REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
February 18, 2019

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 February 18, 2019, at 7:00 p.m. The meeting was called to order by President Emmons all were asked to stand for the Pledge of Allegiance lead by Boy Scott Troop 110 Coalbush United Methodist Church member Isaak Prince and the Webelo II Pack 555 sponsored by St. Pius in Granger.

Roll Call.
Present: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Minutes for the Regular Meeting of February 04, 2019 were approved as received from the Clerk's Office.

Clerk Block read the following letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their February 12, 2019 meeting.

APPEAL NO.2019-03 An appeal submitted by the Diocese of Fort Wayne – South Bend, Inc., requesting a Use Variance for **1316 West Dragoon Trail** to allow for an outpatient day treatment center for autism.

The Board, with a vote of 4-0, recommended approval.

PETITION NO. 2019-01 A petition submitted by DJSJ, LLC, Don Shaum, Jr, and Jennifer Shaum requesting to annex and zone 16525 Arthur Street and vacant two (2) acre lot, Granger, Indiana, to R-1 Single Family Residential and R-3 Multi-Family residential for six (6) single family residential lots and seven (7) townhomes.

The Commission, with a vote of 8-0, recommended approval.

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

PROPOSED ORDINANCE NO. 2019-05

AN ORDINANCE AMENDING PART I, CHAPTER 62, OF THE MUNICIPAL CODE OF THE CITY OF MISHWAKA, INDIANA, AS FROM TIME TO TIME AMENDED
(Amending Sewer Insurance Fund & Charges)
(Assigned to the Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2019-06

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE
(Annex & Zone R-1 & R-3 6 Singles Family Res & 7 Townhomes 1625 Arthur St. & 52781 Grape Rd.)
(Assigned to the Land Use Planning Committee)

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

RESOLUTION NO. 2019-04

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 PROPERTY LOCATED AT:

53013 Fir Road, Granger, IN 46530 and the adjacent Cleveland Road and Fir Road right-of-way to include approximately 3.2 acres

Ken Prince, City Planner presented the fiscal plan. He said there was an existing office building, a Pain Clinic located in the area, this property was immediately adjacent, and Cleveland Road was the only access. Mr. Prince mentioned there would be an extension to the office development. He went on to say the legal requirement for annexation required at least 12.5% of contiguity with the city, the proposed property was 30% contiguous. He stated various departments were notified, and it was identified the services for this property could be done through the existing budget. Mr. Prince said any extension of utilities would be done by the developer's expense. He also mentioned for the record, because this was the year prior to the census the effective date could not occur until January 1, 2020.

Mrs. Voelker asked did this mean they could not begin construction until January 2020. Mr. Prince explained if they began construction, they would have to construct in a simultaneous process in the county and the city in order to accomplish. He said the city was not legally allowed to amend the boundary until January 2020. Mr. Prince continued to say most petitioners file their site plans and receive approvals to get everything in place to be able to start at the beginning of the year.

Mr. Compton asked would the city begin any preliminary preparations to bring utilities to the site prior to 2020. Mr. Prince said the city had the ability to do so because it was a public right-of-way, even if it was a private property. He continued to say he was not aware of any agreements to allow the city to begin.

Question was called for at 7:09 P.M. for **RESOLUTION NO. 2019-04** **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

RESOLUTION NO2019-05

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE DESIGNATION OF AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA, KNOWN AS

1420 INDUSTRIAL DRIVE, MISHAWAKA, IN 46544

Dave Diroll, President and owner of Jamil Packaging said he was requesting for the tax abatement for a specialty gluer machine.

Mrs. Voelker questioned the price of the machine. Mr. Diroll said the pay back loan amount was for 1.5 million dollars. He said for a 7 to 8-year loan term they would pay $20,000 a month. Mrs. Voelker also asked when it would be profitable. Mr. Diroll said probably around the fourth year. He said he had a lot of market factors, it could go really strong or go the other way.

Mr. Mammolenti recalled at the last meeting Mr. Diroll mentioned the gluer was for the demand of a specific customer. Mr. Diroll replied yes, their largest customer. Mr. Mammolenti asked if Mr. Diroll was to lose that customer did he have something in place. Mr. Diroll said the particular customer had the same supply chain since 1980, they were very solid customers. He continued to say he wanted to meet all contracts.

Mr. Bellovich asked how long the company has been in Mishawaka. Mr. Diroll replied since 2002. Mr. Bellovich thanked Mr. Prince for the information on abatements and history. He continued to say all targets Jamil hit during the course of recession. Mr. Prince said during the recession Jamil was down a couple of jobs compared to other companies with tax abatements. Mr. Bellovich asked how many did Mr. Diroll employee at his Tennessee location. Mr. Diroll said 12, it was a smaller company.

