

AGENDA

August 6, 2012

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

Approval of the Minutes of the Regular Meeting of July 16, 2012

5. Petitions, Communications, Remonstrance and Memorials

Hospice Campus Presentation

A public hearing on Vacation 2012-03 as required by State Statute on behalf of the City of Mishawaka
Redevelopment Commission to Vacate Right of Way's in the area of the east/west alley N of Madison St. between
Cedar St and Pine St

Appeal No. 2012-30 Use Variance to allow for above ground fuel storage tank - North of 3324 N Home Street

Petition No 2012-20 Rezone from I-1 Light Industrial to R-1 Single Family - 330 W Marion Street

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**

P.O. NO 2012-19 Withdrawing from the Indiana Utility Regulatory Commission (IURC)

8. Resolutions

9. Ordinances on Second Reading

PO NO 2012-15 Additional Funds - Corporate Counsel - \$39,500.00
(Assigned to Budget and Finance Committee)

P.O. NO 2012-16 Vacation of Public Right of Way - East/West Alley N of Madison St. Between Cedar and Pine
Sts.(Assigned to Land Use Planning Committee)

P.O. NO 2012-17 Rezone from S-1 Open Space to C-3 City Center Commercial - Fish Ladder Lane and a portion
of Central Park
(Assigned to Land Use Planning Committee)

P.O. NO 2012-18 Adopting Revised Rates and Charges for Water Utilities
(Assigned to Budget and Finance Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
July 16, 2012

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday July 16, 2012 at 7:00 p.m. The meeting was called to order by President John Roggeman; and all were asked to stand for the Pledge of Allegiance and a moment of silence for former Councilman and City Controller Joseph Richard who was killed in an automobile accident.

Clerk Block's roll call showed the following:

Dale "Woody" Emmons 1st District Councilman – Present

Mike Bellovich 2nd District Councilman – Present

John Reisdorf 3rd District Councilman – Present

Marsha McClure 4th District Councilman – Present

Michael Compton 5th District Councilman – Present

Ronald Banicki 6th District Councilman – Present

John Roggeman Councilman At Large – Present

Matt Mammolenti, Councilman At Large – Present

Dan Bilancio, Councilman at Large – Present

A quorum was obtained.

Others present; Mary Ellen Hazen Chief Deputy I, Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel.

The minutes from the July 2, 2012 meeting were approved as received from the Clerk's Office.

President Roggeman said the next order of business was the DARE City Champions, always a highlight of the year, so he would be turning the podium over to Lt. Tim Williams the DARE Officer for the City of Mishawaka.

Tim Williams, Mishawaka Police Department 200 N. Church Street, said he was a DARE Officer for the Mishawaka Police Department for 11 years. He said they have over the years developed an Easy program, for students to write about not doing drugs, alcohol, and bullying. Lt. Williams said each class wrote essays and a winner was chosen from each classroom and from those winners, two city champions were chosen to represent the City of Mishawaka downstate in the statewide contest for DARE. He introduced Riley Chapla from Twin Branch School to read her essay. President Roggeman presented Riley with her City Championship Plaque and the Council congratulated her.

Lt. Williams introduced Madison Hess from Liberty School, whose essay was chosen to represent the City of Mishawaka in the state finals and she finished 3rd in the State. President Roggeman presented Madison with her City Championship plaque and the Council congratulated her.

President Roggeman thanked Lt. Williams for all of his hard work it was a highlight in the schools to have him there.

Clerk Block read a letter from the Plan Commission regarding their recommendations from their July 10, 2012 public hearing.

