REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
October 07, 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 October 07, 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 and Council Attorney Michael Trippel.

Minutes of the Regular Meeting of September 16, 2019 was approved as received from the Clerk's Office.

Clerk Block read the following appeal and petitions to the council who referred them to the Board of Zoning Appeals and the City Plan Commission for their recommendation.

APPEAL NO. 2019-47 Use Variance to allow Tailoring and Alterations
623 E 4th Street

PETITION NO. 2019-12 Rezone from I-1 Light Industrial to R-1 Single
Family – 935 E Fifth Street

PETITION NO. 2019-13 PUD Amendment to add a Helipad as a Permit Use - 3220 Beacon
Parkway -Beacon Health Systems, Inc.

PETITION NO. 2019-14 Vacation of 20 Ft Strip of Right-of-Way –
Beacon Health Systems, Inc. (Former Evergreen Road)

Clerk Block read the following proposed ordinances by title and was set for public hearing at the next meeting.

PROPOSED ORDINANCE NO. 2019-26

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2019
(TF- HR $7,000 – Clerk $5,000)
(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2019-27

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2019 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(App Local Road and Bridge Funding - $1,145,700)
(Assigned to Budget Finance Committee)

PROPOSED ORDINANCE NO. 2019-28

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(Add Funds Controller $56,000 - Fire $215,000)
(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2019-29

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(Add Funds – Sidewalk & Curb Repair $16,161)
(Assigned to Budget and Finance Committee)

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

RESOLUTION NO. 2019-24

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING A CERTAIN DECLARATORY RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE NORTHWEST IMPROVEMENT PROJECT INTO ONE CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION

Ken Prince, City Planner said when the city consolidated the TIF District to add property to the acquisitions list, the council's role was to determine if the acquisitions were appropriate. He continued to say because the Capital Improvement Plan was conceptual at the time, they decided they would bring properties individually to the council rather than bringing hundreds at one time. Mr. Prince said the Liberty Mutual building was the last time they added to the acquisition list. He went on to say the proposed property at Ironworks Avenue was located at the intersection of Mill, Front, and Main Street, directly on the corner. Mr. Prince explained when they sold the property an office building was built and they envisioned a certain infrastructure at the time. He continued to say the advent of Flaherty and Collins and the potential extension of Mill Street has changed due to the acquisition of Liberty Mutual. Mr. Prince said they were working with engineering; they were looking at a double left turn from Front Street on Main Street once the signal was added and the widening of the sidewalk for pedestrian connection from Lincoln Way to Mill Street to connect to Beutter Park. He said because of the two additional improvements they would need an additional right-of-way on Mill and Front Streets. Mr. Prince went on to say rather than buying slivers of property, they asked the developer if they were willing to sell the entire vacant piece to be in a better position to use and redevelop the property. He said the developer indicated they would sell the property to the city for $90,000. Mr. Prince continued to say the property was not appraised yet, but they estimated the appraisal to be in the $150,000 range. He went on to discuss the second property to be added located on Mishawaka Avenue which was a former doctor's office. He said the building had fallen on hard times with need of major repairs. Mr. Prince said the point of adding the 209 Mishawaka Avenue property to the acquisition list was to add value to the area by subtracting what they considered a blighted property from the area. He continued to say in these cases they looked hard to see if the properties were worthy to be added to the city's acquisition list. Mr. Prince said this particular property was located at the corner of Central Park. He said they had to modify the area and use a tiny bit of park land to add parking to the office building. Mr. Prince went on to say if the private sector were to take this property, they probably would not put sufficient resources into the building to improve the property. He said they believed it was best for the city to acquire the property and determine the future. Mr. Prince also mentioned Fire Captain Brian Linson was the next-door neighbor to the property; he brought to the city's attention there were bad activities happening on the westside of the vacant building. Mr. Prince said if the city did not acquire the property at this time, the property would go on the market and could sit vacant for a long time which the administration feared.