Mr. Tanner questioned the average wage. Mr. Diroll said average pay was $16 for the operators and less for the people working on the back end of the machine. He said all together average was $17. Mr. Diroll continued to say he offered benefit package such as health insurance, profit sharing and a matching program for their 401K, worth $7 if the employee chose to participate. Mr. Tanner also questioned how Mr. Diroll was doing in job market recruiting. Mr. Diroll said the RV industry was loosening up a little bit, he believed it would help hire. He said they could hire up to 12 right now. Mr. Diroll said he heard Elkhart dropped their drug testing. He continued to say he would never do it. Mr. Tanner also asked would the machine not require as much labor. Mr. Diroll said it was a state-of-the-art machine, it had 6 glue heads and 6 folding sections.

Mr. Diroll offered the council to tour the facility. Mr. Emmons said he was sure some of the council would take up Mr. Diroll's offer.

Mayor Wood expressed Jamil has been a great corporate citizen in Mishawaka. He continued to say Jamil did everything they said they were going to do and more. Mayor Wood said he had the opportunity to tour the plant on multiple occasions, it was always clean, full of energy and very well maintained. He expressed Jamil was making an investment in a part of the city which he believed needed the investment. Mayor Wood went on to say Mr. Diroll has been a good citizen to the city, the company sponsored different community events. He expressed he valued Mr. Diroll's citizenship, the jobs they provided, and product they produced.

Mr. Hixenbaugh thanked Mr. Prince for the written material and meeting with him to answer some questions. He went on to thank Mr. Diroll for his time answering some of his questions. Mr. Hixenbaugh said this was a good example of a good corporate citizen.

Question was called for at 7:21 P.M. for **RESOLUTION NO. 2019-05 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

RESOLUTION NO. 2019-06

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZOING APPEALS FOR THE PROPERTY LOCATED AT:
1316 West Dragoon Trail Mishawaka, Indiana

Joshua Smith, CEO and Leanne Suarez COO of Journey's Behavior Learning Center requested a use variance. Mr. Smith said the property was known as the Friary on the Marian High School Campus. He said through some relationships with the Diocese, they were able to secure a lease on the building to be able to provide out patient ABA for children with Autism in the Mishawaka area. Mr. Smith went on to say the facility would have between 40 to 50 employees and serve between 35 to 40 children. He said their services were clinic and educational based services, but not medical model service. Mr. Smith said they had children during school hours Monday through Friday from 8:30AM to 4PM. He mentioned some children were there for half a day whether it was in the morning or afternoon.

Mrs. Voelker asked the following questions

1. What ages they served and did the children attend the program every day.
2. Questioned their educational program.
3. How did Children become a client, how long would they attend the program and when did they transition to schools.
4. Were employees certified.
5. Where they were currently located.
6. Did they not know they needed a variance before the moved into the new facility and how long had they been open.

Ms. Suarez said they served the ages 2 to 18 years old. She said typically they served the children every day; it depended on the recommendation from their doctors. She explained it was not necessarily education; they gave support to give the children to transition them into schools.

Ms. Suarez said their goal was to help transition the children to an educational component. She went on to say every patient were at different stages for their needs and levels of learning. Mr. Smith said the treatment was overseen by Board Certified Behavior analysis; they also had a board-certified analysis doctor whose background was in special education. He said direct care was carried out by certified behavioral technicians. Mr. Smith continued to say employees were certified by the BACV board. He said operating at 1316 W. Dragoon Trail. Mr. Smith explained they did not know they needed the variance until after they moved in. He said they opened on February 11. Mr. Smith mentioned prior to moving they did meet with the Fire Marshall and Planning Department.

Mr. Compton asked did they operate out of a facility prior. Ms. Suarez said majority of the children were at a facility downtown South Bend, it abruptly closed. Mr. Compton asked did Mr. Smith and Ms. Suarez work at the downtown location and where was it located. They replied yes, it was located at the old Madison Center.

Mr. Mammolenti asked were they running the prior clinic. Mr. Smith replied yes, since February of last year. Ms. Suarez said they both had previous experience within the industry. She said she has been in the industry for 14 years. Mr. Mammolenti questioned the lease term. Mr. Smith said the lease was for 2 year with the option to extend it up to 5 years. Mr. Mammolenti asked how the facility was funded. Mrs. Smith said they excepted private or Medicaid insurance.

