REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
August 05, 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 August 05, 2019, at 7:00 p.m. The meeting was called to order by President Dale "Woody" Emmons all were asked to stand for the Pledge of Allegiance.

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

Others Present: Clerk Block, Deputy Clerk Raven Boston, Council Attorney Michael Trippel.

Minutes of the Regular Meeting of July 15, 2019 was approved as received from the Clerks Office.

Clerk Block read the following appeals to the council who referred them to the Board of Zoning Appeals for their recommendations.

APPEAL NO. 2019-28 Use Variance to Permit Micro-blading &/or Permanent Makeup 228 W. Edison Rd. Suite 600

APPEAL NO. 2019-33 Use Variance to allow Wholesale Landscape Material Sales (Top Soil) 2320 Douglas Rd – Lot3 of Juday Creek Business Park

APPEAL NO. 2019-35 Use Variance to allow Existing House and 1,500 SQ. Ft Accessory Structure to be used as a Home Business (zoned: I-1)903 E 5th St

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

PROPOSED ORDINANCE NO. 2019-19

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.
(PUD Amd 6910 N. Main St. units 25 & 26- Microblading/ Semi Permanent Makeup)
(Assigned to the Land Use Planning Committee)

Jack Schoenthaler, owner of Inside Out Salon and Spa said his business currently offered hair, nail and massage services and he would like to add microblading to the list of services. He continued to say there were surrounding business providing the service. Mr. Schoenthaler mention he has been to the health department for approvals and certification, the council's approval for the variance was the next step.

Question was called for at 7:08 P.M. for **PROPOSED ORDINANCE NO. 2019-19** **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. Thus, it becomes **ORDINANCE NO. 5662**

PROPOSED ORDINANCE NO. 2019-20

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 C-1 to R-1 426 W. 6th Street)
(Assigned to the Land Use Planning Committee)

Rachel Stanfield, owner of proposed property explained one side of the building was zoned residential and the other side was commercial. She said she was requesting to remove the commercial variance from the property. Mrs. Stanfield said she was renovating the building to make it all look residential by adding siding and remove the old Motorola sign on the building. She mentioned a surveyor come out to see where the property ends.

Mrs. Voelker asked would Mrs. Stanfield reside on the property and question the removal of the concrete in the front yard. Mrs. Stanfield replied yes. She said they were taking out all the asphalt to add portion of concrete to match the sidewalk for a driveway, the remainder would be the backyard. She explained depending on the surveyor's assessment; they would like to remove the concrete in the front on 6th street to make a front yard. Mrs. Voelker also asked would she leave the door at an angle. Mrs. Stanfield replied yes, it would be expensive to close it off and figure out where to put a new door.

Mr. Compton and Mr. Emmons expressed their appreciation taking an old family business that sat vacant to make it into a home.

Question was called for at 7:15 P.M. for **PROPOSED ORDINANCE NO. 2019-20** **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.** Thus, it becomes **ORDINANCE NO.5663**

PRIVILEGE OF THE FLOOR

Victor Lawson, 1402 Bennington Dr. wanted to make the council aware of the missing section of sidewalk between 1410 and 1420 Bennington Dr. He said in the two years he has resided on Bennington Dr., he has watch children walk in the street until they could walk on side walk again. Mr. Lawson said it was 50 to 75 yards of missing sidewalk on the northside.

Ms. Petko Reisdorf asked was it the undeveloped section of Bennington. Mr. Lawson replied no, the last empty lot on Bennington was built in the spring of 2018. He said there were no more empty lots, but there was retention ditch.

Mr. Mammolenti made the comment he drove down Bennington Dr. often. He asked were they utilizing the drive used for a construction entrance to go back to the villas. Mr. Lawson explained it was going to be a street off of Darien Court.

Mrs. Voelker asked has anyone made the Engineering Department aware. Mr. Lawson replied no, not that he knew of.

Sandra Brody, 51331 Windsor Manor asked to speak in regard to the proposed Menards. Mr. Emmons said it was an agenda item, no comments would be taken at this time.

UNFINISHED BUSINESS

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

PROPOSED ORDINANCE NO. 2019-17

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.
(Grandview PUD Amd- W. side of N. Gumwood, S. by Cleveland Rd. (SR23)
(Assigned to the Land Use Planning Committee)
Petitioner requested postponement until the September 03, 2019 meeting

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be continued to the September 03, 2019 meeting. This is signed by the entire committee upon a second by Mr. Tanner motion carried.