Mr. Hixenbaugh thanked Mr. Prince for the information he requested regarding the two acquisitions. He said doing acquisitions on a cases by cases was a great change. Mr. Hixenbaugh went on to say the administration did a good job picking up a necessary piece of property such as Ironworks Avenue at a vastly discounted rate. He expressed he had some concerns regarding the 209 E. Mishawaka Avenue property. Mr. Hixenbaugh said the illicit activity at the proposed party was brought to their attention at the Redevelopment Commission. He asked was the issue passed along to the police department. Mr. Prince said he knew there was repeated calls the police dealt with in the area, but he did not mention it to the police.

Mr. Tanner referenced Mr. Prince comments regarding the 209 E. Mishawaka Avenue being blighted. He continued to say when he thought of blighted, he thought of exterior disrepair and what people could see from the street, which did not seem apparent to him in this case when he drives by. Mr. Tanner asked was there a record of code enforcement issues. Mr. Prince replied yes, they have been working with owners on multiple issues.

Mr. Emmons questioned the price for the 209 E. Mishawaka Avenue property. Mr. Prince said $200,000. He mentioned the average of two appraisals for the property came to $207,500 but they did not believe it was worth the amount of money, so they agreed pay $200,000 if the owner cleaned out the property which reduce the demolition cost prior to acquisition.

Mr. Hixenbaugh quoted a phrase from Mr. Prince letter to the council "A decision was made to bring individual parcels to the council on a case by case based on specific proposed projects." He said the case was clearly made for the portion of Ironworks but there was not the same type of detail provide for the Mishawaka Avenue project. Mr. Hixenbaugh expressed as Mr. Tanner who traveled the Riverwalk on the regular basis did not see the exterior appearing to be in an overly deplorable state. He said he was also compelled by the significant investment and the desire to maintain Central Park, as they have already made a significant investment into Central Park. Mr. Hixenbaugh said he understood they should try to continue to protect the investment but how much was to much when it came to the limited TIF resources to spend on regards to the particular area. He continued to say they had significant discussion about the plan to potentially moving to a new city hall and other city offices into the Liberty Mutual building following the marketing effort. Mr. Hixenbaugh said going back to the information Mr. Prince provided regarding to potential funding, granted it was not fully designed and flushed out, but there was a significant amount TIF funding to be devoted to the project of what could potentially be 4.6 million dollars with certain line items at a soft cost of 400,000 dollars, architectural fees of 900,000 dollars would significantly be reduced by a 200,000 dollar factor if the money was devoted to it. He expressed he felt conserving TIF funding for the Liberty Mutual Project made since to him. Mr. Hixenbaugh went on to say the price assigned to the value was legally compliant, it matched up with the appraisal, but he questioned the last lack specificity, he preferred to have a specific plan for the 209 E. Mishawaka Avenue property. He continued to say rather than the city taking possession of the property due to the public health and safety and illicit conduct issues, were emptiable by resolution by working with the Police Department. He expressed he was not comfortable purchasing the property for strategic reasons. Mr. Hixenbaugh went on to say he supported the Ironworks portion of the resolution; he was inclined to revise the proposed resolution to delete the reference to the 209 E. Mishawka Avenue property.

Mr. Banicki questioned the type of zoning for the property at 209 Mishawaka Avenue and could a bar possibly go in. Mr. Prince apologized he did not verify the zoning. He said given the historic use as it was an office, he assumed an office would go back in which would be the likely use. Mr. Prince said a bar would have an issue meeting the zoning requirements to change for parking. He stated the property would have appropriate variances for it. Mr. Banicki commented if the property was zoned C-1 there could be a number of uses that could go in. He continued to say if the city had some control over the property, it did not mean the city could not redevelop the property or market on a limited basis in the future. Mr. Prince said he wanted to clarify what Mr. Hixenbaugh was eluding to regarding not having a plan for the property. He went to say when Capital Improvement Plan was developed in 2014 which listed all projects with unspecified listing but of a constant property acquisition of unknown properties as they would become available for this specific reason. Mr. Prince agreed with Mr. Hixenbaugh, this they might want to acquire at some point in time in different parts of downtown. He continued to say the difference with the Mishawka Avenue property was its location, located adjacent to Central Park with a high likelihood if the city demolished the property for adaptive reuse. Mr. Prince said they believed the property had a wonderful opportunity to redevelop, market it, and it could be come residential or incorporated in to the park. He mentioned the park board discussing adding a skate park at some point in time. Mr. Prince stated there were a number of possibilities, they believed it was beneficial across the board even though they did not have an exact plan at this time. He continued to say in 2014 there was a line item in the Capital Plan for this type of occurrence to happen, they did not know what properties would become available, but they wanted to have the line item listed to deal with it. Mr. Prince also mentioned the Redevelopment Commission established priorities every year, which were presented and copied to the council. He said in there was a line item for blighted properties, which the proposed property was specifically included. Mr. Prince said the property was 250, 000 dollars and when looking at the demolition and acquisition cost, which could go to another project, but it wasn't something that would be detrimental to other portions of the budget and the other projects, it was something they currently had budgeted. Mr. Banicki made the comment it seemed they were better off controlling the property rather than not knowing what could go in. Mr. Prince replied that was the admirations thought.