PETITION NO. 2012-14

A petition submitted by the City of Mishawaka Redevelopment Commission requesting to vacate the east/west alley north of Madison Street between N. Cedar Street and N. Pine Street **RECOMMENDED APPROVAL**

PETITION NO. 2012-16

A petition submitted by the City of Mishawaka Redevelopment Commission Requesting to rezone Fish Ladder Lane and a portion of Central Park from S-1 Extensive Open Space and Public Use District to C-3 City Center commercial District. **RECOMMENDED APPROVAL**

The following proposed ordinance was given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2012-15

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

Additional Funds – Corporate Counsel - \$39,500.00
(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2012-16

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

Vacation of Public Right of Way – East/West Alley North of Madison Street between Cedar and a portion of Central Park
(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2012-17

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

Rezone from S-1 Open Space to C-3 City Center Commercial – Fish Ladder Lane and a portion of Central Park

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2012-18

AN ORDINANCE ADOPTING REVISED RATES AND CHARGES FOR WATER SERVICES FURNISHED BY THE CITY OF MISHAWAKA’S MUNICIPAL WATER UTILITY

Adopting Revised Rates and Charges for Water Utilities

(Assigned to Budget and Finance Committee)

Clerk Block read **RESOLUTION NO. R2012-24** opening it for public hearing.

RESOLUTION NO. 2012-24

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTIES LOCATED AT:

Fiscal Plan for Annexation of Southeast Main Street and Douglas Road S-2 PUD

Ken Prince, City Planner said this was a 29.22 acre parcel located at the south east corner of the intersection of Douglas Road and Main Street. He said the property was completely bordered by the city, the purpose of the fiscal plan was to identify any additional costs incurred to the city, all departments have reviewed this and indicated they can service the property, the Douglas Road Fire Station was located behind this property providing an advantage of not having to rely on volunteer fire.

Question was called for at 7:22 pm on **RESOLUTION NO. 2012-24** the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Clerk Block read **PROPOSED ORDINANCE NO. 2012-14** opening it for public hearing

PROPOSED ORDINANCE NO. 2012-14

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

(Annex and Zone S-2 PUD – Mixed-use commercial and Medical – SE corner of Main
Street & Douglas Road)

Clerk Block stated the petitioner requested an amendment. President Roggeman said he would first have the committee report.

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Compton, the motion carried.

President Roggeman asked for a description of the amendment. Mr. Hixenbaugh, Attorney at Law, 559 Webster Street said the amendment was minor; it basically was to define the construction process. He said what they were asking the Council to do was to approve some additional language with regards to the building limitations and architectural section of the ordinance. Mr. Hixenbaugh said this was in regard to the use of hardi-board which would only be used as an accent material and will also allow the construction of the building based upon the perimeters set in place by Golden Corral. He said Golden Corral provides very limited ability to developers to change the corporate structure so this amendment would allow for that clarification to be part of the ordinance.

Ken Prince City Planner said he would add to Mr. Hixenbaugh's presentation that the hardi-board as it was originally drafted could be used as one-third of any face of the building, presented as amended they would be able to use 100% hardi-board on the side of the building that would be facing the internal access road and in compensation for that reduction in material they have asked they include evergreen planting material along that access road which, they have agreed to do and that has been reflected in the amendment, and he concurs with the change..

Mr. Compton made a motion to delete **PROPOSED ORDINANCE NO. 2012-14** in its entirety and replace it with the new amended ordinance, with a second by Mr. Banicki the motion carried.

Question was called for at 7:28 p.m. on **PROPOSED ORDINANCE NO. 2012-14AA**, The



Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure. **Thus it becomes ORDINANCE NO. 5348AA**

NEW BUSINESS

Mr. Emmons said he would be having a Neighborhood Watch meeting on the 19th of July at St. Bavo School, 7:00 p.m. He said the speaker would be James Elliott from Mishawaka EMS to discuss Mishawaka services and he would bring with him the newly purchased city ambulance.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:30 p.m.