Debbie Perri 15736 Arbor Crossings Dr. Granger wanted to clarify how the meeting would be conducted for the proposed Menards. Mr. Emmons explained on September 03, 2019 the public would have the opportunity to speak for or against the proposed ordinance, the council would have they're input and vote in favor or against.

Ken Prince, City Planner added by state law, action by the council had to be taken within 90 days from the Plan Commission meeting. He continued to say the Plan Commission made a favorable recommendation on June 12, 2019, the council's deadline to take action would be by September 12, 2019. Mr. Prince said because the regular council meetings in September did not fell efore or after the 12th, the council could call for a special meeting at the September 03, 2019 meeting for the proposed Menards, if more time was needed. He also stated by state law, if the council did not take action by the deadline, the amendment would automatically take effect due to the favorable recommendation from the Plan Commission.

Doris Collins 15736 Field Crest Court questioned whether to public could speak on the proposed Menards under privilege of floor at the next council meeting on August 19, 2019, since it would not be an agenda item at that time. She also asked would the public be able to see the changes the petitioners were proposing to make before the September 03, 2019 meeting and would the petitioners hold another information meeting for the residence. Mr. Emmons replied yes, the public could express their concerns at the September 3rd meeting. He asked the public to not repeat their comments and concerns.

Mr. Tanner added in his opinion it would behoove the developer and the engineering consultant to release the information to the residence at which time they think would most benefit the response and the give and take with residence in the surrounding area for a more favorable response at the September meeting, but it was not legally required for the information to be release before the September 3rd meeting. He continued to say the information meeting held on July 29, 2019 by the petitioner was at the councils request to be good neighbors, but by law it was not required for the petitioner to have held the meeting or to have another one. Mrs. Collins expressed it did not seem fair or neighborly the public would not be able to receive any information before the September 3rd meeting to analyze what the impact would be on the surrounding neighborhoods.

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

RESOLUTION NO. 2019-20

A RESOLUTION OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING AN AMENDMENT TO A DECLARATORY RESOLUTION APPROVED AND ADOPTED BY THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION

(Liberty Mutual/ City Hall)

(Assigned to the Budget and Finance & Land Use Planning Committees)

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. Compton motion carried.

Mr. Compton reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Tanner motion carried.

Mayor Wood stated this was a momentous point in Mishawaka's future. He continued to say they had a very unique opportunity to acquire two and a third of city blocks in the heart of downtown. Mayor Wood said this opportunity came at the right time, they were looking to replacing one, if not two or three of city buildings. He continued to say they were beginning to start the planning phases of the Mishawaka Utility Business Office. Mayor Wood mentioned planning for the replacement of the Utility Office began 10 years ago when he first took office. He went on to say they have been looking to replace the current city hall. Mayor Wood believed the current building served its purpose, it has been a great city hall, but they have out grown the building, the city was operating inefficiently in the classroom style offices. He also mentioned the Police Department was in need of substantial investment in the roof, parking lot and the HVAC system, which all needed to be replaced. Mayor Wood said they could put millions of dollars into the Police Department but a large addition to the building would need to be added to accommodate the way the department operated today and for the growing diversity for more women in the department. He went on to discuss the Liberty Mutual Building. He said Liberty

