

AGENDA

January 21, 2013

**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**

January 02, 2013

- 5. Petitions, Communications, Remonstrance and Memorials**
- 6. Report of Special Committee**
- 7. Ordinances on First Reading**

P.O. NO. 2013-01 Revised Drug Free Workplace Policy

P.O. NO. 2013-02 Additional Funds - Clerk's Office - \$8,000.00

P.O. NO. 2013- 03 Additional Funds - Corporate Counsel - \$35,000.00

P.O. NO. 2013-04 Updating ADA Compliance

- 8. Resolutions**
- 9. Ordinances on Second Reading**
- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**
- 12. New Business**

Conflict of Interest Forms

- 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
January 2, 2013

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Wednesday January 2, 2013 at 7:00 p.m. The meeting was called to order by Clerk Block, and all were asked to stand for the Pledge of Allegiance.

Chief Deputy Mary Ellen Hazen's roll call showed the following:



Roll Call.

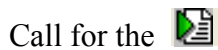
Present: Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman.

The minutes from the December 17, 2012 meeting were approved as received from the Clerk's Office.

ELECTION OF OFFICERS

Clerk Block opened the floor for nominations for President of the Mishawaka Common Council.

Mr. Emmons nominated Mike Compton for President with a second by Mr. Roggeman the roll call vote was unanimous. Mr. Compton was congratulated by Clerk Block as she handed him the gavel.



Call for 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.

President Compton then called for nomination for Vice President. Mr. Reisdorf nominated Mr. Banicki for Vice President with a second by Mr. Emmons the roll call vote was unanimous.

NEW BUSINESS

Clerk Block read the following Committees and Commissions for Council Approval;

BUDGET & FINANCE COMMITTEE

Woody Emmons, Chairman
Matt Mammolenti
Mike Bellovich

LAND USE PLANNING COMMITTEE

Ron Banicki, Chairman
Kate Voelker
John Roggeman

PUBLIC HEALTH & SAFETY/LONG RANGE PLANNING COMMITTEE

Matt Mammolenti, Chairman
John Roggeman
Dan Bilancio

PUBLIC IMPROVEMENTS COMMITTEE

Ron Banicki, Chairman
Matt Mammolenti
John Reisdorf

PERSONNEL COMMITTEE

John Roggeman, Chairman
Woody Emmons
Mike Bellovich

SUB-STANDARD HOUSING COMMITTEE

Ronald Banicki, Chairman
John Roggeman
Kate Voelker

Clerk Block called for a roll call vote on the Council Committees, which passed with a unanimous vote.

Clerk Block stated there was the matter of appoint the Council Attorney.

Mr. Roggeman said he would like to once again nominate Mr. Trippel as Council Attorney who has been most useful to the Council in many avenues as well as knowledgeable with a second by Mr. Banicki the motion carried.

Clerk Block read the appointments to the Commissions.

Plan Commission – Woody Emmons
Historic Preservation Committee – Kate Voelker
Traffic Commission – Ron Banicki
Mishawaka Business Association - Mike Compton
Solid Waste - Woody Emmons
MACOG - John Reisdorf
Insurance Committee - Mike Compton

Mr. Mammolenti made a motion to appoint to the Redevelopment Commission Bill (Wm. H.) Buraczewski and Kris Ermeti with a second by Mr. Banicki the motion carried.

President Compton said the Animal Control Commission was to be announced.

Mr. Mammolenti made a motion to appoint Jim Trippel to the Board of Zoning Appeals with a second by Mr. Banicki the motion carried.

NEW BUSINESS

Mr. Emmons said his Thursday Neighborhood Watch Meeting January 17th meeting would be at the 12th Street Fire Station with a tour and training in CPR and the Defibulator by the paramedics.

Mr. Mammolenti said his Neighborhood Watch Meeting would be on January 16th with a demonstration on ICE application for cell phones for first responders. He said ICE stands for In Case of Emergency which to cut down response time.

