to a continuance.

Councillor Lutz said that due to the guidelines regarding the commission's authority for zoning issues, it is important to move forward with items that are called out, but if they have the authority to continue the matter, he would be supportive of that.

Councillor Plowman agreed that if the Councillor who called the matter out for a hearing is not present, that creates a concern, but to say that the Council does not know anything about this project is not correct, and he has received lots of information on it.

President Cockrum said that the General Counsel conducted a preliminary conference on Friday afternoon as required, and it was revealed that there were no remonstrators present at the commission hearing. He said that the issues that came up at the preliminary hearing had nothing to do with zoning, but rather with the economic development mechanisms associated with this project. He said that he is sympathetic to concerns about economic development funding strategies, but what is really before this body is simply the zoning matter.

Councillor B. Mahern said that the proper indications were not brought forward with regard to zoning and councillors should have all the information to be confident about their decision. He said that he would like to hear from the petitioner as to their unwillingness to consent to a continuance.

Maura Hoff, attorney representing the petitioner, stated that the petitioner does not consent to a continuance, as there were no remonstrators against the zoning issue, and the only concerns are with regard to the financing mechanism for this project, which has nothing to do with the rezoning of the property.

Councillor Gray said that he finds it unusual that the petitioner does not wish to allow a continuance at the request of the Council and therefore he will be voting against the rezoning.

The motion to continue the hearing on Proposal No. 368, 2009 until October 26, 2009 carried on the following roll call vote; viz:

October 5, 2009

*16 YEAS: Bateman, Brown, Coleman, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Oliver, Scales, Smith*  
*9 NAYS: Cain, Cardwell, Cockrum, Day, McHenry, McQuillen, Pfisterer, Plowman, Speedy*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Councillor Brown asked with regard to the legal opinion, what happens at this point. Mr. Elrod said that if the meeting is adjourned at this time, the zoning will be approved. The statute clearly says that if the legislative body fails to act at the next scheduled hearing, the ordinance takes effect as if it was adopted. He said that postponing the hearing, in effect, adopts the rezoning.

Councillor B. Mahern said that he never thought there would come a day when he would lose the respect of this Council's ability to have its will done. He said that the purpose of this exercise is not for the Council members to be involved, but for the public to be involved and to consent through its representatives. He said that if this is the legal ruling, then he would like to move to reconsider the last vote and proceed with the hearing this evening, so that the proposal will not go to rest without being spoken to. Councillor Gray seconded the motion. The motion to reconsider the motion to continue Proposal No. 368, 2009 carried on the following roll call vote; viz:

*23 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, McHenry, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Scales, Smith, Speedy*  
*2 NAYS: Day, McQuillen*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Councillor Nytes asked why the body was allowed to vote if it was not allowable for it to be postponed. President Cockrum said that he proceeded with the vote without a final legal opinion from the General Counsel. He stated that the motion to continue Proposal No. 368, 2009 is now back on the floor for consideration. The motion to continue failed on the following roll call vote; viz:

*5 YEAS: Cain, Day, McHenry, McQuillen, Pfisterer*  
*20 NAYS: Bateman, Brown, Cardwell, Cockrum, Coleman, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, Moriarty Adams, Nytes, Oliver, Plowman, Scales, Smith, Speedy*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Councillor Hunter asked for consent for a brief recess. The President called for a recess at 8:42 p.m.

The President reconvened the City-County Council at 8:59 p.m.

General Counsel Robert Elrod explained the schedule and rezoning hearing procedures.

Councillor B. Mahern stated that this is about much more than zoning. Far too often this Council has been forced to accept the consequences of decisions made after the fact by unelected boards and commissions. The Council then has to provide appropriations and fees to cover deficits because of these decisions made by unelected and appointed individuals. One case in point is the current financial situation with the Capital Improvement Board (CIB). He said that it is this Council's duty to oversee the decisions of these boards before money is encumbered, because they will be asked to spend their constituents' money to pay for these decisions. He said that the city is taking unnecessary risks with the funding for this project. He said that this is not an opposition

to the development of the site, but only to this plan, as the city cannot afford to have redevelopment at just any cost.