Debbie S. Block _____/s/
/s/ Debbie S. Block, IAMC, MMC
Officer City Clerk,

□□ John J. Roggeman
John J. Roggeman, Presiding

PROPOSED ORDINANCE NO. 2012-19

ORDINANCE NO. _____

AN ORDINANCE REMOVING THE MUNICIPAL WATER UTILITY AND THE MUNICIPAL ELECTRIC UTILITY OF THE CITY OF MISHAWAKA, INDIANA FROM THE JURISDICTION OF THE INDIANA UTILITY REGULATORY COMMISSION FOR APPROVAL OF RATES, CHARGES AND EVIDENCES OF INDEBTEDNESS

WHEREAS, the City of Mishawaka owns and operates a municipal water utility (the “Water Utility”) and a municipal electric utility (the “Electric Utility”) pursuant to IC 8-1.5; and

WHEREAS, the rates and charges of said Water Utility and said Electric Utility and the issuance of bonds, notes, or other evidences of indebtedness by said Water Utility and said Electric Utility are subject to the approval of the Indiana Utility Regulatory Commission (“Commission”) and the Common Council; and

WHEREAS, the Common Council may remove the Water Utility and the Electric Utility from the jurisdiction of the Commission for the approval of rates and charges and the issuance of debt pursuant to the process set forth in IC 8-1.5-3-9.1;

NOW, THEREFORE, be it ordained by the Common Council of the City of Mishawaka, Indiana:

Section 1. The Common Council hereby finds that written notice of the required meetings have been provided by mail to all ratepayers of the Water Utility and the Electric Utility and to the Commission in accordance with IC 8-1.5-3-9.1.

Section 2. The Common Council hereby finds that the two (2) public meetings required by IC 8-1.5-3-9.1(b) have been held.

Section 3. The Common Council of the City of Mishawaka hereby determines to remove the Water Utility and the Electric Utility from the jurisdiction of the Commission pursuant to IC 8-1.5-3-9.1.

Section 4. All Ordinances in conflict herewith are hereby repealed.

Section 5. This Ordinance shall be effective 60 days after adoption by the Common Council and execution by the Mayor, provided that a petition is not filed with the Common Council in compliance with IC 8-15-3-9.1(d) requesting that the question of removal from Commission jurisdiction be submitted to the registered voters of the City at the next election, all in accordance with IC 8-1.5-3-9.1.

**PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, ON THIS ____ DAY OF _____, 2012.**

Common Council
City of Mishawaka, Indiana

John J. Roggeman, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of _____, 2012 at _____ o'clock __.m.

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ____ day of _____, 2012.

Dave Wood, Mayor
City of Mishawaka, Indiana

ATTEST:

Deborah S. Block, City Clerk

PROPOSED ORDINANCE NO. 2012-15

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2012 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the General Fund of the City of Mishawaka the sum of \$39,500.00 for assignment as follows:
General Fund

Corporate Counsel

Personal Services

101.02.411.02 Regular Employees \$ 4,500.00

Other Services and Charges

101.02.434.90 Claims 35,000.00

Total \$39,500.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this _____ day of _____, 2012 at _____

o'clock, _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2012 at _____
o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2012 at
_____ o'clock, _____.M.

David A. Wood, Mayor

PETITION #12-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-16
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the City of Mishawaka Redevelopment Commission has filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioner is owner of all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137 of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The east/west alley measuring approximately 130-feet deep by 14-feet wide north of and adjacent to Lot 10 and south of and adjacent to Lot 11 Riverside Addition to the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

COMMONLY KNOWN AS: The east/west alley north of Madison Street
between Cedar Street and Pine Street

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012,
at _____ o'clock _____ M.

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

APPROVED by me this _____ day of _____, 2012, at _____
o'clock _____.M.

David A. Wood, Mayor

PETITION 12-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-17

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Parcel 1:

A part of the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the Northwest corner of said Section; thence South 0 degrees 03 minutes 55 seconds West 673.90 feet along the west line of said Section to the north line of that parcel land described in Deed Record 8912144, St. Joseph County Recorder's Office; thence North 70 degrees 41 minutes 40 seconds East 99.03 feet along said north line to the northeast corner of said Deed Record to the point of beginning of this description; thence North 69 degrees 18 minutes 34 seconds East 173.61 feet; thence easterly 226.81 feet along an arc to the right having a radius of 2,181.58 feet and subtended by a long chord having a bearing of North 72 degrees 17 minutes 16 seconds East and a length of 226.71 feet; thence southeasterly 106.74 feet along a non-tangent arc to the left having a radius of 212.00 feet and subtended by a long chord having a bearing of South 64 degrees 58 minutes 20 seconds East and a length of 105.61 feet; thence westerly 301.15 feet along a non-tangent arc to the left having a radius of 2,115.59 feet and subtended by a long chord having a bearing of South 73 degrees 23 minutes 15 seconds West and a length of 300.90 feet; thence South 69 degrees 18 minutes 34 seconds West 175.21 feet to the east line of that parcel of land described in Deed Record 8912144; thence North 19 degrees 18 minutes 20 seconds West 46.42 feet along said east line; thence North 19 degrees 18 minutes 20 seconds West 19.59 feet along said east line to the point of beginning and containing 0.65 acres, more or less.