Mr. Compton welcomed Kate Voelker to the Council and recognized Mrs. McClure as being present in the audience.

President Compton thanked his parents, wife, children and grandchildren for being in attendance at his first meeting as Council President.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:11 p.m.

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

☐ ☐ S. Michael Compton _____
S. Michael Compton,
Presiding Officer

JAN 04 2013

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2013-01

ORDINANCE NO. _____

1st Reading
2nd Reading
Passed
Failed
Continued To

AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA AMENDING
TITLE III, CHAPTER 34 OF THE
MISHAWAKA MUNICIPAL CODE

WHEREAS, from time to time it may be necessary to revise and update the Drug Free Workplace Policy; and

WHEREAS, said policy was adopted by the Board and Public Works and Safety and Utility Board on December 4, 2012; and

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

Section 1. TITLE III, Chapter 34: Personnel Policies: of the Municipal Code of the City of Mishawaka, Indiana, is hereby amended by replacing in its entirety the revised Drug Free Workplace Policy.

Section 2. This Ordinance shall be in full force and effect from and after its passage by the Common Council, signature of the Mayor, attestation by the City Clerk and publication as required by law.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this _____ day of _____, 2013, at _____ o' clock, ____ .M.

Presiding Officer, S. Michael Compton

ATTEST:

Deborah S. Block, IAMC,MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____ 2013, at _____ o'clock, ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2013, at ____ o'clock, ____ M.

David A. Wood, Mayor



City of Mishawaka

DEPARTMENT OF HUMAN RESOURCES
Bonnie S. Bonham, M.S., Director

David A. Wood, MAYOR

January 4, 2013

Hon. S. Michael Compton, President
Hon. Dale Emmons
Hon. Mike Bellovich
Hon. John Reisdorf
Hon. Kate Voelker
Hon. Ron Banicki
Hon. Dan Bilancio
Hon. Matt Mammolenti
Hon. John Roggeman

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 04 2013

CITY CLERK
MISHAWAKA, IN

RE: Proposed amendment to the Drug Free Workplace Policy

From time to time the Drug Free Workplace Policy has to be revised, updated and clarified to reflect changes in the law. Most recently it is now unlawful to test for alcohol use in a post-accident event due to the fact that this test is considered a "medical test" and cannot be performed unless there is reasonable suspicion that alcohol use contributed to the accident.

In addition other revisions and updates were made for clarification purposes. They are:

1. Definitions of terms used in the policy
2. Separating CDL driver testing from non-CDL driver testing
3. Inclusion of a Voluntary Commitment policy
4. Prevention and treatment resources
5. Initial and confirmatory test cutoff levels

The attached policy was approved by the Board of Public Works and Safety on December 4, 2012 as Resolution 2012-13 and forwarded to this body for final action.

DRUG FREE WORKPLACE POLICY

The Civil City of Mishawaka and Mishawaka Utilities, hereinafter referred to as "City" shall comply with the Drug-Free Workplace Act of 1988. The following policy shall be strictly enforced to promote a drug and alcohol free workplace and workforce and to protect the City of Mishawaka as a responsible source for the award of grants from any federal agency.

POLICY: The City of Mishawaka will provide a drug-free workplace. The workplace is defined as any location at which City business is conducted.

PROCEDURES:

