

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
November 19, 2018

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 November 19, 2018, at 7:00 p.m. The meeting was called to order by President Mammolenti all were asked to stand for the Pledge of Allegiance.

 Roll Call.

Present: Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.

Absent: Mr. Compton.

Minutes for the Regular Meeting of November 07, 2018 were approved as received from the Clerk's Office.

Clerk Block read the following the following Appeals and Petition to the council, who referred them to the Board of Zoning Appeals and City Plan Commission for their recommendations

APPEAL #18-36 An appeal submitted by IRC Princess City Plaza, L.L.C. requesting a Use Variance for **4520 Grape Road (Dick's Sporting Goods)** to allow up to three temporary storage structures.

The Board, with a vote of 4-0, recommended approval, subject to the following:

1. Installation of a 6' vinyl fence in a color to match the building on the east side of the containers.

APPEAL #18-38 An appeal submitted by Robert L. Miller requesting a Use Variance for vacant land north of **55260 Fir Road** to allow outside storage area for a proposed fence contractor.

The Board, with a vote of 3-1, recommended denial. If approved, the Use Variance would be subject to the following conditions:

1. An Administrative Site Plan shall be submitted.
2. Gravel areas shall be limited to a screened outside storage area identified on the site plan.
3. No vehicles shall be parked/stored on an unpaved surface.
4. No known hazardous materials shall be stored on site.

PETITION #18-30 A petition submitted by John A. and Jayne L. Piraccini requesting to rezone vacant property near the **northwest corner of South Elder Street and Norton Court** from R-1 Single Family Residential District to C-1 General Commercial District.

The Commission, with a vote of 4-3 in favor, forwarded *no recommendation* due to a lack of five (5) votes.

Clerk Block read the following proposed ordinances by title were assigned to a committee and set for public hearing at next meeting

PROPOSED ORDINANCE NO. 2018-29

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.

(Rez from R-1 to C-1 Electrical Contract Office corner S. Elder & Norton St.)
(Assigned to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2018-30

AN ORDINANCE AMENDING LAND DEVELOPMENT CODE, PART II, APPENDIX A, SCHEDULE OF FEES, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED,

(Amending Building Code Schedule Fees)
(Assigned to the Budget and Finance Committee)

Clerk Block read the following resolutions by title and were opened for public hearing.

RESOLUTION NO. 2018-23

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AUTHORIZING THE PARTICIPATION OF SAID CITY IN THE MOTOR FUEL BUDGETING PROGRAM OF THE INDIANA BOND BANK FOR THE 2019 BUDGET YEAR, THE EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH AND OTHER RELATED MATTERS

Rebecca Miller, City Controller recommended they continue the program at least through Fiscal Cliff 2020 to 2021 as any wild fluctuation would be a detriment to an already burdened cash flow. She stated drastic changes in the oil market did not significantly affect the city budget in gasoline or diesel purchases.

Mr. Banicki asked how many communities participated in the program. Ms. Miller replied 4 this year. Mr. Banicki wondered why there were not many communities participating in the program. He said last year he was hesitant to vote in favor, it seemed as they were not benefiting from the program. Mr. Banicki continued to say the economy and gas prices were stabilized; it seemed the city was paying out fees for someone to take care of this. He asked was that true. Ms. Miller replied yes, it was an insurance policy in case they did have fluctuation above or below the collar.

Mr. Canarecci asked how much it cost to participate in the program this year compared to last year. Ms. Miller said total fees this year was \$4,000 dollars. She said last year they payed \$11,000 dollars because gas prices went below the collar, they had to pay additional cost to keep the city within the budget. Ms. Miller explained the collar was set, when price went above the collar the city would receive a check from the Bond Bank. Mr. Canarecci asked what percentage of the overages the collar covered. Ms. Miller said it depended on the percentage the city decided to hedge. She continued to say they were between 60 and 70 percent.