Maura Hoff, Lewis & Wilkins attorney for the petitioner, Tad Miller and the Market Square Garage project, stated that the rezoning case is a rezoning of six acres from a mixed zoning use, including industrial, to CBD2. She said that if the city wants this area redeveloped, they probably do not want an industrial use two blocks from City Hall. At the moment the abandoned Bank One building is a blight on the community and open to graffiti and crime. She said that the project proposes retail on the first floor and residential units on the top floors. This project will bring more traffic to Downtown and will further benefit the City Market. She said that development of this site will also encourage others to look at the Market Square site and a step toward making downtown the wonderful regional center it can be. She said that the zoning was approved by the Metropolitan Development Commission (MDC) and the Division of Planning for the Department of Metropolitan Development (DMD).

Councillor B. Mahern asked who approves the regional center approval process. Ms. Hoff said that this went through the Hearing Examiner. Councillor B. Mahern said that the hearing examiner is not elected.

Councillor Nytes asked for clarifications for the two zoning classifications and if the parking requirements are the reason for two categories that are presently on this site. Ms. Hoff said that she is not completely sure of the distinction, but that Industrial 3 zoning does not allow for residential, and CBD 2 encourages mixed use developments. Councillor Nytes asked if there is no information on the difference in parking regulations. President Cockrum said that according to the procedure outline, questions and answers by councillors follows both presentations. He asked for the remonstrators to present their case.

Pat Andrews, vice president of Marion County Alliance of Neighborhood Associations (MCANA), said that they do not oppose the zoning change being requested and do not oppose the development of this site. What they oppose is the ancillary deal by the city with a new type of financing instrument proposed by the city for this project. She said that there is no way the Council can be brought fully up-to-date on the issue this evening. She said that this abatement would create a targeted tax increment financing (TIF) district outside the review of the Council and outside the review of the public. The process uses potential future value of a property guaranteeing the public overpaying for it now. The rental housing market in downtown is thriving and the taxpayers should not be subsidizing a thriving market segment. She said that the deal would remove an abutting parking garage from the tax rolls, require the closing of surface lots that financially benefit a cash-strapped CIB, and sell the developer 600 spaces at a severe discount. She said that because the administration is calling this transaction an abatement instead of a TIF, they are skirting around approval by the Council.

Paul Ogden, local attorney speaking on behalf of the remonstrators, said that the City is doing an end-run around the Council and an unelected body should not be allowed to make these types of decisions or approve this type of a financing plan. He said that they are using tax deduction statutes that do not require Council approval, instead of operating under the TIF regulations. He said that while he understands this issue tonight is regarding zoning, the way this project is progressing, this may be the Council's only opportunity to review this funding mechanism. He said that the power is being taken away from the Council and the administration is denying them their proceedings under a different set of statutes.

Ms. Andrews added that there are so many parts to this deal, but the most troublesome is that the city is using the future value of a parking garage as their basis for the \$19.5 million purchase price. The property last sold for \$10.5 million and is assessed at \$12.1 million. This causes the city to assume all the risk.

President Cockrum called for public testimony from attendees not affiliated with either the petitioner or remonstrator.

Nick Weber, Deputy Mayor of Economic and Workforce Development, said that he sees this matter as a rezoning issue. This project would put property back on the tax roll and encourage further development in this area. Even with the garage off the tax rolls, they would see an increase in property tax generation over what is happening today. He said that he believes this financing package is pure and simply an abatement and is an agreement the petitioner is working out with the city and is subject to all the same requirements and rules as any other abatement. He said that this project is very different from a TIF and nothing the Council takes action on this evening seals the deal with this project, but simply changes the zoning for future development, and that is needed no matter who develops this site.

Tim McGuire, Libertarian Party representative and Pike Township resident, stated that he is a fan of free enterprise and businesses doing well, but he is not a fan of corporate handouts and abatements, and the Council should take every opportunity to stop an abatement while they can.