- A. All City employees are absolutely prohibited from manufacturing, distributing, dispensing, possessing, or using controlled substances or alcohol in the workplace. The Human Resources Department can provide a complete list and explanation of controlled substances. For purposes of this policy, the phrase "controlled substances" shall include drugs that are illegal or used illegally and will be referred to as "drugs" hereinafter.
- B. The City of Mishawaka has established a drug-free workplace practice to inform employees about:
 1. The City's policy of maintaining a drug-free workplace;
 2. Available drug or alcohol counseling resources, rehabilitation and employee assistance programs; and
 3. The penalties that will be imposed upon employees for drug or alcohol abuse violations.
- C. Each employee will be provided a copy of the Drug-Free Workplace Policy and as a condition of employment will:
 1. Abide by the terms of the policy; and
 2. Notify the City of Mishawaka of any criminal drug related conviction or arrest for a violation occurring in the workplace no later than five (5) calendar days.
 3. The City of Mishawaka will notify any federal agency from which it receives a grant within 10 calendar days after receiving notice of a criminal drug statute conviction for a workplace violation in the performance of the grant.
 4. The City of Mishawaka will impose a sanction on, and/or require the satisfactory participation in a drug or alcohol abuse assistance or rehabilitation program by any employee who is so convicted, as required by the Drug-Free Workplace Act of 1988.
 5. The City of Mishawaka will make a good faith effort to continue to maintain a drug-free workplace through the adoption of appropriate rules and regulations necessary to implement subparagraphs 1 through 5 hereinabove.
 6. For the purpose of this policy, "city business" includes, but is not limited to, work performed on or in City property including a City vehicle or work performed on or in a non-City vehicle being used for city benefit; the term also includes lunch and break times.

DRUG & ALCOHOL POLICY

A. STATEMENT OF PHILOSOPHY

The City of Mishawaka and Mishawaka Utilities are committed to providing a drug free workplace and workforce.

B. DEFINITIONS OF TERMS USED IN THIS POLICY

1. "Safety sensitive" means any of the following:
 - a. Driving
 - b. The time spent waiting to be dispatched
 - c. Inspecting, servicing or conditioning equipment
 - d. Being in or on a commercial motor vehicle
 - e. Loading or unloading or supervising or assisting in loading or unloading
 - f. Securing the vehicle and taking other precautionary measures following an accident
 - g. Repairing, obtaining assistance, or attending a disabled vehicle
 - h. Dispatching public safety personnel
2. Drivers – defined as employees who have CDL requirements in their job description
3. Medical Review Officer (MRO) – licensed physician responsible for receiving laboratory results generated by the City's drug and alcohol testing program.
4. Workplace – any location at which City business is conducted

C. DRUG/ALCOHOL USE

1. The manufacturing, distributing, dispensing, possessing or using of drugs, and/or unauthorized alcohol in the workplace or while on City business are absolutely prohibited. Coming to work in an impaired state, resulting from the use of alcohol or drugs, is likewise prohibited.
2. Compliance with this policy will be strictly enforced and is a condition of continued employment for all employees. The City has the right to determine whatever level of discipline is appropriate; which may include, but not be limited to, suspension without pay or termination.
3. An employee taking prescription medication prescribed by a qualified medical doctor must advise his/her direct Supervisor in writing of the possible effects such medication might have on his/her job performance and/or physical/mental capabilities. This written information must be communicated to Management prior to commencing work.

D. DRUG / ALCOHOL TESTING

1. The City shall require an employee to submit a urine specimen (or alternate specimen as agreed to by the City and the lab) to a certified and approved lab for drug testing under the following circumstances:
 - a. Pre-employment - The City shall require a job applicant to undergo drug testing after a contingent job offer to hire such person has been made. This test may also be administered to current employees who transfer or bid to other job classifications. Seasonal or temporary employees will be required to submit to a drug test once per calendar year.
 - b. Post-accident (Drug) - When an employee is involved in an accident (whether vehicle related or not):
 - 1) which results in a fatality;

- 2) where any person involved requires medical treatment away from the scene;
- 3) where the employee is cited for a moving violation;
- 4) in which any vehicle (city owned or not) incurs damage or any vehicle must be towed from the scene;
- 5) which results in damage to public or private property unless the employee's actions can be completely discounted as the cause or a contributing factor, or;
- 6) which results in the same employee being involved in more than 2 accidents in the most recent 12-month period, which may or may not meet the above criteria, the employee will submit to a drug test.