Mr. Mammolenti asked at what point the collar amount was set. Ms. Miller explained for next year the collar was not established, they would establish after all application were received from participants. Mr. Mammolenti asked if gas prices increase a dollar how much it would influence the city. Ms. Miller said it would influence quite a bit, the program compares prices to the NYMEX market daily average. Mr. Mammolenti also asked how many gallons they used. Ms. Miller said she did not have the figures.

Mr. Bellovich asked how many communities were offered the program. Ms. Miller said it was a state-wide program through Indiana Bond Bank. She said all Municipalities and all entities were eligible for the program.

Mrs. Voelker asked what other organization participated in the program. Ms. Miller referenced from her chart, she said there were 6 participants for diesel. She mentioned there were more participants in the past.

Mr. Deal said from 2015 forward with the acceptance of the slight increase last year, their cost was trending down from a high of 25,000 in 2015 to the current 4,000. He asked did Ms. Miller attribute it to a better way of predicting or the market stability. Ms. Miller said she believed it was some of both, they were setting the collar for the upcoming year and the market was falling within the collar more often than not. Mr. Deal questioned how long the program had been around. Ms. Miller said she was not sure, but the city has participated in the program for 10 years. Mr. Deal said it seemed they were getting better at predicting and if the cost were to stay around \$4,000 dollars, it was a fairly insignificant amount of money in a 50-million-dollar budget, it was cheap insurance. Ms. Miller said when they paid \$25,000 the gas was below the collar, they were not spending as much out of their budget line. She said they spent what they had budgeted but they were not going to go over the budget. Ms. Millers continued to say this was a budget control tool so stay within the budget.

Mr. Mammolenti asked if they did not participate this year would they be able to participate closer to the fiscal cliff. Ms. Miller said she believed so.

Question was called for at 7:15 for RESOLUTION NO. 2018-23  **Vote:** Motion passed (**summary:** Yes = 7, No = 1, Abstain = 0). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.
No: Mr. Deal.

RESOLUTION NO. 2018-24

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

4520 Grape Road, Mishawaka, Indiana

Tammy Ortman representing Dick's Sporting Goods and property owner IRC Princess City Plaza. She said they were requesting to allow 3 trailers to be used for storage behind the Dicks Sporting Goods store. Ms. Ortman said the trailers would be used for larger inventory items for the store to be able to accommodate their customer interest. She said without the storage units the store would be short of inventory. Ms. Ortman mentioned the landlord expressed their support for the trailers. She said back in 2000 Dicks Sporting Goods had 6 storage trailers, they agreed to have a limit of 3 trailers and fencing to block the line of sight off of Main Street.

Mr. Emmons asked would the sporting goods store own the trailers, and would they be they forever. Ms. Ortman replied no, she said they have been renting them since 2005. She continued to say it was possible the trailer would remain as long as the tenants were there. Mr. Emmons also questioned the size of the trailers. Ms. Ortman said the trailers were 8 by 6 feet wide and a little over 30 feet long.

Mrs. Voelker questioned the security for the trailers and would there be a lock on the fence. Ms. Ortman said Dicks Sporting Goods did not have any issues so far. She continued to say there was a regular pad lock on each of the storage trailers. Ms. Ortman said there would be a strip of fence to block the line of sight off of Main Street. She said the trailers would not be enclosed by the fence.

Mr. Mammolenti asked how often the trailers were inspected. Ms. Ortman said it happened one time, they were unaware it was happening. She said the Fire Department had questions whether there were any hazardous materials. Mr. Mammolenti asked if any of the other tenants came to request trailers would there be enough space for more. Ms. Ortman replied yes, they had the minimum distance between the back side of the building and the edge of the pavement which backed up to the creek. She continued to say in that minimum space, the building was on an angle, it narrowed at Dicks Sporting Goods and would get wider as they moved towardS Khols. Ms. Ortman said the nearest store had a storage area with a dock that backed up to spacing as well as Khols.

Mr. Emmons asked were the trailers on wheels. Ms. Ortman replied no, the trailers were stationary.

Mr. Mammolenti asked was there enough space in the back of the store for Emergency Vehicles. Ms. Ortman said yes, they made sure to have two 12-foot travel lanes on the pavement.

Question was called for at 7:24 P.M. for **RESOLUTION NO. 2018-24**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.