Mr. Mammolenti asked what would happen if the city did not purchase the property at this time. Mr. Prince explained if the city did not buy it the owner would hire a commercial realtor to list the property for sale to anyone. He continued to say due to it being an estate and the owner was looking to get out of it, they were not going to be scrupulous in terms of who they had and what went in. Mr. Prince continued to say essentially if they get a certain number that meets their needs, it would go in. He explained if the property did not sell, they would have two potential options; one they could come back to offer it to the city or they could stop paying the taxes and the property would go for tax sale. Mr. Prince said their fear was the property could sit for years and continue to go down and be detrimental to other redevelopment efforts happening in the area. He said their goal was to get rid of the building before it got really bad. Mr. Mammolenti asked was the property taxes current. Mr. Prince said he did not know, he assumed they were. Mr. Mammolenti also asked did Mr. Prince foresee an investor buying the property to build from the ground up or someone buying the property to retro fit it. Mr. Prince said developers had to have a lot vision to take that type of role, they wanted a clear site with utilities available and zoning in place. He went on to say it could happen but it was highly unlikely.

Mr. Compton asked for examples of small properties like the proposed the city acquired in the past, somewhat speculatively. Mr. Prince said a good example was the little area on Spring Street across from the Jesus parking lot, it was now being proposed to be a law office with a development agreement. He said the city purchased the property and raised by a willing seller. Mr. Prince said the goal of the Redevelopment Commission was to redevelop and change the character of the proposed property on Mishawaka Avenue. He mentioned when they were in the acquisition process where River Rock now sits, there use to be the adult book store, a bar, and car lot; it was the text book example of systematically acquiring property to overall change the character and nature of development in the area.

Mrs. Voelker made the comment the development going in on Mishawaka Avenue was wonderful. She said she could see this location had some potential to be something great.

Mr. Bellovich asked for the history of the building. Mr. Prince said he did not know the history of the building. He said he did know there was an Optometrist who owned the building for three decades and his daughter also had her practice there as a chiropractor until she passed away.

Ms. Petko Reisdorf questioned the size of the property. Mr. Prince said he did not have the exact size of the property but guessing by the ariel view it may be 90 by 200. Mr. Tanner added it was .25 acres.

Mr. Mammolenti expressed his thoughts of the city purchasing a property for 250,000 dollars on a property they were somewhat unsure of which they say they have done in the past. He continued to say during some difficult financial time the city may lie ahead, however there was the process they have transformed the downtown, which he was impressed with. He said his internal battle was trusting the process that has happened and was it worth the 250,000 dollars. Mr. Prince added when they thought of the vision that had to go into place to acquire the adult book store for the cost 275,000 dollars for a sliver of property they wanted to get rid of and once they added the bar and the car lot, the city probably paid 800,000 into the acquisition. Mr. Prince said if they did not acquire the property they could only imagine where they would be today compared to how far they came now. He said they were asking the council to have that type of vision. Mr. Prince said he could not say what was going to happen, nothing may not happen for 10 years on the property, but they believed it was an improvement through subtraction.