If an employee's position is one which requires that they be placed in an inherently dangerous situation in which precautions cannot be taken to provide the utmost safety, those employees working within the scope of their employment, will not be tested.

All on-the-job accidents must be reported immediately to an immediate supervisor. A post-accident drug test is to be performed as soon as possible following the accident. A supervisor, or his designee, shall accompany the employee to and from the testing facility. The employee may be allowed to work in a non-safety sensitive position pending results.

- c. Reasonable Suspicion- An employee who is observed by a supervisor or company official as appearing to be under the influence of drugs or alcohol based on appearance, behavior, speech or odors, shall be immediately required to submit to a drug or alcohol test. This must be performed within 2 hours of the observations. The employee will be sent home awaiting the results of the test. A refusal to submit to a reasonable suspicion or random test may result in disciplinary action up to and including termination.
- d. Random (non CDL) - the City shall require random drug testing, on a monthly basis, for non-CDL employees who drive city vehicles or those employees who drive their personal vehicle for city business, on an annual basis. The test is to be performed immediately upon selection by Occupational Health through a computer-generated draw of eligible employee social security numbers. The employee will be allowed to return to full work duties pending results.
- e. Random (CDL) - the City shall require random drug and alcohol testing for employees in safety sensitive positions, or holding a CDL. The test is to be performed immediately upon selection by Occupational Health through a computer-generated draw of eligible employee social security numbers. The employee will be allowed to return to full work duties pending results.
- f. Return to duty and follow-up - When an individual has violated the prohibited alcohol conduct standards and is reinstated to his former position, follow-up tests will be conducted. These tests will be unannounced and at least six (6) tests must be conducted in the first 12 months after the employee returns to duty and may be extended for up to sixty (60) months.
- g. The city shall pay all costs associated with City required drug and alcohol testing.

E. DRUG TEST RESULTS

1. A negative test conclusion of any of the above shall result in the employee being immediately returned to work, provided no other disciplinary actions are warranted.
2. An employee who tests positive or who refuses or fails to submit to a drug test for post-accident, reasonable suspicion or random testing will be terminated immediately; except for police and firefighters who shall be disciplined pursuant to the procedures in state statute.
3. An employee disagreeing with test results for drugs shall have the right within 72 hours of when he/she was notified of the test results to have his/her initial sample independently retested by an authorized laboratory at his/her expense. If the independent test results are negative, the employee will be made whole for time and benefits lost, and the cost of the independent test will be reimbursed to the employee.
4. Test results will be reviewed by a Medical Review Officer and discussed with the employee before being reported to the City.
5. The City shall be notified immediately upon a negative test result or negative re-test result.

F. ALCOHOL TEST RESULTS

1. A negative test conclusion of any of the reasonable suspicion or CDL random tests shall result in the employee being immediately returned to work.
2. If a positive test result is more than .02 in a reasonable suspicion or CDL random test, the City has the right to determine whatever level of discipline is appropriate. This may include, but is not limited to, suspension without pay or termination. In the event of disciplinary action, the employee will be referred to the City's EAP for evaluation and treatment, except for police and firefighters who shall be disciplined pursuant to the procedures in state statute.
3. A positive test for return to duty or follow up shall result in termination.
4. Test results will be reviewed by a Medical Review Officer and discussed with the employee before being reported to the City.
5. If convicted of DWI/DUI/OWI, either on or off the job, an employee may be terminated. Insurability with city carrier, job openings and job requirements will be considered in this decision.

G. TREATMENT MEASURES

VOLUNTARY COMMITMENT POLICY

Employees who voluntarily report a personal substance abuse problem shall be afforded the program outlined below. However, this program shall *not* be extended to a person who admits to a substance abuse program only as a result of a directive to submit to an alcohol or drug screen; or a belief that, consistent with the rules stated in this policy, they will be required to submit to an alcohol or drug screen; or in response to a positive drug or alcohol screen.