Mutual announced they were vacating the building and allowing their employees to work from home. Mayor Wood continued to say a 90,000 square foot building was now going to be vacant in downtown, right on the corner of Main Street and Lincoln way. He said downtown had a tremendous amount of momentum downtown with transformation. Mayor Wood believed the city should be apart of the transformation with their own investment in downtown. He continued to say they were interested in the building because it made since for city hall, they could make great use of the building and more. Mayor Wood said this would give the city more opportunity to serve the growth of downtown, it would give the city the ability to provide more parking for the businesses downtown at night and during the day. He mentioned there was a possibility the city could acquire lots they have been trying to acquire for some time on First Street, Mill Street and Spring Street. Mayor Wood said if they did not acquire the property, it would slow down other for profit taxable development. He continued to say this acquisition would solve a lot of problems. Mayor Wood said they were fearful, their consultant said a building that size, in that configuration, could not affordably be subdivided and would probably viable in the market place. He said like Liberty Mutual, offices were operating in less space. Mayor Wood continued to say experts expressed there was not a market for the proposed building. He said they were most fearful of having the same thing happen to the proposed building as it did to the 100 Center. Mayor Wood said the 100 Center was believed to be a great opportunity for development. He continued to say the building sat for years with very little maintenance and it now had fines totaling up to 50,000 dollars in code violations. Mayor Wood went on to say they held several public meetings, not many citizens came out to speak during the meetings but when he was out in public he would hear from the public and so far, he had overwhelming encouragement and he believed people realized it made since for the city. He continued to say the city could integrate downtown like Liberty Mutual never did, such as going out supporting the local businesses and be there as a great anchor with a building that would be open to downtown and the public. Mayor Wood said this building would better serve the public with better services, with services that would grow with technology and 24 hour a day public access service. He mentioned the possibility of having Kiosk to pay utility bills. Mayor Wood said the city business model was stuck in the 1970'because of the constraints of the building, which was also not ADA compliant. He went on to ask for the council support based on their studies and good faith dealings, and the purchasing of the building at a bargain price which was negotiated with their consultants. Mayor Wood mentioned there was come concerns of marketing the building to any potential interest. He said the administration was not opposed to marketing the building, but they could not market a building the city did not own. Mayor Wood stated once the city takes possession of the building, which would potentially be March, he would make the commitment to market the building until the city was ready to bid out for construction. He said if someone was interested in the building, the city would be interested in having them downtown regardless if he made the commitment or not, he was willing to have the conversation. Mayor Wood said the administration wanted the best interest for the citizens of Mishawaka, the City of Mishawaka, and downtown. He went on to say once they get the purchase agreement and approvals from the Plan Commission on August 19th, they were moving full speed toward construction documents and getting prepared for bidding as soon as they take possession. Mayor Wood concluded by asking for favorable recommendation. He thanked City Planner and also Deputy Mayor Ken Prince. Mayor Wood said he knew Mr. Prince could handle it and take on a project of this magnitude. He also thanked all department heads involved in the planning and the council for being professional through the process, he hoped they would join the journey.

Members of the council thanked Mr. Prince for the thorough presentations.

Clerk Block expressed she was speaking in favor of the proposed resolution. She said she helped moved from the old city hall in 1986. Clerk Block continued to say departments were moved several times around to different offices to fit their needs and to be able to work somewhat efficiently. She expressed she did not think the Building Department should be on the second floor in a corner, it was inconvenient for the residence. Clerk Block also expressed having the Utility Business Office in city hall made since. She continued to say the utility building was not in the best shape when she began working for the city in 1979, it was not ADA assessible and it was a wasted space. Clerk Block said while she was still working with the city, she would like to see city employees given the opportunity to get back into downtown and give back to downtown like they did when they were in the old city hall. She went on to say she could see the future growth downtown with all of the positive things that were happening downtown, and she could see all the employees giving business to the downtown. Clerk Block expressed her appreciation for any consideration the council would have for the city to move forward.

Richard Doolittle, Cressy Commercial expressed he was a lifelong resident of Mishawaka, he has watched the evolution of the downtown. He mentioned he was very involved in the Uniroyal redevelopment when it started. Mr. Doolittle continued to say the Uniroyal site was envisioned to be great, it was slow, but it was successful. He went on to say the loss from Liberty Mutual in tax roll which he believed was estimated at 220,000 dollars annually, would easily be replaced with development that would take place in the vacation of the Police Station. Mr. Doolittle said the value of The Mill Apartments was estimated around 56 million dollars. He said they would have never thought they would get new assessed valuation from that development when they tore down Uniroyal. Mr. Doolittle said when his company did the redevelopment of the National Steel building, which was 125,000 Square feet in Edison Lakes, Mishawaka Federal bought the building and occupied 1/3 of the building and used it as a single purpose building much like Liberty Mutual. He said they were charged to develop multi-tenant on two floors of the building. Mr. Doolittle said it took 5 ½ years to fill. He continued to say there was going to be a vacancy of Class A. office space at the size of 250,00 square feet in 2 years. Mr. Doolittle listed Bare, half of the Troyer building, Barnes & Thornburg was vacating and relocating, and Mishawaka Hospital to name a few business that were vacated or soon to be vacating . He went on to say to have a vacant 90,000 square foot building downtown Mishawaka would be the worst thing that could happen to the momentum going on downtown. Mr. Doolittle said taking the Utility Office and Police Department down and vacating First Street from Church Street to Race Street would be a phenomenal developmental property; it would do more than replace the property taxes that would be vacated by Liberty Mutual. He added if the Liberty Mutual building sat vacant for several years, the assessed value would drop.