Proposed Ordinance No: _____

Ordinance No: _____

Parcel 2:

A part of the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the Northwest corner of said Section; thence South 0 degrees 03 minutes 55 seconds West 673.90 feet along the west line of said Section to the north line of that parcel of land described in Deed Record, St. Joseph County, Recorder; thence North 70 degrees 41 minutes 40 seconds East 99.03 feet along said north line to the northeast corner of said Deed Record; thence North 69 degrees 18 minutes 34 seconds East 82.43 feet to the point of beginning of this description; thence northeasterly 38.00 feet along an arc to the right having a radius of 120.00 feet and subtended by a long chord having a bearing of North 47 degrees 00 minutes 04 seconds East and a length of 37.84 feet; thence easterly 78.44 feet along an arc to the right having a radius of 150.00 feet and subtended by a long chord having a bearing of North 68 degrees 14 minutes 57 seconds East and a length of 77.55 feet; thence northeasterly 98.49 feet along an arc to the left having a radius of 123.79 feet and subtended by a long chord having a bearing of North 58 degrees 03 minutes 33 seconds East and a length of 95.91 feet; thence North 35 degrees 16 minutes 00 seconds East 34.80 feet; thence northeasterly 48.53 feet along an arc to the right having a radius of 125.78 feet and subtended by a long chord having a bearing of North 46 degrees 19 minutes 11 seconds East and a length of 48.23 feet; thence South 76 degrees 53 minutes 32 seconds East 13.36 feet; thence South 31 degrees 53 minutes 32 seconds East 13.07 feet; thence southeasterly 69.03 feet along an arc to the left having a radius of 212.00 feet and subtended by a long chord having a bearing of South 41 degrees 13 minutes 14 seconds East and a length of 68.73 feet; thence westerly 226.81 feet along an arc to the left having a radius of 2,181.58 feet and subtended by a long chord having a bearing of South 72 degrees 17 minutes 16 seconds West and a length of 226.71 feet; thence South 69 degrees 18 minutes 34 seconds West 91.19 feet to the point of beginning and containing 0.23 acres, more or less.

COMMON ADDRESS: Fish Ladder Lane and Portion of Central Park

which real estate is now classified as S-1 Extensive Open Space and Public Use District shall hereafter be within and a part of that District known as C-3 City Center Commercial District and designated in "The Zoning Ordinance of 1966" as amended.

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Existing Conditions - The properties proposed to be rezoned are located in an area of historically mixed uses. The proposed use, as a Center for Hospice campus, is low intensity that provides a nice transition between the adjacent single family homes and Central Park. The existing C-3, City Center, zoning district is located directly across the river to the south. Public infrastructure and connections to the downtown exist through the Mishawaka Riverwalk system and the proximity of the project to the Cedar Street bridge.
2. Character of Buildings – The existing buildings located in the area include a combination of one and two story commercial and residential structures. The proposed development includes a combination of one and two story commercial campus like buildings that will compliment surrounding uses and

Proposed Ordinance No: _____

Ordinance No: _____

structures. The proposed C-3 City Center Zoning District has the most stringent qualitative development requirements of any City zoning district.