An employee submitting to a drug treatment program shall be treated in the following manner:

1. The employee will be referred to the City's Employee Assistance Program (EAP) who will coordinate diagnostic and evaluation services, in accordance with the City's treatment agreement. Based on the recommendation received from EAP, a specific treatment program will be designed and administered by the Director of Human Resources.
2. The employee will sign a general authorization for release of information to the Director of Human Resources in order for the Director to effectively monitor the employee's rehabilitation program.
3. The employee shall comply with any and all treatment programs, and the cost of any required programs will be paid at the employee's expense reduced by the extent provided through the City's health insurance if the employee is a covered member. The employee shall work his or her normal hours as scheduled when the work schedule is not inconsistent with the required treatment program. For hours in which the employee cannot be at work as a result of this rehabilitation program, the employee may elect to use available paid time off or be docked the corresponding number of hours in pay. The employee agrees to cooperate fully with the Director of Human Resources in the administration of this program.
4. A twelve (12) month probationary period shall be imposed immediately upon the employee's return to work. This probationary period shall apply to all facets of employment whether or not drug or alcohol related. In order to be reinstated following discharge from treatment, a clean return-to-duty drug or alcohol test result is required. The employee must also follow after-care recommendations from the EAP. A minimum of six follow-up drug or alcohol tests may be conducted at any time during the probationary period.
5. An employee testing positive during the twelve (12) month probationary period shall be subject to immediate termination of employment.
6. No employee shall refuse to submit to a post-accident, random, reasonable suspicion or return-to-duty breath-alcohol or urine drug screen.
7. Employees who fail to comply with a treatment program under this policy will be terminated.

H. EVIDENCE

Any available evidence related to the violation of this policy will be collected and immediately turned over to the Human Resources Department for safekeeping. Any evidence of criminal activity shall be immediately given to the Mishawaka Police Department for investigation. Such evidence may include, but shall not be limited to, beer cans, liquor bottles, pills and other substances or materials in question, and any controlled substance.

CITY OF MISHAWAKA

ALCOHOL & DRUG PREVENTION & TREATMENT RESOURCES

NATIONAL HOTLINES THAT PROVIDE INFORMATION BY PHONE

National Cocaine Hotline: 1-800-262-2463

LOCAL DRUG HOTLINES THAT PROVIDE INFORMATION BY PHONE

Alcoholics Anonymous (AA): 234-7007

LOCAL DRUG AND ALCOHOL PREVENTION & TREATMENT PROVIDERS

Addictions Recovery Center 233-5920

Alcohol and Addictions Resource Center (AARC)
234-6024

Counseling Associates 255-8132

Memorial Epworth Center 234-0061 (24 hours)

New Avenues EAP (The City's EAP) 1-800-731-6501

Oaklawn 1-574-533-1234
Toll Free 1-800-282-0909

Samaritan Center of South Bend 277-0274

SUPPORT GROUPS

Alcoholics Anonymous (AA) 234-7007

Michiana Area of

Narcotics Anonymous (NA) 888-467-3527

<u>Initial Test cutoff levels (ng/ml)</u>	<u>Level</u>
Marijuana	50
Cocaine	300
Opiates	2000
Phencyclidine	25
Amphetamines	1500

The testing results for drugs must fall under the Department of Transportation Guidelines. The cutoff levels are subject to change by the Department of Health and Human Services.

<u>Confirmatory Test cutoff levels (ng/ml)</u>	<u>Level</u>
Marijuana metabolis	15
Cocaine metabolis	150
Opiates	2000
Morphine	2000
Codeine	2000
Phencyclidine	25
Amphetamines	300
Methamphetamines	300

Alcohol Test

Must be below .02 BAC

Testing procedures and chain of custody will follow Federal Register guidelines.

CITY OF MISHAWAKA
PROGRAM SPECIFICATIONS
FOR COMPLIANCE WITH
DRUG-FREE WORKPLACE ACT

I am aware that any violation or use of drugs or related offense that takes place on the job, by Federal law must be reported to Supervisor, Department Head or Human Resources Office within five (5) days.