Ms. Hoff said that the petitioners see this matter solely as a zoning case. She said that whether her client develops the site or another developer is brought in, this building will most likely stay empty if it remains for industrial use. She said that the petitioner lives in the area and has developed many other projects in the city, and he has put his heart and soul into making Indianapolis a beautiful place to live. She said that should the project move forward, the petitioner anticipates that the project will be 75% complete by the SuperBowl.

Ms. Andrews said that this is a fake abatement and this money should have gone to the schools or the library. She said that they claim to be putting more money on the tax rolls, even when the garage is taken off, but more money is generated by the development of the lot, and there are very strict clawback clauses in abatements. In this deal, however, they are only requiring that this development generate \$500,000 in property tax, minus \$360,000 from the garage, and the current payment on the off-center block of \$100,000, and the property tax revenues will only increase by \$36,000 a year. She said that this would take a lot of years to pay off money that should have gone to schools and the library. She said that the city assumes all the risk, and if they do not come up with the financing, the city takes possession of two empty parking lots. She said that \$10 million has been spent in federal funding with the removal of the I-65 ramp, and this area should be able to survive on its own without incentives. She said that the taxpayers are getting very little and the developer is getting a whole city block for free. She asked the Council to overturn the MDC's approval of the rezoning.

Councillor Mansfield thanked Councillor B. Mahern for stepping up in Councillor Sanders' absence and voicing the concerns regarding this project. She also thanked MCANA for pulling together the information for this hearing this evening. She said that Councillor Plowman said he has had information on this project for a month, but she has not. She said that she is disappointed that the petitioner was not willing to continue the matter until the councillor who called it out for a hearing was able to be in attendance. She said that because of this, she cannot support the rezoning and is very concerned about ancillary issues raised. She said that she does want to see

development in that area, but would have appreciated the courtesy of the petitioner for a continuance.

Councillor D. Mahern asked why there is such a rush and why the material provided by the petitioner is simply three pictures. He asked how many other developments in the city Mr. Miller is a lead developer on. Mr. Miller said that he was the lead developer on the Alton Townhomes, Clevelander Condominiums, Packard Condominiums, DeSoto Townhomes, Maxwell Condominiums, and Monon Row Townhomes. Councillor D. Mahern asked if he was the lead financier. Mr. Miller said that he was a 33 1/3 partner with two other partners. Councillor D. Mahern asked if this is the first project he is doing on his own. Mr. Miller said that it is the first project where he is more than a 33 1/3 partner.

Councillor Nytes asked if the CIB would lose \$790,000 in revenue from the surface parking if this zoning change is approved and the project moves forward. Mr. Weber said that the rezoning itself does not result in revenue loss for the CIB. Councillor Nytes asked if that will be a possible unintended result. Mr. Weber said that the CIB only has a variance through September of next year, and it is the 4<sup>th</sup> variance for the use that could be sought. The CIB was told when it came to renew the variance this past summer that another extension would be remonstrated. Enclosing these parking lots positively affects development, and the CIB could pave the lots and be in compliance, but this zoning tonight does not cast a die or make one thing happen or another. Councillor Nytes asked if there is any way the zoning decision could be leveraged to help enhance the CIB. Mr. Weber said that the CIB does not have title to the two parking lots, the city does. He said that there is an arrangement with the city for the CIB to manage the lots and receive the profit revenue. He said that redevelopment of these lots could possibly drive more parkers to the Virginia Avenue garage, which the CIB does own, and the CIB could therefore see some increased revenues and proceeds from development of this site. Councillor Nytes asked if this effort suggests a new interest in addressing parking needs downtown. Mr. Weber said that parking has been a long-time issue for downtown, and the city plays an active role, and this is not a departure from the role the city has played all along.

Councillor D. Mahern said that these gravel lots are known to be in violation and asked why they have not been addressed prior to now. Mr. Weber said that when Market Square Arena came down, there was a pause between the facility coming down and an ultimate re-use and the first round of requests for proposals (RFPs). He said that instead of investing the money to pave, mark and light the lots, when a new use was intended, they instead applied for a variance and allowed the CIB to maintain the lot to alleviate the workload on the city.