3. The most desirable/highest and best use - Because of the low intensity nature of the combined office and residential care facility, the proposed use compliments the surrounding residential and park uses. The development of the property is also limited based on the City's control of a portion of the property intended for development. City control insures that regardless of the underlying zoning, the site will be constructed for the intended use and is not speculative.
4. Conservation of property values - The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because the property will be developed with a low intensity combined office and residential care facility. The rezoning would allow for the redevelopment of the larger neighborhood that includes public infrastructure projects. The quality and investment in new construction will help insure that the adjacent property values are retained and possibly increased.
5. Comprehensive Plan – The properties were designated by the Mishawaka 2000 Comprehensive Plan as Open Space. The proposed rezoning is consistent with the 2000 Mishawaka Comprehensive Plan, created in 1990, because the property will be developed with a low intensity combined office and residential care facility, that will complement the surrounding park and single family residential uses.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

APPROVED by me this _____ day of _____, 2012, at _____
_____o'clock _____.M.

David A. Wood, Mayor

PROPOSED ORDINANCE NO. 2012-18

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES FOR
WATER SERVICES FURNISHED BY THE CITY OF MISHAWAKA'S
MUNICIPAL WATER UTILITY**

WHEREAS, the City of Mishawaka, Indiana, operates a municipal water utility through its agency Mishawaka Utilities (the "Utility") for the purpose of acquiring and distributing water to aid City and surrounding areas; and,

WHEREAS, the existing rates and charges for water services provided by the Utility were placed into effect following approval by the Indiana Utility Regulatory Commission (the "Commission") in Cause No. 41395, Order dated June 16, 2000; and,

WHEREAS, the Utility engaged H.J. Umbaugh & Associates to study the Utility's revenue requirements for water service under IC 8-1.5-3.8 and IC 8-1.5-2-28, and develop, in addition to other information, annual pro forma revenues and expenses for the test year ended December 31, 2011; and,

WHEREAS, H.J. Umbaugh & Associates has studied the Utility's annual revenue requirements and determined that the Utility's annual pro forma operating revenues from water service do not produce an adequate net operating income, and such revenues need to be increased to provide income for the revenue requirements set forth in IC 8-1.5-3-8 and IC 8-1.5-2-28; and,

WHEREAS, the Utility Board of the City of Mishawaka has recommended to the Common Council that it approve by Ordinance the revised rates and charges for water service developed by H.J. Umbaugh & Associates, which rates and charges are set forth as part of Exhibits "A" and "B" attached hereto; and,

WHEREAS, the Common Council of the City of Mishawaka, Indiana now finds that (i) the Utility's annual revenues from rates and charges for water service should be increased with the Utility's annual revenues from water service increasing by \$1,264,219; and (ii) the rates and charges for water service attached hereto as part of Exhibits "A" and "B" have been set to recover the necessary increases in the Utility's annual revenues from water service and so that they are non-discriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY
OF MISHAWAKA, INDIANA, THAT:**

Section 1. The rates and charges for water service attached hereto as part of Exhibits "A" and "B" are hereby adopted as and for the rates and charges to be utilized by the Utility when charging customers for water service, effective as set forth below.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that the existing rates and charges for water service shall remain in full force and effect until the rates and charges fixed by this Ordinance shall be approved by the Commission, and until such time as the Order of said Commission approving said new rates and charges shall direct.

Section 3. This Ordinance shall be in full force and effect from and after its passage; provided, however, that the rates and charges for water service shall not become effective unless and until approved by the Indiana Utility Regulatory Commission in Cause No. _____, or until such time as said Commission shall direct.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ON THIS ____ DAY OF _____, 2012.

Common Council
City of Mishawaka, Indiana

John J. Roggeman, President

ATTEST:

Deborah S. Block, IAMC, MMC City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of _____, 2012 at _____ o'clock __.m.

Deborah S. Block, IAMC, MMC City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ____ day of _____, 2012.