By my signature below, I certify receipt of items listed below, and also acknowledge and agree to this policy and understand a violation of any of the above conditions could mean termination of employment with the City of Mishawaka.

1. Policy statement
2. Rules and regulations, with disciplinary action to be taken for violations
3. List of local rehabilitation resources
4. List of DEA controlled substance with cutoff levels.

Signature

Print Name

Department

Date

JAN 10 2013

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-02

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2013

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, 2013 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 \$8,000.00 for assignment as follows:
General Fund

Clerk

Personal Services

101.03.411.03 Temporary Help \$ 8,000.00

Total \$ 8,000.00

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 _____, 2013 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 _____, 2013 at _____
o'clock, ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2013 at
_____ o'clock, ____ .M.

David A. Wood, Mayor



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

RECEIVED
DEBORAH S. BLOCK, MMC

January 17, 2013

JAN 17 2013

Mishawaka Common Council
Mishawaka City Hall
Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN

Dear Council Members:

I am respectfully requesting an Additional Appropriation. These funds will go into Personal Services/Temporary Help to pay our part time employee to continue working on a project scanning and categorizing Council documents. These documents date back to before we computerized the Clerk's Office. I mentioned to the Council at the end of the year when I transferred funds within the Clerk's budget that I would be returning and asking the Council to appropriate money for the Clerk's 2013 Budget to keep this project moving forward.

In addition to her scanning duties Raven answers the phones and performs other tasks and has been a great addition to our staff. Please call me with any questions. Thank you for your consideration of this matter.

Sincerely,

Deborah S. Block, IAMC, MMC
Mishawaka City Clerk

Mary Ellen Hazen, Chief Deputy Linda Dotson, Deputy
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

JAN 10 2013

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-03

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2013

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, 2013 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 \$35,000.00 for assignment as follows:
General Fund

Corporate Counsel

Other Services and Charges

101.06.434.90 Claims \$ 35,000.00

Total \$ 35,000.00

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 _____, 2013 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 _____, 2013 at _____

o'clock, ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2013 at

_____ o'clock, ____ .M.

David A. Wood, Mayor



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 14, 2013

TO: Mishawaka Common Council

Re: Fund Transfer

The Department of Law is requesting the following fund transfer to cover additional payment of claims and litigation fees incurred but not covered as a result of the insurance deductibles:

Transfer From:

General Fund
\$35,000.00

Transfer To:

Corporate Counsel
Other Services and Charges
101.06.434.90 Claims - \$35,000.00

If you have any questions, or need additional information, please do not hesitate to contact me.

Respectfully submitted,


John P. Gourley
Corporation Counsel
and City Attorney

JPG:ck

RECEIVED
DEBORAH S. BLOCK MMC

JAN 14 2013

CITY CLERK
MISHAWAKA, IN

John P. Gourley
Corporation Counsel
4100 Edison Lakes Pkwy.
Mishawaka, IN 46545
(574) 243-4100
Fax: (574) 232-9789

Geoffrey D. Spiess
Staff Attorney
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
Fax: (574) 254-0194

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
Fax: (574) 255-3969

Robert C. Beutter
Assistant City Attorney
4100 Edison Lakes Pkwy.
Mishawaka, IN 46545
(574) 243-4100
Fax: (574) 232-9789

www.mishawaka.in.gov

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013 - 04

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK MMC

JAN 17 2013

CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA ADOPTING THE AMERICANS WITH
DISABILITIES ACT PUBLIC RIGHT-OF-WAY SELF-EVALUATION AND
TRANSITION PLAN**

WHEREAS, The Americans with Disabilities Act of 1990 (ADA), enacted on July 26, 1990, is a Federal civil rights statute, under the jurisdiction of the United States Department of Justice (DOJ), which provides civil rights protection to qualified individuals with disabilities in the areas of employment, public accommodations, state and local government services, transportation, and telecommunications. The law states its purpose is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities", and