RESOLUTION NO. 2018-25

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

Vacant Land North of 55260 Fir Road, Mishawaka, Indiana

Daryl Knipp, Abonmarche Consultants represented the petitioner and property owner Judge Robert Miller and the contingent purchaser and applicant Chris Loftus. He said they were requesting a variance for outside storage for Mr. Loftus to relocate his company from McKinley Avenue in the County to the proposed site. Mr. Knipp continued to say Mr. Loftus was outgrowing his current space and was in need for more. He said the project would include a new 7,000 and 200 square foot building on 6.4 acres on the east side of Fir Road with a small parking lot and outdoor storage proposed behind the building. Mr. Knipp went on to say the property was currently zoned I-1, the proposed use was allowed, this request was for the variance to allow the outdoor storage. He said the applicant would like to add a privacy fence adjacent to developed area along the south property line, the north side was adjacent to the railroad tracks and the east side of the property was bounded by woods, railroad tracks and the Home Street industrial area. Mr. Knipp said if approved the project would go through the final site planning. He mentioned they did not receive a favorable vote from the Board of Zoning Appeals but they did have recommendation of approval from the staff. Mr. Knipp said the concerns of the BZA were drainage, decrease in property values and quality of life. He went on to say in regards to the drainage concerns, this project would go through the Mishawaka final site plan process which required approval from the Engineering Department. Mr. Knipp said they were aware of the sandy soil, the high ground water and the borings. He stated they had experience in designing in those conditions and they were comfortable with the proposed site. Mr. Knipp said the site would likely have a retention basin behind the building and the storage area would be on the eastside. He went on to discuss the concerns of property values and quality of life, he said the proposed use was allowed in the current zoning and Fir Road currently had commercial uses, this was a logical growth east of Mishawaka and east of Grape Road and Main Street.

Mr. Deal asked what would be stored outside and would it be visible from street. Mr. Knipp said fencing materials would be stored in the back and it would not be visible from street.

Mrs. Voelker asked was there residential property next door to the proposed property. Mr. Knipp said there was a resident to the south.

John Piraccini, realtor represented Honorable Robert Miller and purchaser Chris Loftus. Mr. Piraccini read a letter from Honorable Miller; it gave history of the proposed site and his support. He continued to say Mr. Loftus needed more space to accommodate his business growth. Mr. Piraccini passed out drafted site plan to show the council and address the concerns of the two remonstrators. He said the remonstrators were comparing their concerns to the commercial properties south. Mr. Piraccini continued to say the visibility of storage materials out south were county issues. He went on to say with the wooded buffer and fencing, the materials would not

be seen. Mr. Piraccini said Mr. Loftus searched for 18 months for a larger property for his business to accommodate his growth.

Mr. Mammolenti questioned the location of the access drive and the other structure that appeared to be on the property line. Mr. Piraccini said the access drive would be on the south. He continued to say a surveyor would determine whether the structure was a part of the property.

Chris Loftus, potential purchaser said he has been in the industry for 24 years, but he started his company 6 years ago. He said over the last 6 year they have grown 20 percent a year. Mr. Loftus said they were a union company and they worked all around the state. He continued to say their materials for storage were dropped shifted to the build site, but some materials came back with them. Mr. Loftus mentioned they also had some equipment. He said with the growth the storage was really important, they did store some materials inside in which the new building would accommodate. Mr. Loftus said they did have a couple of dumpsters for trash and scraps. He said he lived closed to the proposed property and he would be able to keep an eye on it. Mr. Loftus continued to say they were growing with the city and they did a lot of work with city such as the underpasses and the new garage on Main Street.

Mr. Deal asked how much material would be visible to the neighbors. Mr. Loftus said the city required they build a 7-foot privacy fence along the south perimeter on the residential side. He said he was willing to build higher if allowed. Mr. Loftus said everything would be secured including trucks being put away in a secured area. He continued to say the wooded buffer area would remain. Mr. Loftus said there may be a potential second phase down the road in the back area if they needed the space but the space they were proposing was 10 times bigger than their current property.