Mr. Tanner thanked Mr. Prince for providing as much information in this process. He said as he mentioned before he did not envision the 209 Mishawaka Avenue property being a blighted property giving the exterior appearance as it stands but clearly the disrepair in the interior lends to believe if left alone it would go further to disrepair. Mr. Tanner also expressed he agreed with all other comments expressed from his colleagues. He continued to say if not for this location and if not for this exact circumstance, he would vote no for the proposed, but he felt it was the perfect world wind for opportunities and circumstance to be in favor of this redevelopment.

Mr. Hixenbaugh expressed there has been many valuable points made from both his colleagues and Mr. Prince. He continued to say as a lawyer he was balanced on reviewing things on a case by case basis and it required the specific plan in place, otherwise they should of made some blanket acquisitions of properties which would then identify all blighted to be added to the list. Mr. Hixenbaugh expressed he absolutely supported the acquisition for the Ironworks parcel, but he did not believe a compelling case was made for Mishawaka Avenue. He went on to say with his intention to vote against the proposed resolution but with the hope of understanding it was not a vote of no confidence in Mr. Prince or lack of confidence in the vision. Mr. Hixenbaugh said he looked forward to the Ironworks acquisition and looked forward to it being used for the best interest of the community.

Question was called for at 7:40 P.M. for **RESOLUTION NO. 2019-24** **Vote: Motion passed (summary: Yes = 8, No = 1, Abstain = 0).**

Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Emmons.
No: Mr. Hixenbaugh.

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

PROPOSED ORDINANCE NO. 2019-21

AN ORDINANCE FIXING THE SALARIES
OF CERTAIN ELECTED OFFICIALS OF THE CITY OF MISHAWAKA
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2020
(Elected Officials Salary Ord)
(Assigned to the Budget and Finance Committee)

Mr. Compton made a motion to continue public hearing for **PROPOSED ORDINANCE NO. 2019-21** until the next meeting on October 21, 2019 same upon a second by Mr. Banicki motion carried.

PROPOSED ORDINANCE NO. 2019-22

AN ORDINANCE THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY
OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND
THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA,
FOR THE YEAR BEGINNING JANUARY 1, 2020.
(City Employee Salary Ord)
(Assigned to the Budget and Finance Committee)

Mr. Compton made a motion to continue public hearing for **PROPOSED ORDINANCE NO. 2019-22** until the next meeting on October 21, 2019 same upon a second by Mr. Banicki motion carried.

PROPOSED ORDINANCE NO. 2019-23

Civil City Budget 2020
(Assigned to Budget and Finance Committee)
FINAL ADOPTION

Mr. Compton made a motion to continue public hearing for **PROPOSED ORDINANCE NO. 2019-23** until the next meeting on October 21, 2019 same upon a second by Mr. Banicki motion carried.

PROPOSED ORDINANCE NO. 2019-24

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.

(Amd PUD to allow microblading as permitted use at 239 W. University)

(Assigned to the Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Kelley Reynolds, owner of Blown Away Blow Dry Bar, Inc. on 239 W. University Dr. said she was requesting to add microblading to her salon.

Mr. Mammolenti questioned how many artists would perform the microblading. Ms. Reynolds replied one.

Mrs. Voelker asked has the one employee gone through the appropriate training to receive all of the require licensing. Ms. Reynolds replied yes. She said the Health Department would come in after zoning was approved.

Question was called for at 7:46 P.M. for **PROPOSED ORDINANCE NO. 2019-24 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.

Mr. Tanner made a motion to add **PROPOSED ORDINANCE NO. 2019-25** for first reading same upon a second by Mr. Banicki motion carried.

PROPOSED ORDINANCE NO. 2019-25

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA CONCERNING THE PREVENTION OF CONTRACTOR TAX FRAUD

(Assigned to the Public Health and Safety Committee)

Mr. Tanner made a motion to table **PROPOSED ORDINANCE NO. 2019-25** indefinitely same upon a second by Mr. Compton motion carried.

NEW BUSINESS

Mr. Tanner announced “The Oaks” Neighborhood meeting would be at 7:00pm at Battell Center on October 10, 2019. The speaker would be Sheriff Redman and Bruno talking about Sexual Offenders Registry.

ADJOURNMENT 7:48 P.M.

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

Dale “Woody” Emmons /s/
Dale “Woody” Emmons, President