Dave Wood, Mayor
City of Mishawaka, Indiana

EXHIBIT A

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY AND MISHAWAKA CLAY UTILITY - INSIDE CITY

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY
(Mishawaka Utility and Mishawaka – Clay Utility)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

**Per 100
Cubic Feet**

(a) **Metered Rates Per Month**

All consumption \$ 1.69

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 5.80
1"	5.80

Commercial & Municipal

(a) **Metered Rates Per Month**

**Per 100
Cubic Feet**
\$ 1.72

All consumption

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 5.80
1"	11.45
1 1/2"	20.85
2"	32.10
3"	58.40
4"	95.95
6"	189.90
8"	302.60
10"	434.10

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY
(Mishawaka Utility and Mishawaka - Clay Utility)

(Cont'd)

Industrial & Municipal

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>
First 7,750 cubic feet	\$ 1.80
Over 7,750 cubic feet	1.14

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
3"	\$ 58.40
4"	95.95
6"	189.90
8"	302.60
10"	434.10

Hydrant Rental

Private hydrants - per annum	\$ 526.90
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Private Fire Protection Service

Sprinkler connection - per annum	
1"	\$ 14.64
1 1/2"	32.93
2"	58.54
3"	131.73
4"	234.18
6"	526.90
8"	936.71
10"	1,463.61
12"	2,107.60

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY
(Mishawaka Utility and Mishawaka - Clay Utility)

(Cont'd)

Fire Protection Charge

A monthly fire protection charge shall be assessed to and collected from each customer of Mishawaka Utility based on meter size, according to the following schedule:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 4.09
1"	10.23
1 1/2"	20.45
2"	32.72
3"	61.35
4"	102.25
6"	204.50
8"	327.20
10"	470.35

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

Pursuant to Cause No. _____, approved _____.

EXHIBIT B

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY AND MISHAWAKA CLAY UTILITY - OUTSIDE RATES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY
(Mishawaka Utility and Mishawaka - Clay Utility)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>
All Consumption	\$ 1.96

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 6.80
1"	6.80

Commercial & Municipal

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>
All Consumption	\$ 1.97

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 6.80
1"	13.95
1-1/2"	25.85
2"	40.15
3"	73.50
4"	121.15
6"	240.25
8"	383.15
10"	549.90

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY
(Mishawaka Utility and Mishawaka - Clay Utility)

(Cont'd)

Industrial & Municipal

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>
First 7,750 cubic feet	\$ 1.68
Over 7,750 cubic feet	1.30
(b) <u>Customer Base Charge</u>	

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
3"	\$ 73.50
4"	121.15
6"	240.25
8"	383.15
10"	549.90

Hydrant Rental

Private hydrants - per annum	\$ 526.90
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Private Fire Protection Service

Sprinkler connection - per annum	
1"	\$ 14.64
1 1/2"	32.93
2"	58.54
3"	131.73
4"	234.18
6"	526.90
8"	936.71
10"	1,463.61
12"	2,107.60

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY
(Mishawaka Utility and Mishawaka - Clay Utility)

(Cont'd)

Fire Protection Charge

A monthly fire protection charge shall be assessed to and collected from each customer of Mishawaka Utility based on meter size, according to the following schedule:

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 4.09
1"	10.23
1 1/2"	20.45
2"	32.72
3"	61.35
4"	102.25
6"	204.50
8"	327.20
10"	470.35

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

Pursuant to Cause No. _____, approved _____.