Mr. Deal asked was there any work done on site and would it be a noise concern. Mr. Loftus said they build wooden gates, but it took place indoors. He said the only possible noise would be loading and unloading trucks. Mr. Loftus said business hours would be 8 a.m. to 5p.m. Monday through Friday. Mr. Deal also question if Mr. Loftus had any complaints at his current site. Mr. Loftus replied no, they did not have any issue. He said there was residential north across McKinley, the rest was a landscape nursery and they worked well together. Mr. Loftus continued to say other than the space constraints they had no issues. He mentioned they recently rented space a couple miles down the road for a lay down yard until they move.

Mr. Canarecci asked how many employees he currently had and would there be many new positions once they move. Mr. Loftus said they had 15 to 16 crewmen, 2 outside salesmen, and 2 office personnel. He continued to say as they grow they would hire more. Mr. Loftus said because they were a union they could have up to 45 employees, some were from the union. Mr. Canarecci also asked did they higher locally on out of city projects. Mr. Loftus said yes, they mostly hired locally, they had some travel laborers.

Mr. Mammolenti asked how many company trucks would be parked on site and how many deliveries would they receive at the location per week. Mr. Loftus said some of the vehicles were take home vehicles, maybe 6 would remain on site. He said their main vendor delivered one maybe two per week and their other vendor they bought direct would ship multiple jobs at the same time two or three times per month. Mr. Mammolenti also questioned the types of trucks. Mr. Loftus said they were straight flatbed trucks or semi size. Mr. Mammolenti said

based on Mr. Loftus statement regarding theft, he asked was he planning to gate the access drive. Mr. Loftus replied yes.

Question was called for 7:49 p.m. for **RESOLUTION NO. 2018-25**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.**

PRIVILEGE OF THE FLOOR

Mayor Wood announced Saturday November 24, 2018 at Mishawaka Police Station at 6 P.M. would be the arrival of Santa and the lighting of the City Christmas Tree with special guests.

Unfinished Business

Clerk Block read the following Proposed Ordinances by title and opened for public hearing.

PROPOSED ORDINANCE NO. 2018-27

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 Right-of-way portion Madison & Pine Streets)
(Petitioner requested amendment)

Mrs. Voelker made a motion to accept the amendment of **PROPOSED ORDINANCE NO. 2018-27** second Mr. Banicki motion carried.

Chris Chockley, Architect Engineer represented the Center for Hospice care. Mr. Chockley said they meet with City Planner Ken Prince to discuss the vacation and parking concerns. He continued to say they reviewed the plan and the came up with two revisions. Mr. Chockley said they were amending the requested vacation to include Madison from Pine Street to the north south alley way that was west of Cedar Street. He said the portion of Pine Street would remain within the vacation requested and the east portion of Madison Street from the alley way to Cedar Street would remain as public right-of-way. Mr. Chockley said the second revision was for the angled parking spaces. He said they reviewed the linear curbs from alley way to Cedar Street; they modified the angled parking area to 8 instead of 7 spaces.

Mrs. Voelker asked would the only access to Madison Street be through the alley. Mr. Chockley replied yes, the only way to access Madison was through the alley from Comfort Place, it was converted to one-way street.

Eric Campbell 301 Edgewater thanked the council for listening; she was pleased with the new outcome for parking.

Members of the council thanked City Planner Ken Prince, Developers and Center for Hospice for working with the neighbors. They expressed they were glad Madison Street would continue to

be utilized by citizens. Mrs. Voelker also thanked the Electric Department for removing the wires.

Question was called for at 8:00 P.M. for **PROPSOED ORDINANCE NO.2018-27** Thus, it becomes **ORDINANCE NO. 5633AA**

NEW BUSINESS

Mrs. Voelker recognized Mike Bellovich and Mayor Dave Wood for the dedication of the World War I plaque.

Mr. Canarecci stated the Mayor's Youth Council delivered 80 Thanksgiving Baskets to needed families.

ADJOURNMENT 8:01 P.M.

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Matt Mammolenti /s/
Matt Mammolenti, President