Mr. Hixenbaugh expressed he always appreciated Mr. Doolittle's comments. He said he agreed this would potentially open the door for exciting developmental opportunities. Mr. Hixenbaugh pointed out key points Mr. Prince made consistent in his presentations which was the development opportunity opened up by the vacation of the Liberty Mutual Space which could have and extended time frame before they would see it come to fruition. He asked did Mr. Doolittle agree there would not be an immediate fix. Mr. Doolittle replied absolutely. He continued to say when Mayor Beutter started the Uniroyal Project, he came to Cressy Commercial to be the developer for the site, Cressy Commercial declined the offer because they would not make any money off of the property and it would take too much time but they told Beutter if they waited they would get the right fit and return on the taxes.

David Chaudor 204 Concept Dr. Granger spoke in opposition to resolution. He believed the city should work harder to market the building to get more commercial downtown. Mr. Chaudor said the city should evaluate the needs for a new city hall and consider building a new.

Mrs. Voelker recommended Mr. Chaudor to read Mr. Prince presentation which was available on the city website. She continued to say Mr. Prince did an excellent job providing information that would answer Mr. Chaudor's questions. Mr. Chaudor said he reviewed the presentation.

Mr. Tanner expressed he believed for a longtime this was a great idea for the City of Mishawaka, and to merge Utilities and the Police Department made since. He said he believed Liberty Mutual would be a great fit and seeing the development opportunities of two and a third partial of city blocks downtown justified the city acquiring the property. Mr. Tanner went on to say he has not been shy when it came to the financing for the building. He said he was advised it was at best a legal grey area for the use of the utility bond for areas which went beyond utility purposes. Mr. Tanner said at worst it was not appropriate and potentially illegal. He continued to say he did not think it was going to be the case that was jockeyed about between the council and the city but thought a legal concern was worth considering moving forward. Mr. Tanner went on to say while a tremendous amount of effort went into providing a breakdown of the proportion of utility department services provided by city departments and what was paid out of the utility budget for those positions within the departments. He said there was also a breakdown for the use for the Liberty Mutual Building for Mishawaka Utility Business Office uses and the kiosk the Mayor presented but they still did not know what proportion of the building was for utility purposes, there was at least two thirds of the overall cost of the project coming from the utilities bond. Mr. Tanner expressed he was still in support of purchasing the property, but he looks to the administration to continue to clarify moving forward. He said if there was a legal precedent for it that could be shown, he would be more than happy to accept it in full face value.

Members of the council thanked Mayor Wood, Ken Prince, the administration and department heads for putting a tremendous amount of work to answer questions and concerns of the council and citizens. They said they initially had some concerns but throughout the meetings and presentations their potential objections were addressed. They expressed their appreciation for the Mayor willing to market the Liberty Mutual building for a short amount of time of 30 to 6o days to see if there was a big interest to bring in jobs. They went on to say he believed the strength of a downtown was security, there was nothing more secure than having city hall be the anchor of downtown. They expressed excitement for future development opportunities and their support for the resolution.

Question was called for at 8:17 P.M. for **RESOLUTION NO. 2019-20** **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.

NEW BUSINESS

Mr. Tanner announced Neighborhood Night Out at Central Park would be August 6, 2019 at 5:30P.M.

Ms. Petko Reisdorf announced the Twin Branch National Night Out would be also August 6, 2019 5:30 P.M.

Mayor Wood also announced Hillis Hans would host their National Night Out August 6, 2019 at 6:00 P.M.

Mr. Emmons announced the 1st District neighborhood meeting would be September 15, 2019 at St. Bavos at 7:00 P.M., Speaker would be new School City Superintendent Wayne Baker.

ADJOURNMENT 8:21 P.M.

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