Mr. Tanner asked did they accept self-insurance. Ms. Suarez said there was a mandate in the State of Indiana, however if the self-funded plan were out of the state, they did not have to cover it. She continued to say in all her years there has been fewer an fewer plans that were not covering autism. Ms. Suarez said typically they also encourage the individual for future planning for the family to apply for assistance or disability waiver which would usually bring in Medicaid assistance.

Ms. Petko Reisdorf questioned the direct care staff to student ratio. Mr. Smith said the direct care staff was one to one therapy. He continued to say the registered Behavioral Technician had one child all day long. Mr. Smith said the licensed Clinicians who oversee the children generally had between 8 and 10 kids they provided the case management over. Ms. Petko Reisdorf also questioned how long the transitioning process took from school to clinic or clinic to school. Ms. Suarez explained it varied from child to child, some children transition fairly quickly who may have had some minimal skills to work on. She continued to say some children take longer. Ms. Suarez said they were in constant contact with schools to help consult in the transitioning process. Ms. Petko Reisdorf asked how many young children were turned away due to full capacity. Ms. Suarez said 6 to 10 kids were on a waiting list now, they usually had running list at all times.

Mr. Bellovich said Mr. Smith indicated they would have 40 to 50 employees working on site. He asked how many children they could service at any given time and were they open during the summer. Mr. Smith said 35 children. He said they were opened year-round.

Mr. Hixenbaugh asked the following questions:

1. When did the Fire Marshall and Building Department visit the facility and did they give them permission to open before appearing before the council and before making the changes.
2. What safety devices and system did they have in place and was the Fire Marshalls approval of occupancy and use in writing.
3. Was the facility required to have accreditation?
4. Did Medicaid and the private insurance have regulations on student safety.
5. If a child were to exit the premises would they have to report it to Medicaid or any other standard as an incident report?
6. How many currently participated in the program.
7. In their experience how frequently did they have a student elude staff to get out.

Mr. Smith said the visit from the Fire Marshall and Building Inspector occurred on February 7th or 8th. He continued to say the facility opened on February 11th. Mr. Smith said the Fire Marshall and Building inspector said there were a few items they need to correct in their plan and as long as they put in a life safety system in place. He continued to say they were training their staff on how to get out the building with the kids. Mr. Smith said they currently had an active fire system; they were working to have the system to be monitored remotely. He said they also had fire extinguishers, emergency lighting, horns and emergency exit lights. Mr. Smith said through conversation the Marshall gave approval for occupancy. He said they did not have a locked door system. Mr. Smith continued to say some facilities put delayed egress on doors which could be impediment. He said safety came down to the supervision, the one on one supervision. Mr. Smith said the children should never be out of arm reach of staff assigned to them. He went on to say they also identify areas in the facility that were potential hazard areas such as a door. Mr. Smith said they were not subject to an accreditation but it was subject to contract rules set forth by Medicaid and the private insurance companies. He continued to say the way they carry out their treatment in care, patient abuse and neglect, reporting a patient of abuse and neglect, and the up keep and safety of the building. Mr. Smith said they would report to Medicaid if there was an injury based around the child exiting the building. Ms. Suarez said in one of her previous facilities one adult eloped outside of the building. She explained it was not an ABA center care, they were in a 1 to 3 or 4 staff ratios. Ms. Suarez said they currently had 26 students.

Mr. Emmons asked how did the treatment effect children currently in school educational progress. He also questioned how they would educate the children in the layout of the building and what were the size of the rooms. Ms. Suarez said most children enrolled in school typically come to the center because they were not successful in school. She said they come to their environment to help the children in a school setting. She went on to say some parents pull their children out as a home school environment, they work with the schools to come to the facility to give some educational support and service. Ms. Suarez said some kids went to school for half of the day. She continued to say they constantly work around an educational environment to get the children back into school. Ms. Suarez said their clinical Director had his master's in special education, he had a consistent focus on supporting the education component of the individuals. She mentioned there were some large rooms in the building they utilized as a transitioning room for the children when they were socially ready. Mr. Smith said the smaller rooms were 13 x 13.

Mr. Mammolenti asked was this a non-profit or for profit and what was the name of the company or organization who operated the Madison center and why did the facility shut down. Mr. Smith said they were for profit. He said the River Bend Behavioral Health was owned by a company called Meridian Behavioral Health. Mr. Smith said it was shut down because of financial issues from the corporate level.