WHEREAS, the City of Mishawaka has completed a self-evaluation of all City facilities within the public right-of-way (ROW) and has prepared a Self-Evaluation and Transition Plan outlining the necessary steps to be fully compliant with the requirements of Title II of the ADA, and

WHEREAS, it is the goal of the City to continue to make accessibility improvements on a yearly basis to the pedestrian facilities within the public right-of-way, though this will be largely dependent on a number of economic factors and future changes to the Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way, dated July 26, 2011 and any modifications/supplements to this documents, or other unforeseen requirements that would necessitate additional improvements to the facilities. The City has committed to provide training for staff on the requirements of the ADA and make accommodations for employees with disabilities, many of which can be done without costly architectural renovations.

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

Section 1. The City will strive to ensure that all pedestrians are able to access and use all pedestrian facilities in the ROW including sidewalks, curb ramps, traffic signals and street furniture, and will promptly investigate any formal grievance filed according to the procedures outlined in the Self-Evaluation and Transition Plan. The City will strive to include annual budgetary allotments to make required improvements to these pedestrian facilities with emphasis given to the improvements providing the greatest benefit to persons with disabilities who use these facilities. Engineering Standard Construction Details will be updated to ensure they are in compliance with the latest ADA requirements and the City will require that all future public works construction plans are compliant.

Section 2. The entire text of the City of Mishawaka, Indiana Americans with Disabilities Act Public Right-of-Way Self-Evaluation and Transition Plan shall be adopted as Exhibit "A" to this ordinance and a complete copy of the Plan shall be made available for inspection in the Office of City Clerk.

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on
this _____ day of _____ 2013, at _____ o' clock, ____ .M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2013, at
_____ o'clock, ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2013, at
_____ o'clock, ____ .M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF ENGINEERING

GARY E. WEST
Director of Engineering
CHRISTINE M. JAMROSE, P.E.
Assistant Director of Engineering
TERRY R. HOGMAN
Construction Manager
DEBORAH L. WHEELER
Project Manager
R. TODD SCHEETS
Traffic Manager
MELISSA A. MCGUIRE
MS4 Coordinator

January 16, 2013

Mishawaka Common Council
600 East Third Street
Mishawaka, IN 46544

Re: ADA Self Evaluation/Transition Plan
Pedestrian Facilities within the Public Right-of-Way
Proposed Ordinance No. 2013-04

Honorable Council Members:

Title II of the Americans with Disabilities Act (ADA) requires local governments to complete a self-evaluation of its public facilities, programs and services to ensure that we are in compliance with Title II of the Americans with Disabilities Act. Earlier this year the City, with assistance from its consultant DLZ INDIANA, completed its self-evaluation of city facilities outside of public right of way, policies, and procedures for compliance with. DLZ prepared a Self Evaluation/Transition Plan (SETP) that identified deficiencies at the various city facilities failing to meet ADA Accessibility Guidelines. This ADA SETP for the facilities outside the public Right-of-Way (ROW) was adopted by the Common Council earlier this year in April

The second element of Title II is for the City to complete an ADA SETP for facilities within the public ROW such as sidewalks and curb ramps. As of today, DLZ has completed the self-evaluation for the facilities within public ROW and have prepared a draft report. The document will be made available at several locations and our web page for public review and comment on January 11, 2013 thru February 15, 2013.

The attached Proposed Ordinance No. 2013-04 is for approval of the Draft Self-Evaluation and Transition Plan on facilities located within the public right-of-way. We have requested that that the second reading and public hearing be scheduled for March 4, 2013 where DLZ will make a presentation for adoption of the SETP. This will allow time to review any public comments received and will miss the delivery of the Mayor's State of the City.

If you have questions regarding this matter please contact my office.

Very truly yours


Gary E. West
Director of Engineering

Cc: Mayor Wood
Qasim Asghar, DLZ