Councillor Lutz asked how long the operation center has been vacant. Mr. Weber said that it has been vacant for 15 years. Councillor Lutz asked if there has been any other interest in the property. Mr. Weber said that during the first round of RFPs, the facility came into its present ownership, and even though the intended project of condominiums did not come to fruition, the current owner continued to hold onto the property. One of the major issues is that it is an old structure but very well-built, and demolition is largely out of the question, so the project must involve a re-use of the facility. Councillor Lutz asked with the current zoning of industrial, if an industrial bakery or manufacturer would be a good fit for a downtown development. Mr. Weber said that industrial is not a conforming use for the central business district, if they wish to have a prosperous downtown. Councillor Lutz asked if industrial is then not desirable. Mr. Weber answered in the affirmative, and said that the property needs to be rezoned regardless of who develops it in order to help encourage core development in the central business district.

Councillor B. Mahern said that councillors have heard arguments as to why this is not a good deal, and there are many other problems that there is not sufficient time to outline in detail. He said that the simple matter is that this site has to be redeveloped, but there is no reason it has to be developed this way. The city is taking a loan of \$19.5 million for a garage worth \$10.5 million. He said that they should never be in a rush to do a bad deal and the Council needs to carefully consider where the risk lies. He said that the Council will not have a say in this deal if they do not turn down the zoning. He said that the Council is the local fiscal body responsible for paying abatement bills if the development does not pan out and property taxes do not materialize. He said that a continuance should have been granted for more information, and the benefit given to the developer in this project far outweighs the benefit to the city.

Councillor B. Mahern moved, seconded by Councillor Mansfield, to deny the rezoning and overturn the MDC's decision. The President said that 18 "nay" votes are needed to overturn the MDC's decision. The MDC's decision was upheld and Proposal No. 368, 2009 was thereby adopted on the following roll call vote; viz:

*13 YEAS: Cain, Cardwell, Cockrum, Day, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Scales, Smith, Speedy*  
*12 NAYS: Bateman, Brown, Coleman, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Mansfield, Oliver*  
*4 ABSENT: Malone, Minton-McNeill, Sanders, Vaughn*

Proposal No. 368, 2009 was retitled REZONING ORDINANCE NO. 88, 2009, and is identified as follows:

REZONING ORDINANCE NO. 88, 2009.  
2009-ZON-046  
450 EAST WASHINGTON STREET AND 101 NORTH NEW JERSEY STREET (*Approximate Addresses*) INDIANAPOLIS  
CENTER TOWNSHIP, COUNCIL DISTRICT # 15  
MARKET SQUARE GARAGE/OPS PARTNERS, LLC, by Maura J. Hoff, requests Rezoning of 5.9 acres, from the CBD-2 (RC) and I-3-U (RC) Districts, to the CBD-2 (RC) classification to provide for Central Business District-Two uses.

President Cockrum said that he has asked Council Chief Financial Officer James Steele to provide a bi-partisan briefing on the status of the property tax bills. He said that he has asked the Minority and Majority Leaders to provide him with a couple of dates to try and have such a joint briefing in the next couple of weeks.

### **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 Plowman stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillors McQuillen and Cain in memory of Mary Jane English; and
- (2) Councillor McQuillen in memory of Sandra Bartenbach; and
- (3) Councillors Hunter and Gray in memory of David E. Sanders; and
- (4) Councillor Malone in memory of Evelyn Williams; and
- (5) Councillor Gray in memory of Wanda L. Harris Everett, Mary Lou Blunt and John Homer.

Councillor Plowman moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Mary Jane English, Sandra Bartenbach, David E. Sanders, Evelyn Williams, Wanda L. Harris Everett, Mary Lou Blunt and John Homer. He respectfully asked the support of fellow Councillors. He 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 10:03 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 5th day of October, 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)