Mr. Hixenbaugh asked would there be any additional remodeling or work in the building in order to further facilitate the provision of their services and when did they anticipate the fire suppression system to be completed. He also questioned any other items the Fire Marshall and Building Inspector listed to be completed. Mr. Smith replied no remodeling; they would do some painting and update the building. He said he was given the system would be implemented in 10 days. Mr. Smith said they installed GFI's around sinks, electrical boxes needed to be capped, had to put in blanks for electric panels and replace batteries in the emergency lights as required from the Fire Marshall.

Mr. Hixenbaugh questioned Ken Prince, City Planner regarding inspections referenced earlier. He asked did Mr. Prince have any knowledge of the results of the inspections by the Fire Marshall or Building Commissioner. Mr. Prince replied no, he did not have any personal discussions. He continued to say his staff put together the staff report. Mr. Prince said he understood they had to put in GFI's etc., and were all issues needed to be addressed prior to the occupancy. Mr. Prince went on to say he was not aware of any cons from the Fire Marshall. He indicated even by applying for the variance, everyone was aware the final authority of approval rested with the council. Mr. Prince continued to say he believed any consent given by the inspector met by their needs but not in terms they could occupy the facility. He said normally in a circumstance like this from the administration perspective, if they were specifically and if it was an emergency circumstance, obviously with the place closing and the need to provide service for the children, they could identify this as an emergency. Mr. Prince said they would have needed to address all the life safety items first then go back for reinspection before they could occupy the facility on the condition they normally needed the variance. He said if they did not receive it they would then have to exit the facility. Mr. Hixenbaugh asked would the Fire Marshall or the Building Commissioner follow up on the inspection to make sure the life safety devices were implemented up to their requirements. Mr. Prince said following the discussion he heard this evening, he had a note to touch base with Building Commissioner to verify. He went on to say normally the task were completed then they would receive a certificate of occupancy from the Building Commissioner. Mr. Prince said he did not believe it would have been issued for the proposed building. He said he would verify to make sure a certificate of occupancy was issued, if not, he would make sure it will happen shortly.

Mr. Hixenbaugh appreciated all the information provided. He expressed there was no doubt the life safety devices would eventually be implemented. Mr. Hixenbaugh went on to say he was not comfortable approving the variance when there was more work to be done. He continued to say none of the council were interested in disrupting the lives of 26 student and their families. Mr. Hixenbaugh said it would be more appropriate to postpone this matter until the petitioner completed all work to comply.

Mr. Hixenbaugh made a motion to postpone **RESOLUTION NO. 2019-06** until the March 04, 2019 meeting same upon a second by Mrs. Voelker motion carried.

Mr. Compton asked Mr. Hixenbaugh to clarify the facility would remain open, continue to treat their patients, and they were delaying until all the life safety equipment was in place and operating. Mr. Hixenbaugh replied yes, he did not believe as an entity had the ability to take enforcement action to issue a cease and desist.

Mr. Emmons requested for roll call to postpone **RESOLUTION NO. 2019-06** until March 04, 2019.

Clerk Blocks roll call showed **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Clerk Block read the following proposed ordinances by title and opened for public hearing.

PROPOSED ORDINANCE NO, 2019-02

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THERFORE
(Annex & Zone C-6 Office 53013 Fir Rd.)
(Assigned to the Land Use Planning Committee)
VOTE ONLY

Mrs. Voelker reported the Land Use Planning Committee recommended this proposed ordinance should be presented to the council as a whole. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Question was called for at 8:01 P.M. for **PROPOSED ORDINANCE NO. 2019-02 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

PROPOSED ORDINANCE NO, 2019-03

AN ORIDNANCE 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
(PUD Amend – add Senior Daycare 6005 N. Fir Rd.)
(Assigned to the Land Use Planning Committee)

Clerk Block said the petitioner asked to withdraw **PROPOSED ORDINANCE NO. 2019-03** Mr. Tanner made motion to withdraw **PROPOSED ORDINANCE NO. 2019-03** same upon a second by Mr. Banicki motion carried.

NEW BUSINESS

Mr. Mammolenti and Ms. Stacy Petko Reisdorf announced the 3rd District neighborhood meeting would be February 20, 2019 at 7 p.m. at Twin Branch School, guess speaker would be Alex Barkley from Secure Tech Solutions discussing helpful ways to secure homes.

Mr. Emmons announced the next 1st District meeting would be March 21, 2019, guess speaker would be Probate Judge Cichowitz.

ADJOURNMENT 8:04 P.M.

Deborah S. Block /s/	Dale "Woody" Emmons /s/
Deborah S. Block, IAMC, MMC, City Clerk	Dale "Woody" Emmons, President