APPENDIX B

NON-RECURRING CHARGES

MISHAWAKA (INDIANA) UTILITIES WATER AND CLAY WATER DIVISION
NON-RECURRING CHARGES

<u>Description of Charge</u>	<u>Charge</u>
Deposit	
3 months normal bill for service location- minimum	\$ 20.00
Reconnect/Disconnect Charge	
Office hours	\$ 20.00
After hours and Saturdays	\$ 50.00
Sundays and Holidays	\$ 65.00
Penalty for Late Payment	10% on the first \$3.00 3% on the balance
Dishonored Negotiable Instrument Charge	\$ 20.00
Turn on Water Services	
Off and on for repair	Office Hours No charge
Off and on for testing plumbing	Office Hours No charge
Turn-on after shut-off for cause	Office Hours \$ 20.00
Evenings and Saturdays	\$ 50.00
Sundays and Holidays	\$ 65.00
Over 3 hours call-out (time per hour per man)	\$ 16.00
Construction Permit Fees	
150 Day Residential in City:	\$ 50.00
Outside City:	\$ 75.00
240 Day Commercial in City:	per building \$ 120.00
Outside City:	per building \$ 145.00
	or \$5.00 per unit (whichever is larger)
320 Day Industrial in City:	per building \$ 600.00
Outside City:	per building \$ 625.00
New Account Service Charges	
5/8" - 3/4" meter (touch pad)	\$ 20.00
1" meter	\$ 20.00
1-1/2" meter	\$ 20.00
2" meter	\$ 20.00
3" and larger meter	\$ 25.00
Sprinkling Meters Turn-on and Turn off Charges	\$ 20.00
Meter Charges for a New Service Address	
5/8" - 3/4" meter	\$ 70.00
1" meter	\$ 120.00
1-1/2" meter	\$ 230.00
2" meter	\$ 300.00
3" and larger meter	Actual current cost

MISHAWAKA (INDIANA) UTILITIES WATER AND CLAY WATER DIVISION

NON-RECURRING CHARGES

(Cont'd)

<u>Description of Charge</u>	<u>Charge</u>
Violation of Turn-on	
First Offense: Cost of damage repair plus additional deposit	\$ 50.00
Subsequent Offense: Cost of damage repair plus additional deposit	\$ 250.00
Damage to Existing System	Actual cost of repair
Meter Test at Customer Request	(No charge if meter proves defective)
5/8" - 3/4" meter	\$ 15.00
1" meter	\$ 20.00
1 1/2" - 2" meter	\$ 50.00
3" and larger meter	Actual cost
Violation of Fire Service Agreement	
Actual cost of damages plus an additional deposit of	\$ 250.00
Hydrant Permit Charge	\$ 35.00
Hydrant Use Agreement	
Deposit	\$ 650.00
Per hour labor or call-out charges	\$ 16.00
Damages to hydrant repair cost to be deducted from deposit before refund plus cost of actual consumption or per month (whichever is larger)	\$ 35.00
Township Hydrant Use (Fire Department Use Only)	
Cost of water plus	\$ 25.00
Thawing Service	
First thaw of a season	\$ 50.00
Subsequent thawing of same season	Time and Material
Tapping Permit	
Existing taps never used and no fee paid at time of installation	
Residential 3/4" \$ 300.00	plus land improvement charge
1" \$ 400.00	plus land improvement charge
Commercial 3/4" \$ 300.00	plus land improvement charge
1" \$ 400.00	plus land improvement charge
Residential 1-1/2" \$ 600.00	plus land improvement charge
2" \$ 800.00	plus land improvement charge
Commercial 1-1/2" \$ 600.00	plus land improvement charge
2" \$ 800.00	plus land improvement charge
Commercial/Industrial 4" \$1,000.00	plus land improvement charge
6" \$1,200.00	plus land improvement charge
8" \$1,400.00	plus land improvement charge
10" \$1,600.00	plus land improvement charge
12" \$1,800.00	plus land improvement charge
(1" through 20")	Time and Material

MISHAWAKA (INDIANA) UTILITIES WATER AND CLAY WATER DIVISION

NON-RECURRING CHARGES

(Cont'd)

<u>Description of Charge</u>	<u>Charge</u>
Lend Replacement Tap Costs	
5/8" - 3/4"	\$ 800.00
1"	\$ 900.00
1-1/2"	\$1,100.00
2"	\$1,200.00
Land Improvement Charges	
Non-residential	(100 ft. minimum or actual frontage- whichever is the larger of the two)
6" water main	per lineal ft. \$ 12.00
8" water main	per lineal ft. \$ 16.00
10" water main	per lineal ft. \$ 20.00
12" water main	per lineal ft. \$ 24.00
14" water main	per lineal ft. \$ 28.00
16" water main	per lineal ft. \$ 32.00
20" water main	per lineal ft. \$ 40.00
24" water main	per lineal ft. \$ 48.00
Lead Improvement Charges	
Residential	(1/2 the current cost of a 6" water main (100 feet the maximum)